

Policy I: Instructional

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IA MISSION STATEMENT

MISSION STATEMENT

Toka Nuwaŋ Wayawa Tipi, an indigenous school of the Sisituŋwaŋ-Wahpetuŋwaŋ Oyate, honors those who have come before by providing a safe environment, immersing cultural teachings, and inspiring learners to develop a foundation of critical thinking and social-emotional skills to be good relatives.

TRACKS EXPECTATIONS

Enemy Swim Day School expects its students to:

- Awaŋcihdaka: Be Safe.
- Woohoda: Be Respectful.
- Wauŋsida: Be Caring.
- Waokihi: Be Responsible.
- Caŋwašte uŋ: Be Kind

IAC EQUAL EDUCATIONAL OPPORTUNITIES

It is the policy of the Board not to discriminate on the basis of sex, sexual orientation, age, marital status, race, handicap, religion, status of residence or residential transition or national origin in the educational programs and activities or admissions to facilities operated by the Board or in the employment practices of the school. The Administration must investigate allegations and provide a written response within five working days to the allegations. Further recommendations and other actions will be forthcoming if it the situation warrants. Each case will be dealt with on an individual basis.

IC CURRICULUM

The Superintendent shall coordinate the development of new curriculum and make recommendation to the board for revision. The Superintendent may set up curriculum committees for the study of curriculum improvements, including the selections of new instructional materials. The committee will review textbooks in accordance to the standards and local preferences according to the textbook rotation schedule.

The school's curriculum shall be reviewed on a rotating schedule as set by the Superintendent. The Instructional staff will develop and align instructional materials and curriculum according to the approved standards. The school board will approve curriculum and materials according to the rotation schedule.

ICA CURRICULUM MAPPING

Separate course-of-study guides shall be prepared for each content area identified in the program of studies. The school's curriculum shall be reviewed on a rotating schedule as set by the Superintendent. Curriculum guides and course outline reviews will include, but not be limited to, an

evaluation of student achievement scores, formative assessments and current research on the teaching of particular content items.

The curriculum and course outlines will be based on standards as approved by the school board.

IDA BASIC PROGRAM

The educational program at ESDS will serve pre-kindergarten (FACE) through 8th grade. The program of studies shall meet the needs of the students enrolled as determined by local assessment processes.

IDAA ACCEPTABLE USE OF TECHNOLOGY

I. Introduction

The Children’s Internet Protection Act (CIPA), 47 U.S.C. §254(h)(5) require schools to implement certain measures and actions to ensure that students are restricted from accessing inappropriate materials online using school-owned computers. This Enemy Swim Day School’s Acceptable Network and Internet Use Policy (hereinafter “AUP”) is intended to set forth the specific obligations and responsibilities of all users, including students and staff, who access the ESDS’s Network, and to ensure such use complies with the CIPA requirements.

“Network” is defined as any and all Enemy Swim Day School owned computers, servers, hardware or software, the ESDS’s local area network, wireless access points, the Internet, Internet 2, the ESDS intranet, email, chat rooms, other forms of direct electronic communications or other communications equipment provided by ESDS regardless of the physical location of the user. This AUP applies even when ESDS provided equipment (laptops, tablets, etc.) is used on or off premises of School property.

II. Acceptable Use

The Network may be used only as a tool to support and advance the functions of the Enemy Swim Day School as well as its curriculum and educational programs. Access to the School’s Network is a privilege and not a right. Users of the Network are responsible for their behavior and communications over the Network and access to Network services will be provided only to those staff and students who agree to act in a considerate and responsible manner and in accordance with the ESDS’s Internet Safety Policy and this AUP.

Students may use the Network only in support of educational activities consistent with the educational objectives of the Enemy Swim Day School. Faculty and staff may use the Network primarily in support of education and research consistent with the educational objectives of ESDS. Faculty and staff may access the Network for limited personal use but not for any commercial or business use; however, such personal use may not violate any applicable rules and regulations or applicable administrative procedures or interfere with job performance. Use of the Network must be in compliance with applicable laws, including all copyright laws and all materials on the Network should be presumed to be copyrighted.

All members of the staff who wish to use the Network must sign this AUP whenever requested by ESDS, to confirm that the staff person has read and understands this policy and

agrees to abide by it. Each student must sign this AUP annually to confirm that the student has read and understands this policy and agrees to abide by it. Students who are under 18 must have their parents or guardians sign this AUP and submit it to the ESDS.

III. Network Etiquette

Users are expected to abide by generally accepted rules of network etiquette (netiquette). These include but are not limited to:

- A. Be polite. Do not send or encourage others to send messages that are abusive or otherwise fall in the definition of Prohibited Use in Section IV.
- B. Use appropriate language. Remember you are a representative of ESDS on a non-private network. You may be alone on a computer but what you write can be viewed around the world. Do not swear, use vulgarities or any other inappropriate language.
- C. All communications and information accessible via the Network should be considered private property that you cannot appropriate for your own use without appropriate attribution and consent.

IV. Prohibited Use

ESDS reserves the absolute right to define prohibited use of the Network, adopt rules and regulations applicable to Network use, determine whether an activity constitutes a prohibited use of the Network, and determine the consequence of such inappropriate use. Prohibited use includes but is not limited to the following:

- 1) Violating any state or federal law or tribal ordinance, such as: Accessing or transmitting pornography of any kind, obscene depictions, harmful materials, materials that encourage others to violate the law, confidential information or copyrighted materials;
- 2) Criminal activities that can be punished under law;
- 3) Selling or purchasing illegal items or substances;
- 4) The unauthorized collection of email addresses (“harvesting”) of e-mail addresses from the Global Address List and other ESDS directories;
- 5) Obtaining and/or using anonymous email sites; spamming; spreading viruses;
- 6) Circumvention of the ESDS’s Technology Protection Measure/filter to access blocked sites;
- 7) Disclosure of minors’ personal information without proper authorization;
- 8) Students’ disclosure of personal information such as the student’s name, address, phone number, password or social security number, to other users when engaging in online activities including but not limited to chat rooms, email, social networking web sites
- 9) Causing harm to others or damage to their property, such as:
 1. Using profane, abusive, or impolite language; threatening, harassing, bullying or making damaging or false statements about others or accessing, transmitting, or downloading offensive, harassing, or disparaging materials;
 2. Deleting, copying, modifying, or forging other users' names, emails, files, or data; disguising one's identity, impersonating other users, or sending anonymous email;
 3. Damaging computer equipment, files, data or the network in any way, including intentionally accessing, transmitting or downloading computer viruses or other harmful files or programs, or disrupting any computer system performance;
 4. Using any ESDS computer to pursue “hacking,” internal or external to ESDS, or attempting to access information protected by privacy laws; or

5. Accessing, transmitting or downloading large files, including "chain letters" or any type of "pyramid schemes".
- 10) Engaging in uses that jeopardize access or lead to unauthorized access into others' accounts or other computer networks, such as:
 1. Using another's account password(s) or identifier(s);
 2. Interfering with other users' ability to access their account(s); or
 3. Disclosing your own or anyone's password to others or allowing them to use your or another's account(s).
- 11) Using the network or Internet for Commercial purposes:
 1. Using the Internet for personal financial gain;
 2. Using the Internet for personal advertising, promotion, or financial gain; or
 3. Conducting for-profit business activities and/or engaging in non-government related fundraising or public relations activities such as solicitation for religious purposes, lobbying for personal political purposes.

V. Off-Premise Use of Network

Students under the age of 18 should only access ESDS-assigned email accounts and/or other Network components including but not limited to school-assigned computers such as laptops, tablets or e-readers off of school premises if a parent or legal guardian supervises their usage at all times. The student's parent or guardian is responsible for monitoring the minor's off-premise use of the Network and ensuring such use complies with this AUP.

VI. Disclaimer

ESDS makes no guarantees about the quality of the services provided and is not responsible for any claims, losses, damages, costs, or other obligations arising from use of the Network or accounts. Any additional charges a user accrues due to the use of the ESDS's network are to be borne by the user. ESDS also denies any responsibility for the accuracy or quality of the information obtained through user access. Any statement, accessible on the computer network or the Internet, is understood to be the author's individual point of view and not that of ESDS, its affiliates, or employees.

VII. Enforcement

Prohibited use of the Network may, for students, result in disciplinary action up to and including suspension or expulsion from school or, for employees, suspension or termination of employment. Where circumstances warrant, prohibited use of the Network may be referred to law enforcement authorities.

When a school administrator has a reasonable belief that a student has violated a school rule, policy or the law, and there are facts and inferences that would cause a reasonable person to suspect that a search of the student's personal technology device(s) will reveal evidence of a violation of said ESDS rule, policy or the law, the administrator shall have the authority to search such device, provided that the scope of the search relates to the suspected violation giving rise to the reasonable suspicion.

IDAAA MOBILE DEVICE ACCEPTABLE USE POLICY

INTRODUCTION

Mobile Devices are digital devices that can store books, periodicals, magazines, and other electronic media. Electronic Devices (e-Readers) like Kindles, Nooks, iPads, iPods, Smart Phones, and other similar Mobile Devices are quickly becoming universal in our digital culture. Enemy Swim Day School embraces the use of technology in classrooms and welcomes the use of electronic devices to enhance student learning and interest in reading.

Enemy Swim Day School, in striving to maintain technological relevance to education, is providing the opportunity for students to use these devices in accordance with this **Mobile Device Acceptable Use Policy**. This opportunity is a **privilege** that requires extra caution and responsibility both on the part of students and their parents. This policy applies when students are at school, on school transportation, or attending a school sponsored or school related off-campus activity.

MOBILE DEVICE ACCEPTABLE USE POLICY

The wide variety of hardware and software capabilities of available mobile devices makes them challenging to monitor and control in a school environment in contrast with school owned technology assets like computers, etc. Therefore, this policy is specific and clear. **A student who violates any portion of the policy may immediately lose the privilege to use their devices at school, on school transportation, or while attending a school sponsored or school related off-campus activity.** Length of time administered for any violation of this policy will be appropriate with the nature of the violation.

GUIDELINES FOR USE OF MOBILE DEVICES AT SCHOOL

1. School administrators/officials may examine a student's personal device and search its contents if there is a reason to believe that school policies, regulation, or guidelines regarding use of the device have been violated.
2. Any device brought to school for the purpose of use in academics of school approved materials and to access instructor approved programs to assist students in studies must be registered with the main office of the school site and accompanied by the **Mobile Device Acceptable Use Agreement Form** signed by both the parent and the student.
3. Mobile Devices shall be used only for the purposes outlined in number two (2) above and in accordance with teacher instruction. Mobile Devices shall not be used to play games, music, for communication, or access leisure application activities of any kind, during instructional time periods.
4. Mobile Devices shall not become a distraction for the student and/or other students, nor a source of any school disruption.
5. Students may access Mobile Devices during school as permitted according to the red, yellow and green zones.
6. Students are responsible for knowing how to properly and effectively use their Mobile Devices which should not become a burden to the teacher.
7. Students bringing their own Mobile Devices are personally responsible for the device. No personal Mobile Devices shall be loaned to other students or be left unsupervised. Parents shall assume responsibility and ultimate liability in the event that a personal Mobile Device is found to have access to networks outside of the school's filtered and monitored network.
8. The school assumes no responsibility for the loss of, theft of, or damage to any personal Mobile Device.

9. Students who are authorized to check-out a school-owned Mobile Device must also have a signed **Mobile Device Acceptable Use Agreement Form** on file in the school office.
10. All material on the Mobile Device shall comply with the spirit of educational application and all policies of the school.

IDAB CYBER-BULLYING

Cyber bullying is all forms of harassment over the Internet or other forms of electronic communications, including cell phones. Students and staff are prohibited from using communication devices or School property to harass or stalk another. The School's computer network and the Internet, whether accessed at school or away from school, during or after school hours, may not be used for the purpose of cyber bullying. All forms of cyber bullying are unacceptable and viewed as a violation of this policy and the School's acceptable use of technology policy and procedures.

Users are responsible for the appropriateness of the materials they transmit. Hate mail, harassment, discriminatory remarks, or other anti-social behaviors are expressly prohibited. Cyber bullying includes, but is not limited to the following misuses of technology: harassing, teasing, intimidating, threatening, or terrorizing another person by sending or posting inappropriate and hurtful e-mail messages, instant messages, text messages, digital pictures or images, or web site postings, including blogs. It is also recognized that the author (poster or sender) of the inappropriate material is often disguised (logged on) as someone else.

Students and community members, who believe they have been victims of such misuses of technology, as described in this policy, should not erase the offending material from the systems. A copy of the material should be brought to the attention of a principal or teacher.

In situations in which cyber bullying originated from a non-school device, but brought to the attention of the school staff, any disciplinary action shall be based upon whether the conduct is determined to be severely disruptive of the educational process so that it markedly interrupts or severely impedes the day-to-day operations of the school. In addition, such conduct must also violate a school policy. Such conduct includes, but is not limited to, threats, or making threats off school grounds, to harm a member of the school staff or a student.

Malicious use of School's computer system to develop programs or to institute practices that harass other users to gain unauthorized access to any entity on the system and/or change the components of an entity on the network is prohibited.

Disciplinary action may include, but is not limited to, the loss of computer privileges, detention, suspension, or expulsion for verified perpetrators of cyber bullying. In addition, when any kind of threat is communicated or when a hate crime is committed it may be reported to law enforcement.

IDAC PRE-SCHOOL AND KINDERGARTEN PROGRAMS

The Board shall provide for a Kindergarten educational program for students having attained the age of five (5) years by September 1 of the academic term, and may provide for the implementation of Pre-school educational programs.

IDEA INSTRUCTION IN DAKOTAH LANGUAGE AND CULTURE

The School will provide a Dakota language program for all students and staff and encourages the involvement of all parents and the community.

All staff shall participate in the development, evaluation and implementation of Dakota Language Curriculum, as well as, the resource for defining and articulating Dakota Essential Understandings: traditions, language, custom, history, legends and all other aspects of Dakota culture and tradition.

All students attending the Enemy Swim Day School will be required to attend Dakota Studies Classes and are expected to attend the Opening and Closing Ceremonies.

IDBC PHYSICAL EDUCATION

Physical education is a required course and all students will participate. A written notice from a parent or doctor is needed to excuse a student from PE. Physical education will occur daily according to schedule. Staff may provide short physical activity breaks (i.e. brain breaks) between lessons or classes, as appropriate.

IDBD WELLNESS

Nutrition Education and Promotion

Nutrition education will be integrated into content areas of the curriculum such as math, science, language arts and social studies. The school teaches, encourages, and supports healthy eating by students. All instructional and support staff encourage, support and model healthy eating habits during the school day and at school sponsored activities. Nutrition education will be offered in science at each grade level as part of a health unit.

Other School Based Activities

Local wellness policy goals are considered in planning all school-based activities. After-school and summer school programs will encourage physical activity and healthy habit formation. Support for the health of all students is demonstrated by hosting health clinics, health screenings, and helping to enroll eligible children in Medicaid and other state children's health insurance programs.

Nutrition Standards for All Foods on Campus

The school food service will plan and serve breakfast and lunch menus according to the new food meal patterns set forth by the National School Breakfast and Lunch program. Healthy food choices will be offered for classroom snacks and celebrations. If parents and guests choose to send a treat for classroom celebrations, ESDS recommends nutritious treats.

Eating Environment

The school follows the National Association of State Boards of Education recommendations that students should be provided adequate time to eat lunch, at least 10 minutes for breakfast and 20 minutes for lunch, from the time the student is seated. Students are encouraged to start each day with

a healthy breakfast. Lunch periods are scheduled as near the middle of the school day as possible. Cafeteria includes enough serving areas so that students do not have to spend too much time waiting in line. Dining areas are attractive and have enough space for seating all students. Drinking water is available for students at meals. Food is not used as a reward or punishment for student behaviors.

Child Nutrition Operations

Enemy Swim Day School will operate a school food program which will include breakfast, lunch, and snack program, through participation in the SD state Child and Adult Nutrition Services. As required for participation in the Child and Adult Nutrition Services, the school will ensure:

1. That the food service programs operate on a non-profit basis;
2. All school breakfasts, lunches and snacks are provided at no cost to students.
3. That the Child and Adult Nutrition Services guidelines are followed.

Refer to policy EE

The school employs a food service director, who is properly qualified, certified and/or credentialed according to current professional standards, to administer the school food service program and satisfy reporting requirements. All food service personnel will have adequate pre-service training in food service operations.

Food Safety/Food Security

All foods made available on campus comply with the state and local food safety and sanitation regulations. Hazard Analysis and Critical Control Points (HACCP) plans and guidelines are implemented to prevent food illness in schools.

For the safety and security of the food and facility access to the food service operations are limited to Child Nutrition staff and authorized personnel. For further guidance see the US Department of Agriculture food security guidelines.

Healthy Lifestyle Choices

A healthy lifestyle choice program, coordinated with Classroom Guidance Curriculum, will be provided to all students to include: Drug, alcohol, inhalants, tobacco, and others as needed. The school will provide a healthy lifestyles program as an integral part of each student's general education. Sex education is included as part of the general education provided to students. The instruction is based upon the functions of the human body, hygiene, and sexuality.

IDC EXTENDED PROGRAMS

Extended day programs are school programs which extend beyond the regular school day to include: after school and summer programs.

IDDC HOMEBOUND INSTRUCTION

The Board shall provide instruction, as appropriate, for students confined to home or hospitalized for a period exceeding 3 consecutive school days upon the request of parents and with the approval of the family physician.

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1. The physician must certify that the student will be unable to attend school for the length of time specified and that he/she is capable of receiving home instruction. The physician shall give an estimate of the probable length of the student's convalescence.
2. The parent should request the homebound/hospital instruction prior to the end of 3 days so that instruction may begin as soon as the student is able to receive it.

Homebound instruction may be modified to meet curricular standards and student needs during his/her convalescence. The school will provide textbooks and materials.

IDDD GIFTED AND TALENTED STUDENTS

The school will operate a program for students who meet the criteria for exceptional gifted and talented areas: Academic aptitude, Intelligence, Creativity, Visual and Performing Arts, and Leadership.

IDDE FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT (FERPA)

The Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. § 1232g; 34 CFR Part 99) is a Federal law that protects the privacy of student education records. The law applies to all schools that receive funds under an applicable program of the U.S. Department of Education.

FERPA gives parents certain rights with respect to their children's education records. These rights transfer to the student when he or she reaches the age of 18 or attends a school beyond the high school level. Students to whom the rights have transferred are "eligible students."

- Parents or eligible students have the right to inspect and review the student's education records maintained by the school. Schools are not required to provide copies of records unless, for reasons such as great distance, it is impossible for parents or eligible students to review the records. Schools may charge a fee for copies.
- Parents or eligible students have the right to request that a school correct records which they believe to be inaccurate or misleading. If the school decides not to amend the record, the parent or eligible student then has the right to a formal hearing. After the hearing, if the school still decides not to amend the record, the parent or eligible student has the right to place a statement with the record setting forth his or her view about the contested information.
- Generally, schools must have written permission from the parent or eligible student in order to release any information from a student's education record. However, FERPA allows schools to disclose those records, without consent, to the following parties or under the following conditions (34 CFR § 99.31):
 - School officials with legitimate educational interest;
 - Other schools to which a student is transferring;
 - Specified officials for audit or evaluation purposes;
 - Appropriate parties in connection with financial aid to a student;
 - Organizations conducting certain studies for or on behalf of the school;
 - Accrediting organizations;
 - To comply with a judicial order or lawfully issued subpoena;
 - Appropriate officials in cases of health and safety emergencies; and
 - State and local authorities, within a juvenile justice system, pursuant to specific State law.

Enemy Swim Day School may disclose appropriately designated “directory information” without written consent, unless you have advised the school to the contrary in accordance with school procedures. The primary purpose of directory information is to allow the Enemy Swim Day School to include information from your child’s education records in certain school publications. Examples include:

- A playbill, showing your student’s role in a drama production;
- The annual yearbook;
- Honor roll or other recognition lists;
- Graduation programs; and
- Sports activity sheets, such as for wrestling, showing weight and height of team members.

Parents and guardians who do not want Enemy Swim Day School to disclose any or all information as directory information from your child’s education records without your prior written consent, may notify Enemy Swim Day School in writing and specifying what information may not be disclosed as directory information.

Enemy Swim Day School has designated the following information as directory information:

- Student’s name
- Dates of attendance
- Grade level
- Participation in officially recognized activities and sports
- Weight and height of members of athletic teams
- Degrees, honors, and awards received
- The most recent educational agency or institution attended

IDDF PROTECTION OF PUPIL RIGHTS AMENDMENT

Protection of Pupil Rights Amendment (PPRA)

The Protection of Pupil Rights Amendment (PPRA) (20 U.S.C. § 1232h; 34 CFR Part 98) applies to programs that receive funding from the U.S. Department of Education (ED). PPRA is intended to protect the rights of parents and students in three ways:

These include, but are not limited to, the right to:

- *Consent* before students are required to submit to a survey that concerns one or more of the following protected areas (“protected information survey”) if the survey is funded in whole or in part by a program of the U.S. Department of Education (ED) –
 1. Political affiliations or beliefs of the student or student’s parent;
 2. Mental or psychological problems of the student or student’s family;
 3. Sex behavior or attitudes;
 4. Illegal, anti-social, self-incriminating, or demeaning behavior;
 5. Critical appraisals of others with whom respondents have close family relationships;
 6. Legally recognized privileged relationships, such as with lawyers, doctors, or ministers;
 7. Religious practices, affiliations, or beliefs of the student or student’s parent; or
 8. Income, other than as required by law to determine program eligibility.
- *Receive* notice and an opportunity to opt a student out of –
 1. Any other protected information survey, regardless of funding;

2. Any non-emergency, invasive physical exam or screening required as a condition of attendance, administered by the school or its agent, and not necessary to protect the immediate health and safety of a student, except for hearing, vision, or scoliosis screenings, or any physical exam or screening permitted or required under State law; and
 3. Activities involving collection, disclosure, or use of personal information collected from students for marketing or to sell or otherwise distribute the information to others. (This does not apply to the collection, disclosure, or use of personal information collected from students for the exclusive purpose of developing, evaluating, or providing educational products or services for, or to, students or educational institutions.)
- *Inspect*, upon request and before administration or use –
 1. Protected information surveys of students and surveys created by a third party;
 2. Instruments used to collect personal information from students for any of the above marketing, sales, or other distribution purposes; and
 3. Instructional material used as part of the educational curriculum.

These rights transfer from the parents to a student who is 18 years old or an emancipated minor under State law.

IDDG FAMILY AND CHILD EDUCATION (FACE)

Enemy Swim Day school will provide a Family and Child Education Program for students and families from birth through the third grade.

IDDGA FACE-MISSION STATEMENT

The mission of Enemy Swim Day School Family and Child Education, a family literacy program, is to strengthen families and provide quality educational and lifelong learning opportunities for American Indians and Alaska Natives from prenatal through adult life.

IDDGB FACE-ENTRANCE AGE

FACE serves children ages prenatal through 3rd grade in the home and center-based programs. A child must be at least three years of age and toilet trained to participate in the center-based preschool. Exceptions may be made on a case-by-case basis with the approval of the Early Childhood teacher and Coordinator. For safety reasons, center-based adults with children not enrolled in the preschool program must arrange for child care.

IDDGC FACE-PROGRAM ADMISSION

Any Native American family within the attendance boundaries of the school may participate in the program. Prior to admission and participation, the required enrollment forms must be on file. For center-based participants, this includes background checks for all adults. Center-based children shall be required to have evidence of a complete physical examination, which was conducted within the last 12 months, and a physician's statement documenting that the child has been successfully immunized consistent with state requirements.

Full-Time families will be given priority for enrollment in the center-based early childhood classroom. A parent may apply for enrollment in the FACE early childhood program as part-time if all available spaces have not been filled by full-time enrolled families. Special circumstance applications will be reviewed by the FACE team for recommendation to the FACE coordinator and Enemy Swim Day School FACE Director for final decision. Special circumstances may include, but are not limited to, children ages 3-5 who have: special education needs; parent(s) are full-time students or full-time employed; parent has physical limitations preventing fulltime center-based attendance. Special circumstance applications will be considered in the order that required enrollment forms are received.

IDDGD FACE-ATTENDANCE

FACE is a family engagement, literacy-based program. Parent/guardian and child participate together.

HOME-BASED

The enrolled parent/guardian and child(ren) must be present and participating during a personal Home-based visit.

CENTER-BASED

No child may attend the early childhood classroom without a parent/guardian attending the FACE Adult education program.

Full-Time

Families are expected to achieve a 75% attendance rate. Children in Center-based must be enrolled for full day services.

Part-Time

Families may be accepted for enrollment in the center-based FACE program for Part Time. The students are expected to attend full time.

If parents or children have missed 3 consecutive weeks or 4 or more non-consecutive weeks from a FACE Program, the family will be unenrolled from the program. Parents will receive a verbal contact, then a written (certified mail) contact, and following a third consecutive week of absence will receive a letter verifying that they have been unenrolled from the program.

IDDGE FACE-TRANSPORTATION

The regular school bus routes to and from school provide transportation for participants in the center-based program. Students are required to seat in the front secured with a harness. Transportation is also provided for FACE Family Circle meetings.

IDDGF FACE-MEALS

Breakfast and lunch are provided at no cost to families attending the center-based program. A parent/guardian is expected to eat breakfast and lunch with their preschool child. Nutritious snacks are also provided. No outside snacks are permitted in the preschool classroom.

IDDGG FACE PROGRAM MEETING DATES

The preschool and adult education students will meet Monday through Thursday and Tuesday through Friday when Monday is a holiday throughout the school year. The FACE program will follow the Enemy Swim Day School calendar for holidays and breaks.

IDDGH FACE COMMUNICABLE DISEASES

The FACE staff recognizes the responsibility to provide a healthy environment for families and staff. If you or your child has a communicable or chronic disease, you must report this to the FACE Coordinator. The determination of whether an infected student should be excluded from the school shall be made case-by-case under the direction of the School Nurse and School Administrator.

IDDGI FACE-VEHICLE

FACE vehicles are to be used for FACE or school functions. Use for FACE functions will take priority over other programs (unless needed in an emergency situation). All vehicles must be cleaned and all car seats and booster seats must be replaced before returning vehicles to the FACE program. Smoking is prohibited in all FACE vehicles. Anyone requesting the use of a FACE vehicle must hold a valid driver's license and adhere to all safety codes and transportation laws. Mileage forms are provided in each vehicle and must be completed by each program when a vehicle is used.

IDDGJ FACE-MEDICATIONS

Medications will be administered by the school nurse. Staff will not administer prescription or non-prescription medication to a child without the written request of the parent or guardian.

IDDGK FACE EMERGENCY DRILLS

Staff, parents and children will follow the procedures established by the Enemy Swim Day School for evacuation procedures.

IDDGL FACE DRUG FREE SCHOOL

To maintain a safe learning and working environment, any location which school business is conducted, whether at this or any other site, is declared to be DRUG FREE. (This includes tobacco usage.) Smoking is prohibited on school grounds.

IDDGM FACE CHILD ABUSE

As mandatory reporters, all FACE staff members are required by law to report any situations of suspected child abuse directly to the Child Protection Program, ESDS FACE Director, and/or proper authorities.

IDDGN FACE-IN ABSENCE OF EXPLICIT FACE POLICY

Any other issue not mentioned above will fall under the guidelines of the ESDS Policies and will be referred to the FACE Administrators.

IDE 504 SERVICES

POLICY OF NONDISCRIMINATION

No discrimination against any person with a disability shall knowingly be permitted in programs or practices in the Enemy Swim Day School. The School has the responsibility to provide notice to parents, identify, evaluate, and if the student is determined to be eligible under Section 504, to provide access to appropriate educational services. If the parent or surrogate disagrees with the determination made by the professional staff of the school, he/she has the right to file a complaint or request a due process hearing with an impartial hearing officer.

EDUCATIONAL SERVICES

ESDS will consider Section 504 of the Rehabilitation Act during the pre-referral, referral, evaluation and eligibility determination for services. A person is disabled under the definition of Section 504 when he/she:

1. has a mental or physical impairment that substantially limits one or more of the person's major life activities,
2. has a record of such impairment, or
3. is regarded as having such impairment.

ESDS will develop a 504 Plan, which will be implemented by the general education program, for a student determined not to be eligible under IDEA, but is determined disabled under Section 504. ESDS will make "reasonable accommodations" within this plan. A student's plan will be annually reviewed each school year and/or if the student's eligibility for 504 services changes.

IDG ADULT EDUCATION

An adult education program may be instituted and administered by the Board and staff when the need, funding and opportunity arises. All adults will abide by the ESDS background policies and other applicable policies.

IDH FAMILY LITERACY POLICY

The Enemy Swim Day School will inform and educate parents, colleagues and the general community about family literacy through promotion, training and the dissemination of information. The school will provide opportunities for parents to improve their literacy skills in order to assist and support the development of literacy skills in their children through participation in educational and skill-building programs.

IED SCHEDULING FOR INSTRUCTION

It is the responsibility of the Principal to see that a satisfactory instructional program is scheduled for each student. Class size will be considered when scheduling and grouping for instruction.

IEIA EDUCATIONAL IMPROVEMENT

All students that score in the below proficiency category in Math and/or Reading according to assessments will be provided with an Educational Improvement Plan. The Plan will be maintained and monitored by the homeroom teacher in conjunction with the students' Math and Reading instructors under the direction of the Principal. Assessment results will be shared with parents.

IEP REMOTE LEARNING

Enemy Swim Day School Remote Learning Policy

Definition: Remote Learning is education provided away from the physical school building during a time of administrative approved closure or as approved by the ESDS School Board for a special case.

The school will provide online instruction for FACE through Eighth (8th) grade on their google classroom and/or paper packets. Students will have access to appropriate educational materials and receive daily interaction with their certified teacher. Student learning supports that are identified on a student's Individualized Educational Program (IEP), 504 Plan, or Gifted program, will be provided remotely. Remote learning includes blended learning solutions with packets and/or online or virtual educational options.

Administration oversees the implementation and continuation of Remote Learning with support for teachers, students and parents. ESDS' Network Administrator will be available for support, and will maintain the infrastructure of all platforms. The confidentiality of student and staff information will be protected. The school will ensure the online platforms, class meetings and all other communication are secure and will not allow for the release of protected student or staff information.

Daily/weekly schedule for each grade level will be created and given to students and parents.

IFAB PARA-EDUCATORS

The assignment of para-educators shall be determined according to: Para-educators hired with General Program and/or Title I funds shall be under the direct supervision of the Principal, and Para-educators hired with Special Education funds shall be supervised cooperatively by the Administration and the Special Education Coordinator.

IFBD SCHOOL LIBRARIES

The school board will provide library and resources to supplement and support the instructional program. All persons responsible for the loss of a library book or other media item will be held responsible for the replacement of it.

IFCA COMMUNITY RESOURCE PERSONS/VOLUNTEER

ESDS will utilize community volunteers and other community resource people to support and enhance the instructional program. The Superintendent must approve resource persons and all unsupervised volunteers must have an approved background check on file with the school and adhere

to ESDS employee policy as determined necessary. All volunteers will adhere to the dress code and all other policies of the school.

Parents or legal guardians who occasionally visit their child’s classroom, eat lunch at school with their child, and do not assist in instruction or independent supervision of other students, are not considered volunteers under this policy.

Definitions

Volunteer: Individuals who work without pay for one-time events or activities at school.

Unsupervised volunteers requiring a background check: Classroom helpers, Tutors, Field Trip Chaperones, Coaches, Drivers. All unsupervised volunteers are required to complete a Volunteer Agreement.

Resource people/Supervised volunteers not requiring a background check: Guest speakers, Special Presenters, Fund-raising Distributors, Science Fair Judges. Supervised volunteers names will be submitted to the principal in advance of the event, by the organizer of the event. The supervised volunteer’s name will be checked against the Sex Offender Registry.

Regular contact with or control over a child means responsibility for a child(ren) within the scope of the individual's duties and responsibilities or contact with a child(ren) on a recurring and foreseeable basis.

Ref: Section 231 of the Crime Control Act of 1990; Public Law 101-647 (codified in 42 USD Code § 13041); Section 408 of the Indian Child Protection and Family Violence Prevention Act; Public Law 101-630 (codified in 42 CFR § 136.406); South Dakota Codified Law 26-6-14.11; SWO-Chapter 75

IG GUIDANCE PROGRAM

Guidance services shall be available for every student. The guidance curriculum including social-emotional learning (SEL) is approved by the school board, implemented and directed by the Counselor in conjunction with the teachers. Guidance personnel will use varied delivery systems consisting of small group, individual counseling, structured training sessions, and other processes. Guidance personnel will assist in developing, gathering and disseminating effective learning activities to instructional personnel as resource material for incorporating learning activities designed to enhance the total development of students.

IH ACADEMIC ACHIEVEMENT

The Administration will develop and promote an educational program that meets the individual needs of the children in accordance to the Elementary and Secondary Education Law mandates and other mandates as applicable.

1. Parents will be provided a progress report card four times a year.
2. Parents will be alerted and conferred with as soon as possible when a child’s performance or attitude becomes unsatisfactory or shows marked or sudden deterioration.
3. Parent conferences will be held two times per year.

4. Student formative assessments in Reading and Math will be conducted three times a year and provided to parents.

IHA GRADING SYSTEMS

Standards based assessment and reporting KINDERGARTEN –EIGHT

A	Advanced	–	4.0
HP	Highly Proficient	-	3.5
P	Proficient	-	3.0
PP	Partially Proficient	-	2.5
B	Basic	-	2.0
PB	Partially Basic	-	1.5
BB	Below Basic	-	1.0
BB	Below Basic	-	0.5

Students will be assessed by grade level SWO Tribal standards in communications and mathematics, SD Content standards for Science and Social studies and Essential Understandings and adopted Dakota standards: as described above. Parents will be able to access student progress through parent portal in Infinite Campus on-line. The teachers will enter grades within 1 week of the assignment and keep grade books current.

IHAD PARENT CONFERENCES

Parent/teacher/student conferences are scheduled to be conducted twice a year, conferences may be offered in person and as a virtual option. Parent/teacher conferences to deal with individual situations will be conducted throughout the school year. Parents are encouraged to visit the school, visit with teachers and other staff, and help in working through issues and conflicts, which affect the learning and self-image of their child. (Ref: JGFH)

IHAE BILL OF RIGHTS FOR PARENTS

Early and consistent parent involvement helps children to achieve well academically.

1. Parents have the right to assist teachers in the maintenance of an environment where students learn in a safe and secure environment.
2. Parents have the right to obtain knowledge from the school that assists them in helping and encourages their children to be accountable for the quality and accuracy of their work.
3. Parents have the right to know that children are being taught in the basic subjects.
4. Parents need to be notified of Standard test results and meetings should be arranged so these results can be discussed with them.
5. Parents have the right to conference in a timely manner with the teachers and/or Principal when questions and concerns about school academics or policies arise.
6. Parents have the right to observe their children’s classrooms.
7. Parents have the right to view their children’s records and be kept informed of their progress.
8. Parents have the right to view the materials their children use and have knowledge of the standards required for each level.
9. Parents have the right to written notification of school rules, attendance policies, dress codes, and procedures for visiting schools, etc.

10. Parents have the right to volunteer time and resources to improve the schools or their programs.
11. Parents have the right to work supportively and with mutual respect to help the children succeed.

It is a privilege and right of all parents to share the intellectual, physical, emotional, social development, well-being and cultural formation of their children. No one person can do this alone. Parents must take the responsibility to be the primary educators of their children and work with cooperation and respect for the teachers and administrators of the Enemy Swim Day School.

IHAH PARENT INVOLVEMENT OPPORTUNITIES

Enemy Swim Day School commits to the role of parents in their children's education and to promote effective, comprehensive parental involvement.

In this policy, "parent" is intended to include parents, guardians, and other family members involved in supervising the child's schooling. Enemy Swim Day School agrees to the following statutory definition of parental involvement, and will carry out programs, activities, and procedures in accordance with this definition:

Parental involvement means the participation of parents in regular, two-way, and meaningful communication involving student academic learning and other school activities, including ensuring:

- *that parents play an integral role in assisting their child's learning*
- *that parents are encouraged to be actively involved in their children's education*
- *that parents are full partners in their children's education and are included, as appropriate, in decision-making and on advisory committees to assist in the education of their children*
- *reasonable access to staff, opportunities to volunteer and participate in their child's class, and observation of classroom activities.*

In compliance with Section 1116 of Every Student Succeeds Act (ESSA), Enemy Swim Day School agrees to:

- Involve the parents of children served at ESDS in decisions about how Title I, Part A funds reserved for parental involvement are spent.
- Jointly develop/revise with parents the school parental involvement policy and distribute it to parents of participating children and make available the parental involvement plan to the local community
- Jointly conduct, with the involvement of parents, an annual evaluation of the content and effectiveness of the school's parental involvement policy
- Use the findings of the parental involvement policy evaluation to design strategies for more effective parental involvement, and to revise, if necessary, the school's parental involvement policy
- Inform parents and parental organizations of the purpose and existence of the Parental Information and Resource Centers in South Dakota.

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- If the ESDS School improvement or plan for Title I, Part A, developed under section 1112, is not satisfactory to the parents of participating children, the school will submit parent comments with the plan when the school submits the plan to the local educational agency
- Provide to each parent an individual student report about the performance of their child on the State assessment in at least mathematics, language arts, and reading
- Provide each parent timely notice when their child has been assigned or has been taught for four (4) or more consecutive weeks by a teacher who is not highly qualified within the meaning of the term in section 200.56 of the Title I Final Regulations (67 Fed. Reg. 71710, December 2, 2002)
- Provide each parent timely notice information regarding the professional qualifications of the student's classroom teachers and paraprofessionals, as described in section 1111(h)(6)(A)

INVOLVEMENT 1116

1. Convene an annual meeting with parents to discuss program plans, implementation, and suggestions at a time convenient for parents of participating children:
 - All parents shall be invited and encouraged to attend
 - The school will provide information and explain the requirements of Title I and the rights of parents
 - Agendas and minutes will be required for each meeting and will be maintained and reported from year to year.
2. Offer a flexible number of meetings and may provide with Title I funds, transportation, child care, or home visits, as such services related to parental involvement.
3. Involve parents in an organized, ongoing, and timely manner, in the planning, review, and improvement of school programs. This should include the planning, review, and improvement of the school parental involvement policy, as well as the joint development of the school-wide program plan under section 1114 (b).
4. Provide parents of participating children:
 - Timely information about the school and Title I programs
 - Description and explanation of the curriculum at the school, the forms of academic assessment used to measure student progress, and the proficiency levels students are expected to meet in a timely manner
 - Opportunities for regular meetings to formulate suggestions and to participate, as appropriate, in decisions relating to the education of their children

Note: If the school-wide program plan under section 1114 (b) is not satisfactory to the parents of participating children, the school will also submit the parents' comments on the plan that will be available to the local education agency.

BUILDING CAPACITY FOR INVOLVEMENT 1116

Enemy Swim Day School will:

1. Provide assistance to parents in understanding such topics as:
 - SD academic content standards
 - SWO Tribal Standards
 - OCETI Sakowin Essential Understandings

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- SD student academic achievement standards
 - SD and local academic assessments including alternate assessments
 - The requirements of Title I, Part A
 - How to monitor their children’s progress
 - How to work with educators to improve the achievement of their children
2. Foster parental involvement by providing materials and training, such as literacy training and using technology, as appropriate, to help parents work with their children to improve their children’s academic achievement.
 3. Educate teachers, student services personnel, principal, and other staff on the value and utility of contributions of parents, and in how to reach out to and communicate and work with parents as equal partners. Actions should include how to implement and coordinate parent programs and build ties between parents and schools.
 4. Coordinate and integrate parental involvement programs and activities that teach parents how to help their children at home (to the extent feasible and appropriate). Possible programs include: FACE, Head Start, SWO Early Intervention Program, Even Start, Home Instruction Programs for Preschool Youngsters, the Parents as Teachers Program, public preschool, and other programs. The school’s program must help teachers, principal, and other staff work well with parents. The school will also develop other activities, such as parent resource centers, that encourage and support parents in more fully participating in the education of their children:
 5. Ensure that information related to the school and parent programs, meetings, and other activities is sent to parents of participating children in a format and language the parents can understand.
 6. Conduct activities that encourage and support parental involvement within reason or as parents may request.
 7. Educate instructional staff to communicate with and assist parents and recognize the valuable contributions of parent partnerships.

ACCESSIBILITY 1111

In carrying out the parental involvement requirements of this part, districts and schools, to the extent practical, shall provide full opportunities for the participation of parents with children with limited English proficiency, parents with children with disabilities, and parents of migratory children, including information and school reports in a format and to the extent practical, in a language such parents can understand.

ADOPTION

The Enemy Swim Day School Parental Involvement Policy is developed/revised jointly with, and agreed on with, parents of children participating at ESDS including those in Title I program, as evidence by meeting minutes. The involvement Policy/Plan is developed/revised by Enemy Swim Day School annually and is in effect for the period of the school year.

The school will annually distribute this Parental Involvement Policy/Plan in the fall of the year to all parents of children participating at ESDS and make it available to the community.

IHB HOMEWORK

Homework Policy

Definition: Homework is activity assigned by the teacher to complete outside of the school day that meets or extends the goals of the curriculum. Homework is clearly defined, directly related to class work and is used to master curricular goals. Homework’s role is as formative assessment- assessment *for* learning that takes place *during* learning. Homework supports learning in one of four ways: pre-learning, checking for understanding, practice, or processing. It is work students should be able to complete independently. The goal of feedback on homework is to improve learning, improve performance on summative assessments, to promote student ownership of learning, and to encourage self-assessment.

Missing work- class work and/or homework that is not completed by the due date.

Make up work- class work and/or homework that a student has missed due to absence from the class.

Class work- work/activity that is to be completed within the class period and/or school day as introduction, guided or independent practice or summarization of curricular goals.

Homework folder- Each student will have a folder that will go home periodically for parents to review and return the next day to the teacher. This folder will contain the homework assignment to complete at home and an assignment sheet (or planner) for class work. Missing work and make up work will be listed when the student has some to complete. Items that need to be returned the next day will be found in the “return to school” pocket. Students will have parents sign the assignment sheet when work is completed and return it school the next day. Pertinent class and school information and graded assignments will be sent home with students in the folder and found in the “keep at home” pocket. The folder serves as a 2-way communication between home and school.

Teachers will provide progress reports every two weeks that show their grades and missing work. Please review and sign for your child to return these to the school. The school will provide report cards at the end of each quarter.

Frequency and Quantity: Students will bring home a homework folder four (4) nights a week that has the daily homework to be completed at home and the class assignments for the day. Students that may not have homework on any given day should uphold the routine of doing homework by reading independently, practicing math facts or vocabulary and reviewing content for upcoming quizzes and tests. Students who are absent should make up all assigned work within 2 days of their return to school.

Homework grades are based on completion and proficiency according to standards.

Corrections and Returns: Teachers will promptly mark, grade and return homework, class work, and assessments with meaningful feedback to enhance its effects on student learning. All students will be provided the opportunity to redo, correct or complete an alternative assessment for all

assignments. Opportunity for re-teaching will be provided. Students will receive full credit for proficient re-dos/corrects.

No Zero Policy: ESDS promotes success and proficiency of content area skills and standards by not accepting zeros or missing work. Students with missing work or failing grades will receive incompletes and assigned to mandatory ZAP (Zeros Aren't Possible) sessions until all missing assignments are completed. ZAP lists will be posted and students will be informed of ZAP status as progress is made. These work sessions will occur during non-content area time periods: Afterschool, before school, lunch, computer, Staff PD days (days when students are not in session at school). ZAP and OST sessions are for incomplete, make up or redo class work. Homework is to be completed at home on the day assigned.

Missing, late and below proficient assignments will be noted in the grade book and updated when student has completed or redone the assignment. Parents are encouraged to contact their child's teacher with any questions or concerns.

IHE PROMOTION AND RETENTION

Retention shall be used only when it is to the advantage of the student. Retention will be recommended by the teacher; however, the assignment shall be made with the approval of the Principal, following a review with the teacher's assistance team. When retention of a student is being considered, teachers must confer with the students' parents well before the end of the school year.

IHF SCHOOL IMPROVEMENT

School Improvement Status and Goals will be included in the School Improvement Plan and reported annually and published in the Tribal newspaper. Parents may be provided a copy of the status and goals annually. The school board will receive a periodic report from the administrators regarding school improvement and programs. The School Improvement Plan is a working document that educators, parents and students can use as a reference or check point that is a data driven tool for decision making for school improvement. The School Board will ensure that adequate funding is available for school improvement programs.

II TESTING PROGRAM

The School implements a student assessment program during each school term. Assessment includes academic achievement testing, and other assessment processes to enable the school to more accurately assess the needs and interests of students. Students are expected to complete all assessments/testing instruments to the best of their ability. Results of the testing and assessment activities will be reviewed confidentially with the student.

IIC USE AND DISSEMINATION OF TEST RESULTS

All parents have full access to all records or data relating to the student. Student records will not be released to a third party without prior written consent of the parents with exceptions made for other school officials and governmental education agencies.

IJ EVALUATION OF INSTRUCTIONAL PROGRAM

Reports shall be made periodically by the Superintendent to the Board in order to ascertain the strengths and weakness of the school program and to make recommendations for curriculum improvement.

IKB TEACHING ABOUT CONTROVERSIAL ISSUES

Some educational topics can be controversial. The ESDS staff will provide age-appropriate education according to the standards. They will be handled as a regular aspect of instruction and learning in such a way as not to inhibit the dignity, the personality or the intellectual integrity of either the teacher or the students. Parents will also be notified.

IKBA GUEST SPEAKERS

All speakers must be approved through Administration. In no instances shall a speaker who advocates unconstitutional or illegal acts or procedures be permitted to address students.

IKD SCHOOL CEREMONIES AND OBSERVANCES

It shall be the tradition as well as policy of the Board to utilize traditional cultural and other methods of observing special events, honoring, ceremonies and observances within the School. Thus, students shall be afforded the opportunity to participate in a variety of activities inclusive of:

1. Flag Song: The flag song shall be provided at the school during the opening and closing ceremonies.
2. Akicita: The Akicita song shall be provided at the School during the opening and closing ceremonies.
3. Other: Honoring, memorial and other traditional songs will be provided, dependent upon situations which arise that affect the school community in an effort to further the student and staff understanding of the community and culture, and demonstrate respect. Ceremonies appropriate from a cultural perspective will also be provided.

The Board shall promote activities, which enhance student understanding of spirituality, however, may prohibit activities, which are designed to promote a specific “religious” or denominational belief. The administration shall ensure proper planning and coordination of activities, which will provide students with a comprehensive rather than restricted definition of spirituality.

The religious freedom rights of Indian Students are specifically noted in 25 CFR Part 32.4(f), as the BIA policy to: “promote and respect the right to cultural practices, consistent with the provisions of the American Indian Religious Freedom Act”.

IKI LESSON PLANS

Teachers will prepare unit lesson plans in advance and utilize the ESDS lesson plan format. The Principal will monitor teachers’ lesson plans-

IKJ FAMILY ORIENTATION PACKET

The Enemy Swim Day School will provide a Family Orientation Packet to each new family at the beginning of each school year or upon joining the ESDS system. The Packet will minimally include the following information: Student Handbook, parent policies, website information, communication information to include the bus phone numbers, parent compact, parent bill of rights, school year calendar, welcome letter, policy of non-discrimination, School Improvement Plan.

ILA SPECIAL EDUCATION POLICY AND PROCEDURES

I. ENROLLMENT

All children with disabilities enrolled at ESDS have the right to a free and appropriate public education (FAPE) in the least restrictive environment. As a K-8 program, the special education program does not work with children from birth through four (4) years of age other than providing information about early childhood services available. The public schools are responsible for the students on the Lake Traverse Reservation and arranging a transition meeting each spring to plan for any special needs for incoming kindergartners eligible for services under Individuals with Disabilities Education Act (IDEA).

II. DEFINITIONS

A. Individualized Education Program or IEP

An IEP is a written document for each child with a disability who qualifies for services and is in need of specially designed instruction that defines the special education, related services, accommodations, modifications, supplementary Para-Educators, and services that the school will provide.

B. Parent

A parent is a biological or adoptive parent, a legal guardian, foster parent, a surrogate parent appointed by ESDS, or a person acting in the place of a parent. A person acting in the place of a parent includes grandparents, stepparent or other relative with whom the child lives, or who is legally responsible for the child's welfare. If the child is a ward of the State or Tribe, the term "acting as parent" does not apply to BIA/Tribal personnel.

In determining who has parental rights, the following individuals are considered in order of priority:

1. the biological parent who retains guardianship
2. a person who has legal documentation of being responsible for the child's welfare
3. a grandparent, stepparent, or foster parent with whom the child lives, and is acting as a parent
4. a surrogate parent appointed by ESDS to represent the child's interests in educational decisions.

C. Student

A student is an individual between the ages of 5 and 21, who is enrolled and attending school at ESDS. A student attending school at ESDS is not considered enrolled until he/she is Board approved and begins attending school.

D. Disabilities under IDEA:

NOTE: As required by BIE IDEA policy and procedure, ESDS utilizes South Dakota State’s IDEA disability criteria when determining if an ESDS student is eligible for IDEA services.

1. Autism...a developmental disability significantly affecting verbal and non-verbal communication and social interaction, generally evident before age three, that adversely affects a child’s educational performance. Other characteristics often associated with autism are engagement in repetitive activities and stereotyped movements, resistance to environmental change or change in daily routines, and unusual responses to sensory experiences. The term does not apply if a child’s educational performance is adversely affected primarily because the child has a serious emotional disturbance. (As defined under Emotional Disturbance)
NOTE: A child who manifests the characteristics of autism after age three could be identified as having autism if the criteria in the primary definition are satisfied.
2. Intellectual Disability (Mental Retardation)...significantly sub-average general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period, that adversely affect a child’s educational performance.
3. Deaf/Blindness...concomitant hearing and visual impairments, the combination of which causes such severe communication and other developmental and educational problems that they cannot be accommodated in special education programs solely for children with deafness or blindness.
4. Deafness...a hearing impairment that is so severe that the child is impaired in processing linguistic information through hearing, with or without amplification, that adversely affects educational performance.
5. Emotional Disturbance... means a condition exhibiting one or more of the following characteristics over a long period of time and to a marked degree that adversely affects a child's educational performance:
 - a. an inability to learn that cannot be explained by intellectual, sensory, or health factors;
 - b. an inability to build or maintain satisfactory interpersonal relationships with peers and teachers;
 - c. inappropriate types of behavior or feelings under normal circumstances;
 - d. a general pervasive mood of unhappiness or depression; or
 - e. a tendency to develop physical symptoms or fears associated with personal or school problems.
 - i. The term does not apply to a student who is socially maladjusted unless a multidisciplinary evaluation team determines that the student has an emotional disturbance as defined above.
6. Hearing Impairment... an impairment in hearing, whether permanent or fluctuating, that adversely affects a child’s educational performance but that is not included under the definition of deafness in this section.
7. Multiple Disabilities... concomitant impairments (such as mental retardation-blindness, mental retardation-orthopedic impairment, etc.), the combination of which causes such severe educational needs that they cannot be

- accommodated in special education programs solely for one of the impairments. Multiple disabilities does not include deaf-blindness.
8. Orthopedic Impairment...a severe orthopedic impairment that adversely affects a child's educational performance. The term includes impairments caused by a congenital anomaly, impairments caused by disease (e.g., poliomyelitis, bone tuberculosis, etc.), and impairments from other causes (e.g., cerebral palsy, amputations, and fractures or burns that cause contractures).
 9. Other Health Impaired...having limited strength, vitality or alertness, including a heightened alertness to environmental stimuli, that results in limited alertness with respect to the educational environment, that is due to chronic or acute health problems such as asthma, attention deficit disorder or attention deficit hyperactivity disorder, diabetes, epilepsy, a heart condition, hemophilia, lead poisoning, leukemia, nephritis, rheumatic fever, and sickle cell anemia; and adversely affects a child's educational performance.
 10. Specific Learning Disability...a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, that may manifest itself in the imperfect ability to listen, think, speak, read, write, spell, or to do mathematical calculations, including conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. Specific learning disability does not include learning problems that are primarily the result of visual, hearing, or motor disabilities, of mental retardation, of emotional disturbance, or of environmental, cultural, or economic disadvantage.
 11. Speech or Language Impairment...a communication disorder, such as stuttering, impaired articulation, a language impairment, or a voice impairment, that adversely affects a child's educational performance
 12. Traumatic Brain Injury...an acquired injury to the brain caused by an external physical force, resulting in total or partial functional disability or psychosocial impairment, or both, that adversely affects a child's educational performance. Traumatic brain injury applies to open or closed head injuries resulting in impairments in one or more areas, such as cognition; language; memory; attention; reasoning; abstract thinking; judgment; problem-solving; sensory, perceptual, and motor abilities; psychosocial behavior; physical functions; information processing; and speech. Traumatic brain injury does not apply to brain injuries that are congenital or degenerative, or to brain injuries induced by birth trauma.
 13. Visual Impairment...an impairment in vision that, even with correction, adversely affects a child's educational performance. The term includes both partial sight and blindness.
 14. Developmental Delay...a student three, four, or five years old may be identified as a student with a disability if the student has one of the major disabilities listed in IDEA or if the student experiences a severe delay in development (physical development, cognitive development, communication development, social or emotional development, or adaptive development) and reason thereof, needs special education and related services (under South Dakota until age nine).

III. FACILITIES, PERSONNEL, AND SERVICES

A. Facilities

ESDS has a Learning Lab for the program: elementary and middle school. The facilities are adequate and accessible. Space is provided for speech services, occupational therapy, physical therapy, counseling and other IEP defined student needs.

Program accessibility will be assured in all existing facilities. In no event will architectural barriers prevent a child with a disability from being educated in the least restrictive environment. Program accessibility may be accomplished through the following methods:

1. redesign of equipment
2. reassignment of classes or other services to accessible buildings
3. assignment of Para-Educators to children
4. home visits
5. alteration of existing facilities
6. other methods necessary for providing accessibility to children with a disability in the least restrictive environment.

B. Personnel

The number of teachers and Para-Educators employed at ESDS is dependent upon the number of students in the special education program and student defined on IEP needs. ESDS works in good faith to hire special education staff that are licensed or certified and who meet the standard of “highly qualified” as defined in the state of South Dakota. The most appropriate and adequately trained individual available will be hired and be required to pursue the highest entry-level standards for the profession or position for which the individual is hired. ESDS Superintendent will work with the South Dakota Department of Education if the school hires an individual who does not carry state certification because ESDS is unable to locate and hire an individual with appropriate certification.

Special education Para-Educators currently employed at ESDS have forty-eight or more hours of post-secondary education, an Associate Arts degree, or have taken the PRAXIS. ESDS will work in good faith to ensure that all new special education Para-Educators have forty-eight or more hours of post-secondary education. ESDS will hire the most appropriate and adequately trained applicant as a “substitute” if there is no applicant fulfilling this requirement and continue to look for a qualified applicant until the “substitute” fulfills the 48-hour requirement of Every Student Succeeds Act (ESSA) and IDEA, or a qualified applicant is found, or the services are no longer required.

ESDS special education teachers and administration will be responsible for providing or assisting the Para-Educators in finding appropriate training if additional training is required to work with assigned student(s). ESDS administration is responsible for the supervision of all certified and non-certified staff. The certified professional staff member whom works with a Para-Educator will be responsible for the immediate supervision of the Para-Educator.

NOTE: For a Para-Educator assigned to several teachers the main supervisor will be the special education teacher for the program. Other teachers to whom the Para-Educator is assigned are the Para-Educator's immediate supervisor during the times that the Para-Educator is assisting that teacher's students.

C. Services

Individuals with Disabilities Education Improvement Act (IDEA)

ESDS provides special education and related services to students in grades K-8 who meet the State criteria for a child with a disability. South Dakota criterion for Developmental Delay allows a child to maintain the Developmental Delay certification up to age 9. The student will be reevaluated and the IEP team will determine if the student meets the criteria for one of the other thirteen IDEA disabilities on or before a student's sixth birthday.

Speech and related services (such as counseling, occupational therapy, physical therapy, and transportation) are provided as determined by the IEP team and defined on a student's IEP. An ESDS student will not be placed in the ESDS Special Education Program if he/she requires only a related service. The services will then be provided through general education under Section 504.

IV. IDENTIFICATION AND EVALUATION

A. In-school Child Find Activities

The responsibility for the Child Find process lies with ESDS Superintendent. The Superintendent will receive assistance from ESDS special education staff in the implementation of this process.

ESDS will conduct child find by utilizing the following methods:

1. publish ESDS' notices in local media at least annually
2. post notices in places in the community
3. work with the Early Childhood Program, FACE program and Head Start programs on the Lake Traverse Reservation to assist with appropriate referrals and transition into ESDS kindergarten program
4. provide an annual in-service to all staff about the special education process at ESDS
5. utilize the Multi-Tiered System of Support Plan to efficiently collect information to determine if a student should be referred for early intervening services, defined below, or referred directly for a special education evaluation. The screening process includes, but is not limited to:
 - a. pre-school kindergarten screening
 - b. hearing screenings
 - c. vision screenings
 - d. school wide standardized assessment reviews for student concerns & validation by the students' classroom teachers
 - e. screening of a student by a teacher or specialist to determine appropriate instructional strategies for curriculum implementation

NOTE: Individual screening is not considered an evaluation for determining a child's eligibility for services under IDEA, so parental consent is not required.

B. Coordinated Early Intervening Services (CEIS):

CEIS is a part of the general education program services if funding is available and approved by the School Board. A classroom teacher, school staff member or parent may request that a child receive CEIS. The Student Assistance Team (SAT), in collaboration with the classroom teacher, will determine if a child is appropriately referred.

ESDS may use up to 15% of its Part B allocation, as determined by the school board, to provide Coordinated Early Intervening Services (CEIS). CEIS funding will be used for:

1. professional development activities supporting:
 - a. scientifically based literacy instruction and literacy in the content area
 - b. scientifically based math instruction
 - c. use of adaptive and instructional software
2. supplemental educational and behavioral materials
3. educational and behavioral evaluations
4. supplemental educational and behavioral services

C. ESDS' Pre-referral Procedures/Student Assistance Team (SAT)

ESDS uses a problem-solving model of intervention for students identified as having academic or behavioral concerns. This team is called the Student Assistance Team (SAT). It is the building principal's responsibility to establish the SAT. Team Members include:

1. general education teachers
2. principal/administrative designee
3. counselor
4. referring teacher/person
5. Other staff members and/or school resources as appropriate.

SAT Referral Procedures:

1. STEP 1:

- A. A referral is made to the SAT by the parent, student's teacher, or other concerned ESDS staff member.
- B. A meeting is scheduled to review a student's:
 - a. primary language
 - b. student concerns
 - c. teacher data on concerns
 - d. school-wide benchmark data
 - e. Screening data already collected
 - f. completion of appropriate screening tools to assist in determining instructional strategies for area(s) of concern
- C. SAT team determines appropriate scientifically research-based interventions
- D. Teacher/Staff member(s) implements the interventions and collects data for the time period defined by SAT (refer to ESDS RTI plan)

2. STEP 2:

- A. Team meets to review intervention data and determines if:
 - 1) intervention(s) successful
 - i. Yes

1. collected information is placed in student’s cumulative folder
 2. intervention(s) continues if appropriate
- ii. No-Continue to 2
- 2) SAT determines if additional interventions should be attempted or if child should progress to STEP 3. If STEP 3 is recommended, the special education coordinator needs to be in attendance at the SAT meeting.

3. STEP 3:

- A. Team will determine if a referral is needed to a program or service outside of special education, i.e., 504, Social Services, etc.
- B. If a referral to the special education program is appropriate, a special education referral form is completed by the designated SAT member and given to the special education teacher/coordinator along with the pre-referral/CEIS data

The pre-referral process is a requirement under IDEA, but it will not be used to delay a student’s referral for consideration of a special education evaluation, if immediate action is warranted.

C. Special Education Referral:

Parent referrals will be given to SAT to determine if an immediate evaluation to determine if the child has a disability under IDEA, or if the child should continue in the pre-referral/CEIS process. ESDS will provide the parent(s) with prior written notice summarizing ESDS’s decision and Procedural Safeguards.

Staff referrals will be given to the SAT to determine if the referral is appropriate or if pre-referral/CEIS services should be implemented.

D. Initial Evaluations and Reevaluations

Individual Evaluation is defined as a specific procedure used selectively with the student to determine whether he/she has a disability under IDEA, using the South Dakota criteria, the impact of the disability on the student’s educational performance, to determine the need for specially designed instruction and related services and recommend appropriate interventions.

Parental Consent to Evaluate will be requested, in writing, for both initial and reevaluations, in the areas determined by the evaluation team. The date the school receives written consent will be documented and the evaluation process will begin as soon as possible. ESDS will complete the evaluation process within 60 calendar days of receipt of written consent, or request written permission, from the parent(s), for an extension to complete the evaluation. Parents will be informed that consent is voluntary and can be revoked at any time, by notifying ESDS in writing.

1. ESDS evaluation team consists of:
 - a. parent of the child or adult student if rights have transferred
 - b. school principal or designee
 - c. special education teacher working with student
 - d. general education teacher that works with the student (as appropriate)
 - e. related service provider if appropriate
 - f. individual who can interpret evaluation results and implications

NOTE: A team member may play more than one of the above roles.

2. The evaluation team will review the student’s current information and documents:
 - a. what additional data is needed to determine if the student has a disability under IDEA
 - b. what evaluation tools will be used to collect the additional data

NOTE: The evaluation team may conduct the review of existing data and complete the Parental Consent to Evaluate without holding a formal meeting. Input of all required members, based upon student needs, will be documented by participants’ signatures.

3. Written Consent to Evaluate:
 - a. Initial Evaluation: **Required.** ESDS will not proceed with an initial evaluation without written consent.
 - b. Reevaluation: **Pursued.** ESDS will pursue written consent based upon the review of existing data. ESDS will not pursue a reevaluation if the parent(s) provide their refusal in writing. ESDS will proceed with a reevaluation if ESDS has documented 3 attempts to acquire consent and the parent does not respond.
4. Reevaluation is the process of evaluating the student to see if he/she continues to meet the eligibility criteria for the disability for which he/she is currently receiving services. A reevaluation will be completed:
 - a. at least every three (3) years, unless the parent(s) and school agree that it is unnecessary
 - b. if the student’s parent or teacher request a reevaluation, but only once a calendar year unless the school and parent(s) agree otherwise
 - c. if conditions warrant, such as a substantial change in the student’s performance
 - d. before exiting a student from the special education program unless the student is graduating or the parents have requested, in writing, that their child no longer receive services.

At the time of a reevaluation, ESDS special education staff will work with the IEP team to review a student’s existing data and determine what, if any, evaluations are needed to document continued eligibility for services under IDEA. This task will be accomplished through a formal meeting, or by having the special education teacher gather input through individual meetings with members. Input will be gathered from the parent(s), or the school will document three attempts to acquire such input. The team can determine:

- e. No Additional Information Needed: The team may agree that no further evaluations are required to document the student’s continued eligibility.
 - i. ESDS will provide the parents written notice of the team’s decision
 - ii. notify the parents of their right to request a reevaluation
 - iii. schedule an IDEA Eligibility and IEP Meeting to review the IDEA criteria and document the team’s decision on the student’s continued eligibility for IDEA services
 - iv. develop a new IEP.
- f. Additional Assessments Needed: The team may determine that additional assessments are required to document the student’s continued eligibility.
 - i. The evaluation team will define the assessments to be completed
 - ii. ESDS will provide the parents written notice of the team’s decision
 - iii. ESDS will request written consent to complete the reevaluation

5. ESDS ensures that all evaluations:
 - a. will be administered in the student’s native language or other mode of communication, unless it is clearly not feasible to do so
 - b. will be completed within 60 calendar days. ESDS may extend the evaluation timeline if the parents provide written consent
 - c. will be used only for the specific purposes for which they have been validated
 - d. will be administered by qualified personnel in conformance with the instructions of the test procedures, or any change to this will be taken into account in the eligibility determination and be documented on the summary report
 - e. will assess specific areas of educational need using a variety of test and other evaluation materials
 - f. will accurately reflect a child’s aptitude or achievement level or whatever factor the test is to measure
 - g. will be in all areas related to the suspected disability including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, adaptive behavior, communicative status, and motor abilities
 - h. will include parental input

6. Exceptions to the Evaluation Time Line: (60 calendar days)
 - a. When the parent of a child repeatedly fails or refuses to produce the child for the evaluation(s)
 - b. The student transfers into ESDS after an evaluation was initiated at another school and prior to the student’s eligibility determination for services under IDEA.
 1. ESDS and the parent(s) will agree to a specific time that the evaluation will be completed
 2. ESDS will discontinue the evaluation process if the parent withdraws consent in writing

7. Additional Procedure for a Suspected Specific Learning Disability (SLD):
 - a. ESDS, through the use of the Student Assistance Team, will ensure that data exists demonstrating that the student received instruction and assessments in reading or math, as appropriate:
 1. in a scientifically based general education curriculum, in the general education classroom and by highly qualified instructors; and
 2. at least one scientific and research-based intervention to assist the student in meeting the school’s approved grade level standards in:
 - b. ESDS will use a student’s intellectual ability to assist the team in determining the presence of a specific learning disability, but it will only be one of the tools utilized in the eligibility process
 - c. document that with the use of SAT the student does not adequately achieve the school’s grade level standards in one or more of the areas included in the SLD definition
 - d. Classroom observations will be completed:
 1. during the SAT stages of the referral process
 2. in the regular classroom setting by a team member, other than the student’s classroom teacher, in the area of concern, after Parental Consent is acquired.
 - e. The observer will document how the perceived disability affects the student’s performance in the classroom.

E. Eligibility Determination

The evaluation team, which includes the parents, will meet after all of the required evaluations have been completed. The team will review the previously existing data and any new information gathered during the evaluation to determine the student’s eligibility for services under IDEA. A student cannot be identified as a child with a disability if the reason for such a decision is lack of instruction in reading or math, or limited English proficiency.

1. The Eligibility Determination is documented in an Eligibility Report, which upon completion will be given to the parent(s) and includes:
 - a. all the information related to the eligibility criteria for the disability in question
 - b. information about how the student’s disability adversely affects his/her education
 - c. a description to the extent an assessment, if any, varied from standard conditions
 - d. the team’s decision regarding whether the student requires special education services
 - e. the date of the eligibility determination
 - f. the names and titles of those who participated in the evaluation and eligibility determination
 - g. Each team member will document his/her support for the team’s decision or attach a separate statement explaining his/her conclusions
2. Additional Procedure for a Suspected Specific Learning Disability (SLD):
 - a. The evaluation report must include a statement that the student has a specific learning disability and the basis for making the determination
 - b. The relevant behavior, if any, noted during the observation of the child and the relationship of that behavior to the child’s academic functioning
 - c. Educationally relevant medical findings
 - d. The disability is not primarily the result of:
 - Visual, hearing or motor disability
 - Mental retardation
 - Emotional disturbance
 - Cultural factors
 - Environment
 - Limited English Proficiency
 - Lack of instruction in reading or math
 - e. A statement that the child is not able to perform at the child’s grade level standards after receiving scientific, research-based instruction by highly qualified instructors
 - f. And in need of specially designed instruction

V. INDIVIDUAL EDUCATION PROGRAM (IEP) AND PLACEMENT REQUIREMENTS

The IEP is a written and working document developed for a student with a disability, which outlines his/her total educational program.

A. The IEP Must Be In Effect:

1. before special education and related services will be provided
2. within 30 days of the multi-disciplinary team’s decision that the child is eligible for special education services and upon receiving parental consent for services under IDEA
3. at the beginning of each school year for those students already identified as requiring special education services and for whom the school has acquired parental consent
4. upon notification and receipt of an IEP when a student transfers from another educational facility

B. An IEP Meeting Must Occur:

1. a maximum of 30 calendar days from the determination of a child’s eligibility for special education services (ESDS will work to develop the initial IEP in the same meeting that the student is determined eligible for services under IDEA.)
2. at least annually from the IEP date
3. when another agency fails to deliver transition services outlined in the IEP
4. to consider and/or make changes in the IEP or placement, if requested by the parent
5. at the reasonable request of any member of the IEP team
6. to review behavior intervention strategies and/or develop a behavior plan as part of the IEP
7. according to IDEA discipline requirements

C. IEP Team Participants include:

1. the parents
2. the student, where appropriate
3. school supervisor or designee who is qualified to provide or supervise the provision of special education to meet the unique needs of children with disabilities, knowledgeable about the general education curriculum and the availability of resources, able to commit resources to ensure that whatever services are set out in the IEP will be provided.
4. the student’s teacher(s)
5. special education and/or related service providers
6. someone that can interpret evaluation results and implications
7. representative of transition agencies if transition issues are being discussed
8. other individuals at the discretion of the parents or ESDS

NOTE:ESDS staff may play more than one of the above roles in an IEP meeting.

D. Parent(s) Participation

ESDS shall take steps to encourage parental/ guardian attendance at each meeting by:

1. working with parent(s) to schedule the meeting at a mutually agreed upon time and place
2. provide parent(s) with purpose, time, location, participants invited, and the parents’ right to bring other people who have knowledge about the student to the meeting
3. use other methods, such as individual or conference calls, to ensure the parents’ participation if neither of the parents can attend and are documented in the student’s file
4. providing an interpreter for parent(s) whose native language is other than English or deaf

A meeting will be conducted without the parents in attendance, if ESDS is unable to convince the parents to attend, which will be documented by ESDS. ESDS will maintain records of its efforts to schedule a meeting at a mutually agreed upon time and place. A minimum of three (3) contacts, for the scheduled meeting, will be made and documented in the student's file before an IDEA related meeting will be held without a parent in attendance. If a parent is not in attendance and ESDS does not have the required documentation, or the parent’s request ESDS to reschedule the meeting, ESDS will reschedule the meeting unless the rescheduling of a meeting will result in an IDEA violation and if ESDS has given the parent sufficient notice.

Efforts include:

1. records of telephone calls made or attempted and their results
2. copies of correspondence sent and any responses received
3. documentation of visits made to the home or parent's place of employment and the results of those visits.

E. Student Participation

ESDS students will be encouraged to participate in all of their IEP meetings. Students will be formally invited and input pursued by age 16, or if the purpose of the meeting is to consider transition activities. ESDS will ensure that the child's performance and interests are presented and considered at the meeting.

F. General Education Teachers' Participation

If a child is participating in the general education environment, at least one of the child's teachers responsible for implementing any portion of the IEP will participate in developing the IEP. If a child has more than one general education teacher, ESDS will designate which teacher or teachers will serve as IEP team members, based upon the student's schedule and disability's effect on educational performance. Input will be sought from all of the child's general education teachers who do not attend the IEP team meeting. Input will be required for any general education teacher that receives parental excusal as defined below. Depending on the child's needs and the purpose of the specific IEP team meeting, the general education teacher need not participate in all decisions, or be present throughout the entire meeting, or attend every meeting. The general education teacher will participate in the development, review and revision of the IEP, including:

1. determination of appropriate positive behavior interventions, supports and other strategies for the child
2. determination of supplementary aids and services, program modifications, and supports for school personnel.
3. discussion of the child's involvement and progress in the general education curriculum

The special education staff member assigned to manage the student's file will:

1. make the student's IEP accessible to any staff members who are responsible for implementation of the student's IEP
2. inform staff members of their responsibility for implementation of the student's IEP
3. inform the staff members, assigned to the student, of the student's accommodations, modifications and supports that will be provided for the student

G. IEP Team Member's Excusal from Meeting

Required IEP team member(s) will be excused from the scheduled IEP meeting if:

1. parent and school agree, in writing, that the member can be excused, and
2. member provides written input, prior to the meeting, for development of student's IEP

A member of the IEP team who is not required for the IEP meeting will be excused from the meeting if the parent and school agree and document their agreement in writing.

H. Contents of the IEP

ESDS IEP includes the following:

1. general demographic information on the student

2. the projected date for initiation, anticipated frequency, location and duration of services and modifications
3. documentation of IEP participants
4. a statement of the student’s present levels of academic achievement and functional performance, which includes:
 - a. the strengths of the child
 - b. the concerns of the parent(s) for enhancing the education of their child
 - c. the results of the initial or most recent evaluation of the child
 - d. how the child’s disability affects his/her performance in the general education program
5. a statement of measurable annual goals, which are academic and functional
6. students who will participate in the Alternate Assessment will have at least two short term instructional objectives for each goal
7. a statement of how the child’s progress toward meeting the annual goals will be measured
8. frequency and means that the parents will be informed of the student’s progress toward the annual goals (Parents will be informed at least as often as the student’s peer group.)
9. a statement addressing the student’s need for extended school year services based upon discussion about the following circumstances:
 - a. emerging skill: a critical skill is in the process of emerging resulting in few, if any, gains made during the regular school year.
 - b. regression-recoupment: regression to such an extent and the amount of time required to relearn critical skills or behaviors become so significant that the student would be unable to benefit from his or her special education program.
 - c. self-sufficiency: interruption of services would threaten the acquisition of critical life skills that aid the child's ability to function as independently as possible, thereby reducing the student's reliance on caretakers or other institutionalized care.
10. a statement of the special education and related services to be provided to the student
11. a statement of the accommodations/modifications and supplementary aids and services that will be provided for the student
12. a statement of the program modifications or supports that will be provided for school personnel to help the student advance appropriately toward attaining his/her annual goals and to progress in the general education curriculum
13. position(s) responsible for providing the specified services
14. the extent to which the student will participate in regular education programs, nonacademic, extracurricular and other activities, and those services necessary so the student can participate
15. a statement explaining the extent to which the student will not participate in general education with his/her peers
16. a description of the nature and duration of physical education services to be provided to the child
17. a statement explaining how the student will participate in school/statewide assessments and the required accommodations, or an explanation why the student cannot participate in the regular assessment and the assessment selected. ESDS students with a Full-Scale IQ of 70 or below will be considered for the Alternate Assessment required by the Elementary, Secondary Education Act (ESEA-currently Every Student Succeeds Act or ESSA)
18. transition planning will begin with the first IEP in effect the year the child turns sixteen (16), or younger if determined appropriate by the IEP team, and be updated at least annually. The IEP will include:
 - a. appropriate measurable postsecondary goals, which are based upon age appropriate transition assessments in the areas of:

- i. training
 - ii. education
 - iii. employment
 - iv. independent living skills-if appropriate
 - b. a course of study
 - c. transition services necessary to assist the student in achieving his/her goals
 - d. documentation that the parent and child were notified, on or before, the student's 17th birthday that special education rights will transfer upon his/her 18th birthday
19. behavior interventions and supports if the team agrees that the student's behavior will interfere with his/her ability to learn or if the behavior is so disruptive that it will interfere with his/her classmates' ability to learn
20. the team will consider language needs if the student is Limited English Proficient
21. the team will consider, based upon an evaluation of the child's reading and writing skills, the need for instruction in and use of Braille if the student is blind or visually impaired
22. the team will consider the student's communication needs and for a child who is deaf or hard-of-hearing consider the child's:
 - a. language and communication needs
 - b. opportunities for direct communications with peers and professional personnel in the child's language and communication mode
 - c. academic level and
 - d. full range of needs, including opportunities for direct instruction in the child's language and communication mode.
23. a statement of any assistive technology device(s) the student requires for his/her education, which is then provided at no cost to the parent. The student is allowed to use the assistive technology device(s) at home or in other settings, if the IEP team determines that the child needs access to the device in non-school settings to receive FAPE. ESDS will hold the parents responsible for the repair or replacement of an assistive technology device if the damage is caused by student neglect or abuse; normal maintenance is the responsibility of ESDS.

I. IEP Amendment

1. Formal Meeting

- a. Special Education staff will work with the parent(s) to schedule a mutually agreed upon date, time and location
- b. Special Education staff send out a Meeting Invitation informing parent(s) of agreed upon date, time, location, purpose of meeting, and participants (including outside agencies).
- c. Meeting is held to review and make necessary amendments

2. Informal Meeting-the parent and the school may agree to amend a child's IEP without a formal meeting.

- a. Special Education staff contact parents to request consent to amend the student's IEP
- b. Parent and ESDS, during the initial contact, will discuss changes and come to an agreement on an amendment
- c. Special Education staff documents agreed changes and sends a copy of the changes and a Prior Written Notice to the parents (a full copy of the amended IEP will be provided for the parent(s) upon request)
- d. Special Education staff notifies student's IEP team of the changes and their responsibilities.

J. Placement Decision

ESDS' supervisor/designee will take whatever steps are necessary to ensure that the parent(s) understand the proposed IEP and educational placement before requesting consent for services under IDEA. Consent from the parent will be obtained prior to the **initial** provision of special education and related services. The placement decision is reviewed during the development or change of future IEPs. Removal from the general education environment will occur only when the student cannot be educated satisfactorily with the use of supplementary aids and services and/or if the student's behavior is so extreme that it interferes in the learning of his/her peer group. The IEP team will include an explanation of the extent the child will not participate with the student's classmates in all school activities and the team will document any potential harmful effects of the placement of the child.

The appropriate IEP placement will be selected from the following continuum:

Regular education programs with modifications: The student remains in the general education classroom for 80% or more of the day. Instruction is provided in the regular education classroom. The general education teacher conducts the program. The special education teacher or therapist works with the general education teacher or paraprofessional (who is appropriately trained and under the direct supervision of a certified special educator) to implement the IEP by providing specially designed instruction in the general education classroom to a child.

Resource Room (ESDS Learning Lab) The student is in the general classroom 40% to 79% of the school day. The student receives as much of the general education classroom instruction as appropriate. Additional educational experiences are provided by a special education teacher, an itinerant specialist, or a therapist in a pull-out program designed to meet identified needs. The duration of time spent in the Learning Lab is determined by the degree of intervention necessary to meet the child's needs.

Self-contained programs. Students in this setting are inside the regular classroom less than 40% of the school day.

Separate Day school Programs (Special School)

Residential School Programs (Institutions) The child lives in a residential setting and receives all instruction in this setting. Involvement with nondisabled peers is provided when possible or appropriate.

Home and Hospital Programs (Home instruction / Instruction in hospitals) Special education personnel provide special education and/or related services in the home, a convalescent home or a hospital.

K. Juvenile Justice/Correctional Facility

ESDS will provide educational services to a student with a disability who is placed in a juvenile justice/correctional facility by judiciary entities if the student is enrolled at ESDS at the time of the student's incarceration and if services are not provided by the facility.

L. IEP Implementation

1. IEP implementation will be defined on the student's IEP and will begin as soon as possible following the IEP development.
2. If the parent objects to the IEP team's decisions regarding initial placement in special education, or changes in subsequent IEP's, ESDS will use the following procedures:
 - a. Parent Objection to the consent for initial services (Initial IEP).
 - 1) ESDS will honor the parent's refusal and not provide special education services or pursue such services through the Procedural Safeguards of IDEA
 - 2) ESDS will not be responsible for the provision of FAPE in future actions unless the parent chooses to give consent for services
 - b. Parent Objection to Changes in Subsequent IEP's.
 - 1) Parent(s) may file a written objection to all or parts of the proposed change.
 - 2) If the written objection is postmarked or hand delivered within 5 days of the date, he or she received Written Notice of the proposed change
 - a) the change(s) to which the parent objects will not be implemented
 - b) If the change(s) have already been implemented, implementation of the change(s) will cease.
 - 3) If the written objection is postmarked or hand delivered 5 days after the date the parent received Written Notice of the proposed change, the changes to which the parent objects will continue to be implemented unless ESDS and the parent can come to an agreement
 - 4) ESDS and parent may use methods such as additional IEP team meetings or voluntary mediation to resolve the disagreement.

NOTE: A written objection cannot be used to prevent ESDS from placing a child in an Interim Alternative Educational Setting (IAES) in accordance with IDEA procedures for discipline.

- c. If a "due process" situation develops, ESDS will implement the IEP and placement as defined in the hearing officer's decision, unless an appeal has been filed by the parent(s) or ESDS
- d. If ESDS is unable to provide any or all of the services in the IEP, an ESDS supervisor will consult the BIE regarding alternate means of providing the services.

M. IEP Reviews

Formal and informal IEP meetings may be held at any time throughout the IEP year. A Meeting Notice will be provided to the parent before an IEP meeting and a Written Notice will be provided within five (5) days after a formal meeting, an informal meeting, and/or a parent's formal request.

1. When to review an IEP:
 - a. a meeting will be held on or before the date of the previous IEP. This is the Annual Review and requires a formal meeting.
 - b. if a parent believes that the child is not progressing satisfactorily or that there is a problem with the current IEP
 - c. if any other member of the IEP team thinks that the child's placement or IEP services are not appropriate or the student is not progressing satisfactorily
 - d. following the completion of a reevaluation under IDEA
 - e. additional information is provided by the parent that warrants review
 - f. if a child's needs change
 - g. when a student eligible for service under IDEA transfers to ESDS

- h. to address the failure of an outside agency to meet its transition responsibilities as appropriate
2. Purposes of the IEP review:
- a. to determine whether the child's annual goals have been achieved.
 - b. to revise the IEP if there is a lack of expected progress toward annual goals.
 - c. to address information about the child provided to, or by, the parent.
 - d. to monitor continuing eligibility of the child based on an evaluation or review of a variety of data, which may include formal or informal assessment, and progress toward IEP goals
 - e. to write a new IEP, with revised goals and objectives/benchmarks to meet the child's anticipated needs for the next year.
 - f. to amend a student's IEP for any reason
 - g. to consider a reevaluation to determine if a child is no longer eligible for special education services under IDEA.
 - h. the development of alternative strategies if an outside agency fails to fulfill its transition responsibilities

N. Transfer IEPs

When a child who is eligible for special education services transfers into ESDS, ESDS will ensure that the child receives FAPE by requesting a the student's records from the previous school. ESDS may need to acquire parental consent for release of information before the previous school will send the student's records. The sending school will be requested to electronically transmit or overnight mail the IEP, eligibility determination and other supporting documentation. ESDS will review, accept and implement the IEP developed by the sending school when the following conditions apply:

- 1. child meets ESDS eligibility criteria for special education.
- 2. IEP is appropriate and can be implemented as written.

If the IDEA Evaluation was not completed in a state other than South Dakota, an initial evaluation must be completed that includes the review of existing data to determine if the student meets South Dakota's IDEA eligibility criteria. ESDS needs parental consent or documentation of three attempts to obtain parental consent before completing this step.

Upon receipt of the eligibility documentation, ESDS will determine if it will adopt the existing eligibility documentation for services under IDEA. If ESDS disagrees with the existing eligibility documentation, or it is not made available within a reasonable period of time, consent for evaluation will be sought and the student will be evaluated. ESDS will develop and implement an interim IEP while the evaluation is in process, if the parent agrees. If the parent does not agree to an interim IEP, the child will be placed in general education until the assessment and evaluations are completed to determine if the student is eligible for IDEA services at ESDS.

ESDS will convene an IEP team meeting to develop a new IEP if the child's current IEP is not available, or if ESDS or the parent believes that the IEP is not appropriate. If a new IEP cannot be developed, the received IEP will be amended until a new IEP can be developed.

VI. RESIDENTIAL SCHOOL OR FACILITY PLACEMENT

ESDS will make every attempt to work with a parent and the student so the student can be educated at ESDS. However, a residential placement will be pursued if the IEP team determines that ESDS cannot meet the needs of the student. ESDS will assure that the selected facility fulfills the

requirements of IDEA by participating in IEP and other appropriate meetings and reviewing the student's progress reports.

A. Children placed by ESDS

ESDS will facilitate the placement of a ESDS student, who is eligible for IDEA services, when the student's IEP team determines that the student's educational services cannot be provided on ESDS's campus and the student's least restrictive environment (LRE) is a residential facility. ESDS will facilitate the placement and financial arrangements for students who are placed in a public or private placement for the provision of special education and related services. Case management will remain the responsibility of ESDS's Special Education Program. This includes:

1. collaboration with outside agencies (Social Services, IHS, Medicaid, etc.) to arrange funding for non-educational needs
2. assisting the parent(s) in completion of the facility application packet
3. assuring that parents/legal guardians are involved and agree with each step of the process
4. assist with transporting the child to the facility by ESDS or an appropriate agency
5. maintain school and parental involvement in future IEP meetings scheduled in cooperation with the residential facility
6. completion and/or payment for ESDS's IEP defined responsibilities
7. collaborating with the parent/legal guardian and residential school or facility staff to facilitate the child's transition back to ESDS when determined appropriate by the IEP team

B. Unilateral Placement by Parents

Upon a parent's request for reimbursement of costs associated with the unilateral placement of their child, an ESDS administrator will convene an IEP or evaluation team (including the parent) to discuss and act on the parent's request. The team will review if a Free Appropriate Public Education (FAPE) was made available to the child in a timely manner, if the parents informed the IEP team that they were rejecting the child's proposed placement and their intent to enroll the child in a private school at ESDS expense, or if the parent provided written notification of the same to a ESDS administrator at least 10 business days (including holidays that occur on a business day) prior to removing the student from ESDS. ESDS will provide the parents with a Written Notice explaining the team's decision and the parent's right to request a due process hearing if they disagree with ESDS in regard to the provision of FAPE. ESDS is not responsible for the cost of the residential placement if the school has provided FAPE and the IEP Team has not determined that the student's LRE is a residential placement.

VII. PROCEDURAL SAFEGUARDS & CONFIDENTIALITY

A. The Special Education Procedural Safeguards Brochure

ESDS will provide and review with parents the Procedural Safeguards/Parents' Rights brochure developed by BIE. ESDS will take steps to ensure that the notice is communicated to the parent in his/her native language or mode of communication and that the parent understands the content of the written communication. ESDS will maintain written evidence that the Procedural Safeguards were provided and explained to the parents.

ESDS will provide the Procedural Safeguards/Parents' Rights brochure once a school year and:

1. upon an initial referral
2. upon a parent's request for evaluation
3. upon a parent's request

4. the date on which the decision is made to make a change in placement because of a violation of a code of student conduct
5. upon receipt of the first IDEA complaint to BIE in a school year
6. upon receipt of the first due process complaint under IDEA in a school year

B. Prior Written Notice

ESDS will ensure that any Written Notice is communicated in the native language of the parents so that they understand the content of the notice and that there is written evidence that the notice requirements have been met.

1. ESDS will provide written notice within 5 days of decision to:
 - a. Propose to initiate or change the identification of the child
 - b. Propose to initiate or change evaluation of the child
 - c. Propose to initiate or change the provision of FAPE to the child
 - d. Propose to initiate or change the educational placement of the child
 - e. Refuse to initiate or change the identification of the child
 - f. Refuse to initiate or change evaluation of the child
 - g. Refuse to initiate or change the provision of FAPE to the child
 - h. Refuse to initiate or change the educational placement of the child
 - i. Refuse to complete a reevaluation because the assessment team finds that no additional evaluations are necessary to determine if a student continues to meet the eligibility criteria for services under IDEA. ESDS will inform the parents of their right to request a reevaluation and comply with that request, if it is made by the parents.
2. Content of Written Notice:
 - a. a description of the action proposed or refused by ESDS
 - b. an explanation why the school proposes or refuses to take action
 - c. a description of the data the school used to make its decision
 - d. a description of the other options the school considered and why those options were rejected
 - e. a description, if any, of other factors relevant to the school's decision
 - f. notice that the parents have protections under the Procedural Safeguards and how a copy of the Safeguards can be acquired, if it is not included with the Notice
 - g. sources for parents to contact for assistance in understanding the notice and/or Procedural Safeguards

C. Confidentiality and Access to Records

ESDS will collect, use and maintain information about a child to make decisions about special education and the provision of FAPE. ESDS will follow IDEA, PPRA and FERPA provisions, which protect the confidentiality of personally identifiable information in student special education records. These provisions also provide for the right to review and inspect records.

Consent is required only when disclosing personally identifiable information to unauthorized persons, unless provided as an exception under the Family Educational Rights & Privacy Act (FERPA) or Protection of Pupil Rights Amendment (PPRA). Written consent specifies the records that will be disclosed, states the purpose of the disclosure, and identifies the party to whom the disclosure will be made. ESDS will inform the parent that the approval is voluntary and may be revoked at any time prior to the action.

1. Definition of a Record

- a. "record" is defined as personally identifiable information directly related to the child and maintained by ESDS.
- b. ESDS will provide a list and location of records for a student upon parental request.

2. Protection of Records

ESDS will prevent unauthorized disclosure of personally identifiable information pertaining to children with disabilities. To ensure protection of records, ESDS will implement the procedures defined in this document to ensure the confidentiality of personally identifiable information at collection, storage, disclosure, and destruction stages.

- a. obtain written and dated consent from the parent before disclosing personally identifiable information:
 1. to unauthorized individuals, or
 2. when the information is to be used for any purpose except as required for IDEA.
- b. designate and train a records manager to assure security of confidential records for children with disabilities.
- c. maintain a log of requests for and access to education records if the disclosure is not to:
 1. a parent.
 2. authorized employees of ESDS
- d. include in a log, the name of individual accessing records, date of access, and purpose for accessing the records. Records of denials or partially fulfilled requests will also be maintained
- e. maintain a current listing of names and positions of employees who may have access to personally identifiable information
- f. ensure that, if any education record includes information on more than one child, a parent will only be allowed to inspect, review, or be informed about his/her child
- g. ensure that each person collecting or using personally identifiable information receives training or instruction regarding the policies and procedures governing confidentiality

All ESDS staff members will be informed what is considered appropriate and inappropriate access to and use of information within the records. ESDS will maintain a record of the training provided, including the name of the person(s) providing the training, dates of training, participants of the training, and specific subjects covered. Training will be provided to new staff as soon as possible after they have been hired.

3. Access to Records

The parents or their representative may inspect and review any record relating to educational matters of their child that is collected, maintained, or used by ESDS. ESDS will assume that a custodial or non-custodial parent has authority to inspect and review a record relating to his/her child unless there are legal documents limiting access to those records under Tribal/State law. A minor child's address will be deleted from any record if requested in writing by a custodial parent to prohibit a non-custodial parent from learning the address simply by having access to ESDS' records.

ESDS will make records available to the parent for review:

- a. without delay, but no later than 45 days after the request.
- b. before any meeting regarding an IEP.
- c. at least 5 days before any due process hearing.

Upon request, ESDS will provide the parent a list of the types of educational records ESDS collects, maintains, or uses and where they are kept. ESDS will respond to any reasonable request made by a parent for the explanation and interpretation of a record. ESDS will provide a copy of requested educational records upon parental request.

4. Destruction of Records

ESDS will maintain education records to demonstrate fiscal and program compliance with IDEA requirements. ESDS will inform parents/adult students when personally identifiable information collected, maintained or used by ESDS will be destroyed because it is no longer needed to provide educational services to the child. The parents/adult student will be informed of the intention to destroy the personally identifiable information no less than 45 days from the date of scheduled destruction. This notice informs parents of the procedure they are to follow if he/she wishes to formally object to the destruction of the information and wants the records sent to him/her. Parents are informed at this time that the records may be needed for Social Security benefits or other purposes in the future.

ESDS will shred or burn the records, under supervision of the staff member responsible for the records, if not released to the parent. A log will be maintained that documents the date of destruction or release of records.

If a parent/adult student requests that personally identifiable information, no longer needed for educational decisions, be destroyed, ESDS will comply with this request.

5. Archival of Records

ESDS will follow BIE Policy and Procedure for the archiving of student data. Student files will not be archived prior to the student's graduation from ESDS or the age of 22. ESDS will maintain a list of archived files and how the files can be accessed if requested by the individual or his/her representative.

6. Request for Amendment of Records

If a parent requests ESDS to amend the records he/she believes to be inaccurate, misleading or in violation of the privacy or other rights of the child, ESDS will use the following procedure:

- a. within a reasonable amount of time (not to exceed 15 days), ESDS decides whether to amend the record.
- b. if ESDS refuses to amend the record, the parent will be informed of the refusal and be advised of the right to and the procedure for requesting a school hearing. If the parent requests a school hearing, and ESDS decides the information in the records is inaccurate, misleading, or in violation of the child's rights, ESDS will amend the record and inform the parent in writing.
- c. if the parent requests a school hearing, and ESDS decides the information is accurate and does not violate the child's rights, ESDS will inform the parent that he/she may

- place a statement in the record. The statement placed in the record by the parent accompanies the record as long as ESDS maintains it.
- d. if the record is disclosed to any person, the parent's statement is also disclosed.

7. ESDS Hearings on Procedures for Records

If a parent requests a school hearing on a proposed amendment of education records, ESDS will follow these procedures:

- a. the hearing will be held within a reasonable amount of time after receiving the request
- b. provide the parent/adult student a notice of the date, time, and place reasonably in advance of the scheduled hearing
- c. the hearing will be conducted by an employee of ESDS or other individual who does not have a direct interest in the outcome of the hearing
- d. will give the parent full and fair opportunity to present evidence relevant to the issues raised
- e. will allow the parent to include an attorney, if he / she chooses.
- f. make a decision in writing within a reasonable period of time after the hearing
- g. provide a decision based solely on the evidence presented at the hearing and including a summary of the evidence and reasons for the decision
- h. amend the record and inform the parent in writing if ESDS decides that the information is inaccurate, misleading, or in violation of the child's rights
- i. inform the parent that he or she may place a statement in the record if ESDS decides the information is accurate, not misleading and does not violate the privacy or rights of the child
- j. include a parent's statement commenting on the information in the record or that sets forth the parent's reasons for disagreeing with ESDS. (Any statement placed with a record will accompany the record for as long as ESDS maintains the record. If the record is disclosed by ESDS to any person, this statement will also be disclosed.)

D. Educational Surrogate Parents

ESDS cannot appoint a surrogate parent when the biological parent is available but chooses not to participate. ESDS makes a good faith effort and maintains records of attempts to locate parents.

- 1. ESDS will appoint a surrogate parent when:
 - a. a parent cannot be identified
 - b. a parent cannot be found
 - c. the child is in the Tribe's/State's custody and no one who meets the definition of a parent can be identified or located
- 2. ESDS will see that the Surrogate Parent:
 - a. has knowledge and skills that ensure effective representation
 - b. does not have an interest that conflicts with the interest of the child
 - c. is not an employee of the BIE, ESDS, or any other agency that is involved in the education or care of the child

ESDS will train surrogate parents in the special education process and Procedural Safeguards.

E. Independent Educational Evaluation (IEE)

An independent educational evaluation means an evaluation conducted by a qualified examiner who is not employed by ESDS and is completed at no expense to the parent(s).

1. Right to an Independent Evaluation

A parent has the right to one IEE, at ESDS' expense, each time ESDS conducts an evaluation with which the parents disagree.

2. Procedures for Requesting an IEE

ESDS parents are requested to complete a written request for an IEE. ESDS staff will provide assistance in completing this request upon parental request. ESDS may ask why the parent objects to the school's evaluation, but will not use this to delay the parent's request for an IEE.

3. School Responsibilities Following an IEE Requests

Upon receipt of a request for an IEE, ESDS will either provide the parent with the information necessary to complete an IEE or file a Due Process Complaint (Ref: JCE) to show that its evaluation is appropriate. If the final decision of a hearing officer, or a court decision on an appeal, is that the evaluation conducted by ESDS was appropriate, the parent still has the right to an IEE, but at his/her own expense.

ESDS will provide the parent with IEE requirements:

- a. the criteria under which the evaluation is obtained
- b. the location of the evaluation
- c. the qualifications of the examiner must be the same as the criteria that ESDS uses when it initiates an evaluation, to the extent those criteria are consistent with the parent's right to an independent evaluation.
- d. the maximum allowable charges for specified assessments to eliminate unreasonably excessive fees, including travel costs for necessary services not available in the community.

NOTE: If, due to unusual circumstances, it is not possible to obtain an IEE within ESDS' cost limitations, ESDS will not deny the IEE because the cost will exceed their limitation. ESDS will not impose other conditions or timelines if doing so would be inconsistent with the parent's right to an IEE.

4. If a parent asks ESDS to pay for an IEE that has already been obtained, ESDS will do one of the following:

- a. Pay for the IEE if it meets the criteria for a school funded IEE's.
- b. Request a due process hearing to demonstrate:
 1. the evaluation obtained by the parent did not meet the criteria for a school funded IEE's
 2. that ESDS' evaluation is appropriate.

5. Consideration of the IEE Results

ESDS will meet to review the IEE and determine if it meets the criteria for an IEE. If the IEE is appropriate, it will be reviewed to determine if a student's current eligibility for IDEA services or current IEP should be amended. The IEE will also be used in the development of future IEP services as appropriate.

6. If a Due Process Hearing Officer requests an IEE as part of a hearing, the evaluation will be completed at ESDS' expense.

F. Mediation

ESDS will encourage its parents to access the mediation system developed by the BIE to help resolve disagreements between parents and schools regarding identification, evaluation, the continued

educational placement, and the provision of FAPE for a student. ESDS will not request mediation if a parent refuses to provide initial consent for services. Parental participation in the mediation process is voluntary and will not be used to delay a request for Due Process.

Requests of mediation are made to the Bureau of Indian Education/Office of Indian Education Programs, which is responsible for ensuring that the Mediation process defined in IDEA is met. ESDS will assist the parent in completing and submitting a Request for Mediation or contacting BIE to request mediation. BIE may be contacted at:

Bureau of Indian Education
1011 Indian School Road, Suite 332
P.O. Box 1088
Albuquerque, New Mexico 87103-1088
Phone: 505-563-5281
Fax: 505-563-5282

ESDS will work with the parents, BIE and the BIE assigned mediator to ensure that:

1. the mediator receives all necessary documentation
2. the mediation session is scheduled in a timely manner
3. the mediation session is scheduled in a location convenient for the parents and school
4. all discussions that occur during the mediation process remain confidential and cannot be used as evidence in any subsequent due process hearing or civil proceeding.

A written agreement will be drafted between ESDS and the parents if the mediator can assist in the resolution of the dispute. This agreement will be signed by the parent and ESDS, and is binding and enforceable.

G. Complaint Procedures

ESDS will have the BIE Complaint Form available for a parent or organization that wishes to file a complaint. Upon request, ESDS will assist the parent or organization in completing and filing a signed Complaint Form or contacting BIE for such assistance. BIE may be contacted and/or a Complaint form submitted to:

Bureau of Indian Education
1011 Indian School Road, Suite 332
P.O. Box 1088
Albuquerque, New Mexico 87103-1088
Phone: 505-563-5281
Fax: 505-563-5282

ESDS will assist BIE, as requested, to provide for a timely resolution of the complaint. The school will implement corrective actions if required as a part of the complaint resolution.

H. Due Process Hearing

ESDS will work with the parent, parent's representative (if appropriate), BIE and the BIE appointed Hearing Officer to assist in meeting the IDEA timelines for a Due Process Hearing. ESDS will have the BIE Due Process Complaint form available for a parent, the parent's representative/attorney or the school to file a Due Process Complaint. The parent or their representative must forward a copy of

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the complaint to the school, or the school will forward a copy to the parent. The individual filing the complaint is responsible for forwarding the completed complaint to BIE:

Bureau of Indian Education
1011 Indian School Road, Suite 332
P.O. Box 1088
Albuquerque, New Mexico 87103-1088
Phone: 505-563-5281
Fax: 505-563-5282
www.oiep.bia.edu

NOTE: BIE will not schedule a hearing for a due process complaint unless the complaint that it receives is complete.

ESDS may initiate a due process hearing to:

1. override a parent's refusal of consent for an evaluation, or release of information
2. ask a hearing officer to maintain the placement of a child in an IAES for disciplinary reasons
3. determine whether an evaluation conducted by the school was appropriate
4. determine if an evaluation obtained by a parent meets the criteria for an IEE.

Timelines

1. a resolution meeting will occur:
 - a. within 30 days of receiving a due process complaint, or
 - b. ESDS and the parents must agree, in writing, to wave the resolution process
2. a due process hearing will occur and a final decision rendered within 45 days from:
 - a. the date the resolution meeting was held
 - b. the end of the 30-day time period for a resolution meeting
 - c. ESDS and the parents agree, in writing, to wave the resolution process

NOTE: ESDS will request that BIE reject the complaint if the parent refuses to participate in a resolution meeting.

Upon filing or receipt of a Due Process complaint ESDS will: (In order)

1. inform the parent(s) of any free or low-cost legal and other relevant services available
2. notify the School Board of the complaint
3. review the complaint to determine if it meets IDEA requirements and contact the Hearing Officer within 15 days of receipt of the complaint, if ESDS determines that the complaint is insufficient. A complaint must include:
 - a. name of child
 - b. address of the residence of the child or contact information if the child is homeless
 - c. name of school
 - d. reason why complaint is being filed and facts related to the reason
 - e. a proposed resolution to the complaint
4. provide the parent a Written Notice, addressing the complaint, within 10 days of receipt of the Due Process Complaint
5. Offer Mediation as a tool to address the concern(s) of the complaint (See Section F)
6. Take the necessary steps to implement the Resolution Process (See Section I, below)
7. If the complaint cannot be resolved through mediation or the resolution process, ESDS will:

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- a. Disclose all evidence related to the complaint at least 5 business days before the hearing
- b. Disclose all evaluations completed and recommendations based upon those evaluations at least 5 business days before the hearing
- c. Arrange for an individual or equipment to provide a written verbatim record of the hearing, or at the option of the parent an electronic version
- d. Provide a copy of the hearing
- e. Ensure that the parents receive the hearing officer's fact(s) and decision(s) or provide a copy to the parent at no expense to the parent
- f. Honor the hearing officer's decision or appeal to BIE for an impartial review
- g. Honor BIE's reviewing official's decision

I. Resolution Process

Resolution process is a new part of the Procedural Safeguards that is meant to encourage the parent and school to resolve a concern(s) without the use of a Due Process Hearing. The resolution period may be as long as 30 days from the school's receipt of a complaint and is not included in the 45-day timeline established for a Due Process Hearing. ESDS will:

1. schedule a meeting with the parent and relevant members of the IEP team, within 15 days of the receipt of the complaint (ESDS is not responsible for attorney fees if a parent brings an attorney)
2. work with the parent to resolve the concern(s) filed within the complaint
3. request that the complaint be dismissed if the school has documented reasonable efforts to hold the meeting and the parent has refused to participate

NOTE: The parent may request the hearing officer begin the due process hearing if ESDS does not implement the resolution meeting within 15 days of receiving the complaint or if ESDS fails to participate in the meeting.

Any agreement reached in a resolution meeting:

1. is legally binding
2. must be signed by both ESDS and the parent
3. is enforceable in court

NOTE: The parent or ESDS may void the agreement within three (3) business days of the agreement's execution.

The resolution process will be waived if:

1. the parent and ESDS agree in writing
2. the parent and ESDS agree to use the mediation process

J. Stay Put

Stay Put refers to the educational placement of a child when a change in placement will occur and the parent is utilizing IDEA Procedural Safeguards to prevent the change in placement. A student will remain (stay put) in the student's current educational placement during a:

1. mediation process
2. resolution process

3. due process hearing
4. a civil action

Stay Put does not apply if:

1. ESDS and the parent agree to a change in placement
2. the student is being placed in an Interim Alternative Educational Setting (IAES) for:
 - a. bringing or possessing a weapon at school, on school premises or at a school activity
 - b. knowingly possesses or uses illegal drugs or solicits the sale of a controlled substance at school, on school premises or at a school activity
 - c. inflicts serious bodily injury upon another person while at school, on school premises or at a school activity

K. Expedited Due Process Hearings & Resolution Meetings

ESDS' responsibilities for an expedited due process hearing and resolution meeting remain the same as for a traditional due process hearing and resolution meeting. The things that change are the timelines and the standard to determine if the complaint is sufficient. (See Due Process and Resolution above for guidance)

ESDS will request an expedited hearing if:

1. Administration believes that maintaining the current placement of the child is substantially likely to result in injury to the child or others
2. The IAES will expire, and the school maintains that returning the child to classes child is substantially likely to result in injury to the child or others

A parent may request an expedited hearing if:

1. He/She disagrees with the determination that the child's behavior was not a manifestation of the disability.
2. He/She disagrees with the school's discipline decision, which resulted in a change of placement.

Timelines

1. Due process hearing must occur and a final decision rendered within 20 school days of the date the complaint was filed unless the complaint is withdrawn
2. Resolution meeting must occur within 7 days of receiving the notice of the due process complaint and must be completed within 15 days or ESDS and the parent must agree to waive the resolution meeting in writing

L. Attorney's Fees

ESDS will pay attorney fees as determined by the courts and the rules established in the Individuals with Disabilities Education Improvement Act (IDEA).

ESDS retains the right to pursue its attorney fees from a parent or the parent's attorney if it is determined that their actions were frivolous, unreasonable or without foundation.

M. Discipline of Children with Disabilities

Children with disabilities who are subject to disciplinary actions by ESDS are entitled to the same due process rights afforded children without disabilities. All children with disabilities who have been suspended without services for more than 10 cumulative school days in a school year, or expelled without services for more than 10 cumulative school days in a school year, or experience multiple short-term suspensions with or without services that constitute a change in placement retain the right to FAPE. Whether the student experiences a change in placement will determine if the school or the IEP team decides where and what services the student will receive.

1. General Discipline Rules for Children with Disabilities
 - a. ESDS administration may suspend a special education student for up to 10 school days in a school year using the same procedures that are used for other children, without regard to FAPE
 - b. IDEA discipline procedures and limitations only apply when ESDS personnel and a parent are unable to reach an agreement on how to respond to a child's behavior.

2. Discipline Options

When a child engages in misbehavior that violates the school's disciplinary policy, the school may use the following options:

- a. Short-term suspensions
 1. ESDS administration can order the removal of a child with a disability from his/her current setting for not more than 10 consecutive school days for any violation of any school rules or code of conduct.
 2. Short-term suspensions can be applied only to the extent that they would be applied to children without disabilities.
 - b. Additional short-term suspensions
ESDS administration can order additional removals of not more than 10 consecutive school days in the same school year for separate incidents of misconduct with these conditions:
 1. They must not constitute a pattern of removals resulting in a change of placement.
 2. After a child has been removed for more than 10 school days, the school provides appropriate services during any subsequent days of removal in that school year. School personnel determine the extent of services that are necessary to enable the child to participate in the general education curriculum and progress toward meeting the goals of the student's IEP.
3. Additional steps for any suspensions after reaching 10 school days (individual or cumulative) in a school year:
 - a. ESDS administration will determine whether the additional disciplinary action will result in a change in placement:
 1. Series of removals totaling more than 10 school days in a school year;
 2. Child's behavior is substantially similar to the child's behavior in previous incidents that resulted in a series of removal; and
 3. The length of the previous removals, the total amount of time the child has been removed and the proximity of the removals
 - b. Provide the parent/adult student with Written Notice of the disciplinary action to be taken and the schools determination on whether a change of placement will occur.
 - c. Provide the parent with a copy of the Procedural Safeguards

- d. Provide FAPE for removals that exceed 10 cumulative school days in a school year and for any additional removals in that same school year. School personnel will determine what FAPE is if the disciplinary action is not a manifestation of the child's disability.
4. Special Circumstances:
A student will be placed in an Interim Alternative Educational Setting (IAES) for up to 45 school days, to the same extent that non-disabled children would be placed in an IAES or removed from school, if:
- a. The child possesses or carries a weapon to school, school premises or a school function.
 - b. The child knowingly possesses, carries, or uses illicit drugs, or sells or solicits the sale of a controlled substance while at school, on school premises or a school function.
 - c. The child inflicts serious bodily injury upon another person while at school, on school premises, or at a school function

The IAES placement will not be affected by whether the incident was a manifestation of the student's disability in these special circumstances and the "Stay Put" option does not apply if a parent utilizes IDEA Procedural Safeguards. The IEP team will determine the IAES and services required to meet FAPE.

5. Hearing Officer Ordered IAES

ESDS administration may request an expedited due process hearing (page 27) to ask a hearing officer to place a child in an IAES for up to 45 school days if:

- a. the current placement is likely to cause injury to the student or others
 - b. prior to the conclusion of an IAES if ESDS administration believe that returning the student to the general education program is likely to cause injury to the student or others
6. FAPE Requirements in an IAES
The student's IEP team determines the IAES, which will:
- a. Be selected to enable the child to continue to participate in the general education curriculum, although in another setting.
 - b. Allow the child to progress toward meeting his or her goals
 - c. provide, as appropriate, a functional behavioral assessment and behavior interventions to address the behavior violation so it does not occur again.

7. Manifestation Determination

ESDS will not complete a Manifestation Determination, a Functional Behavioral Assessment or a Behavior Intervention Plan unless a student experiences a change in placement, as determined by ESDS. ESDS will notify the parent if a disciplinary action resulting in a change in placement occurs and provide the parent with the *Special Education Rights Brochure* not later than the date on which the decision to take the disciplinary action is made.

The manifestation determination includes a review of the relationship between the child's disability and the behavior subject to disciplinary action. Within 10 school days of the decision to make a change in placement, ESDS will schedule an IEP meeting to determine:

- a. if the behavior was caused by, or had a direct and substantial relationship to, the child's disability; or
- b. if the incident was related to the school's lack of implementing the student's IEP. (ESDS will take immediate actions to correct the concern(s) if the IEP team determines that the IEP was not being correctly implemented.)

In making the determination, the IEP team will:

- a. consider all relevant information in the student’s IEP:
 - 1. evaluation and diagnostic results, data,
 - 2. teacher observations
 - 3. the child's IEP and placement
- c. and other relevant information supplied by the parent

If the IEP team determines that either of the standards listed above were met, the behavior will be considered a manifestation of the child's disability and ESDS will take the following steps:

- a. Conduct a functional behavioral assessment and Develop a Behavior Intervention Plan, or
 - b. Review an existing Behavior Intervention Plan and modify it as appropriate
 - c. And return the student to the placement from which the student was removed unless ESDS and the parent agree to a change in placement
 - 1. If the IEP team determines that the behavior was not a manifestation of the student’s disability, ESDS will:
 - a. the same disciplinary procedure applicable to children without disabilities, including long-term suspension or expulsion may be applied to the child with a disability
 - b. ESDS will provide education services to enable the child to continue to participate in the general education curriculum, although in another setting, that will allow the child to progress toward meeting his or her goals
 - c. Receive, as appropriate, a functional behavioral assessment and behavior interventions to address the behavior violation so it does not occur again.
8. Parent Request for an Expedited Hearing (See Expedited Due Process Hearing)
The parent may request an expedited due process hearing if he or she:
- a. Disagrees with any decision of ESDS or the IEP team regarding a change of placement during disciplinary proceeding.
 - b. Disagrees with a determination that the child's behavior was not a manifestation of the child's disability; or

A decision of a hearing officer in an expedited hearing may be appealed to federal or state district court.

9. Placement during an Expedited Hearing

If a parent or ESDS request a due process hearing to challenge an IAES or the manifestation determination, the child remains in the IAES until the timeline for that placement expires or the hearing officer renders a decision, whichever occurs first.

10. Protections for Children Not Yet Eligible for Special Education

A child who has not been determined eligible for special education services and who has engaged in behavior resulting in a disciplinary action, may assert any of the protections of IDEA if the school had knowledge that the child may have had a disability before the behavior that precipitated the disciplinary action.

- a. ESDS will provide IDEA protections for a disciplined student if:
 - 1. The parent has expressed concern to ESDS administration or a teacher of the student that the child is in need of special education and related services. The concern must be expressed in writing unless the parent is unable to write or has a disability, which prevents a written statement.
 - 2. The parent had requested an evaluation of the child.
 - 3. The teacher of the child, or other school personnel, have expressed concern about the behavior or performance of the child to the Special Education

Coordinator, or ESDS administration in accordance with the school's established Child Find or special education referral process.

- b. ESDS will not provide IDEA protections for a disciplined student if:
 1. An evaluation was conducted and a determination was made that the child did not have a disability; or
 2. The evaluation team determined that an evaluation was not necessary and written notice of that decision was provided to the parent; or
 3. the parent of the child has not allowed an evaluation; or
 4. the parent has refused IDEA services
11. Parent Request for Evaluation of Disciplined Child not currently IDEA eligible
If a parent requests that his/her child be evaluated while being disciplined, ESDS will conduct the evaluation in an expedited manner. Pending the results of the evaluation, the child will remain in the educational placement determined by ESDS. If a child is not determined to be eligible for special education, he or she is subject to the same disciplinary action that applies for all children.

If a child is subsequently determined eligible for special education, the school will:
 - a. Conduct an IEP team meeting to develop an IEP.
 - b. Conduct a manifestation determination review.
 1. If the behavior is determined to be related to the child's disability, the disciplinary action will be set aside and the child will be provided appropriate educational services in the LRE.
 2. If the behavior is not related to the child's disability, the child is subject to the disciplinary placement that had been determined and ESDS will provide FAPE.
12. Referrals to and Action by Law Enforcement and Judicial Authorities
The school may report a crime committed by a child with a disability to appropriate authorities. The IDEA '04 does not prevent State or Tribal law enforcement or judicial authorities from exercising their responsibilities with regard to crimes committed by a child with a disability. ESDS will provide copies of the special education and disciplinary records of the child to the appropriate law enforcement authorities for their consideration, to the extent the release of records is permitted by FERPA

VIII. DISCONTINUATION OF SERVICES, GRADING AND TRANSCRIPTS

A. Student who is no longer eligible for services

ESDS staff does on-going progress monitoring for all students receiving special education services. The special education teacher will work with students' teachers and parents to determine if a student continues to need services under IDEA. The special education teacher will complete an assessment plan through informal meetings with a student's:

1. teacher(s)
2. related service providers (if appropriate)
3. principal

ESDS special education personnel will meet with the parent to review the recommended evaluations and request parental consent to evaluate. A meeting will be scheduled with ESDS staff to review the assessment plan if the parent requests a formal meeting.

Upon completion of the evaluations, the special education teacher will work with the parent to schedule a meeting that is mutually agreeable to the parent, so the IEP team can review the evaluation data, the eligibility criteria for the disability in question, and make a determination on whether the student continues to be a student with a disability under IDEA. If the student is found to be no longer eligible, written notice is sent to the parents regarding discontinuation of special education services.

B. Student Reaching Maximum Age

ESDS is a K-8 program and all students are expected to transfer to the local public or Tribal school to complete their high school education.

C. Change in ESDS' Obligation to Provide Services

1. Student transfers to another school:

Upon the receipt of a request for the records of a special education student, the special education teacher will send the documents formally requested, but no less than the student's most recent IEP, eligibility documentation, and parent consent for placement in overnight mail or by fax to the new school.

2. Student who drops out of ESDS:

The special education teacher places a signed and dated note in the student's special education confidential file regarding the student's dropping out of school. The student's file is placed in the inactive section of the filing cabinet in the special education classroom.

D. Parent Request for Withdrawal from Special Education

A parent or student who reaches the age of majority has the right to withdrawal the original consent for IDEA services. This action ends the student's right for IDEA services and its protections. The steps for a parent to withdrawal consent are:

1. Parent provides a written request to rescind consent for services. Upon request, ESDS will provide assistance with writing the request to withdrawal consent for services. A parent's signature and date are required for the request to be considered formal.
2. ESDS will provide the parents with a Written Notice within 5 days of receipt of the request to withdrawal consent. The Written Notice will clarify that the request will result in the student's loss of IDEA services and protections.
3. ESDS will not utilize the IDEA Procedural Safeguard options if a request to withdrawal IDEA services is made by a parent.

E. Grades

All students at ESDS will be graded in the same manner unless a student's IEP team defines a separate grading system.

F. Diploma & Transcripts

Students will receive an Eighth-grade diploma if:

1. student meets ESDS' established Eighth grade standards
OR
2. student meets the criteria established in his/her IEP

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The IEP team will determine if any “extra supports” are to be provided in the general education curriculum.

There will be no indication on ESDS’ student transcript that a student was enrolled in the special education program. ESDS counselor will ensure that all transcripts are appropriately recorded.

I. Eighth Grade Honoring Ceremonies

ESDS is a K-8 program and all students are expected to transfer to the local public or Tribal school to complete their high school education.

ESDS special education staff and administration will work to ensure that all ESDS Eighth grade graduates will be allowed to participate in honoring ceremonies. Any required accommodations will be made for the student.