

**FAQ: Kentucky Specific Regulations as related to IDEA 2004 Part B (ages 3-21)**

<b>FAQ/ Topic</b>	<b>Individuals with Disabilities Education Improvement Act of 2004 (IDEA) Regulations</b>	<b>Kentucky Administrative Regulations (KAR) revised August 4, 2008</b>
<p>Timeline for Schools to have initial Evaluations done by</p>	<p>Part <u>300 / D /</u> Sec. 300.301 Initial evaluations.  <u>(c) (1) (i) Must be conducted within 60 days of receiving parental consent for the evaluation; or</u>  <u>(ii) If the State establishes a timeframe within which the evaluation must be conducted, within that timeframe; and</u></p>	<p>707 KAR 1:320. Individual education program.            Section 2. ARC Meetings.  <u>(3) An LEA shall ensure that within sixty (60) school days following the receipt of the parental consent for an initial evaluation of a child:</u></p>
<p>How often is there a reevaluation?</p>	<p>Part <u>300 / D /</u> 300.303 Reevaluations.  <u>(a) (2) If the child's parent or teacher requests a reevaluation.</u>  <u>(b) Limitation. A reevaluation conducted under paragraph (a) of this section--</u>  <u>(1) May occur not more than once a year, unless the parent and the public agency agree otherwise; and</u>  <u>(2) Must occur at least once every 3 years, unless the parent and the public agency agree that a reevaluation is unnecessary.</u></p>	<p>707 KAR 1:300. Child find, evaluation, and reevaluation. Section 4. Evaluation and Reevaluation Procedures.            (18) An LEA shall ensure a reevaluation, unless the parent and the LEA agree that a reevaluation is unnecessary. A reevaluation may consist of the review described in subsection (14) of this section, and is <u>conducted at least every three (3) years</u> .....  <u>(19) A reevaluation shall not be conducted more than once a year unless the parent and the LEA agree otherwise.</u></p>

<p>Once child is found eligible, timeline Admissions and Release Committee (ARC) meeting is to be held and write an IEP</p>	<p>Part <u>300 / D / 300.323</u> When IEPs must be in effect.  <u>(c) (1) A meeting to develop an IEP for a child is conducted within 30 days of a determination that the child needs special education and related services; and</u></p>	<p>707 KAR 1:320. Individual education program. Section 2. ARC Meetings.  <u>(4) Within this sixty (60) school-day period, an LEA shall ensure that the ARC meeting to develop an IEP for the child is conducted within thirty (30) days of the determination that the child is eligible.</u></p>
<p>If the parent does not agree with evaluation that was completed what then?</p>	<p>Part <u>300 / E / 300.502</u> Independent educational evaluation.  <u>(b) (1) A parent has the right to an independent educational evaluation at public expense if the parent disagrees with an evaluation obtained by the public agency, subject to the conditions in paragraphs (b)(2) through (4) of this section.</u></p>	<p>707 KAR 1:340. Procedural safeguards and state complaint procedures. Section 2. Independent Educational Evaluation.  <u>(6) A parent shall be entitled to only one (1) independent educational evaluation at public expense each time the public agency conducts an evaluation with which the parents disagree.</u></p>
<p>When is IEP to take effect following the ARC meeting to write IEP</p>	<p>Part <u>300 / D / 300.323</u> When IEPs must be in effect.  <u>(c) (2) As soon as possible following development of the IEP, special education and related services are made available to the child in accordance with the child's IEP.</u></p>	<p>707 KAR 1:320. Individual education program.  (4) An LEA shall ensure the IEP:  <u>(b) Is implemented as soon as possible following an ARC meeting.</u></p>
<p>When should an IEP be reviewed and revised</p>	<p>Part <u>300 / D / 300.324</u> Development, review, and revision of IEP.  <u>(b) Review and revision of IEPs.</u></p>	<p>707 KAR 1:320. Individual education program. Section 2. ARC Meetings.  (6) An LEA shall ensure that the ARC: (a) Reviews</p>

	<p>(1) ... the IEP Team--  <i>(i)</i> Reviews the child's IEP periodically, but not less than <u>annually</u>, to determine whether the annual goals for the child are being achieved; and</p>	<p>each child's IEP periodically, but no less than <u>annually</u>, to determine whether the annual goals for the child are being achieved; and</p>
<p>Changes to IEP without ARC/IEP meeting being held</p>	<p>Part <u>300 / D / 300.324</u> Development, review, and revision of IEP.  <i>(a)</i> Development of IEP.  <i>(4)</i> Agreement. <i>(i)</i> In making changes to a child's IEP after the annual IEP Team meeting for a school year, <u>the parent of a child with a disability and the public agency may agree not to convene an IEP Team meeting for the purposes of making those changes</u>, and instead may develop a written document to amend or modify the child's current IEP.  <i>(ii)</i> If changes are made to the child's IEP in accordance with paragraph <i>(a)(4)(i)</i> of this section, <u>the public agency must ensure that the child's IEP Team is informed of those changes</u>.</p>	<p>707 KAR 1:320. Individual education program. Section 2. ARC Meetings.  <i>(2)</i> An ARC shall not have to be convened in order to <u>make minor, non-programmatic, changes to an IEP, such as typographical errors, incorrect directory information about the student</u> (such as, birth date, age, grade, address, or school), and other information required on the IEP that was <u>agreed upon by the ARC but incorrectly recorded</u>. If the LEA makes any minor, non-programmatic changes, <u>all members of the ARC shall be given a copy of the changes and an explanation as to why the changes were made within ten (10) school days of the changes being made</u>. If any member of the ARC objects to the changes, an ARC meeting shall be convened within a reasonable period of time to discuss the changes.</p>
<p>How will parents know when there is an ARC/IEP meeting?</p>	<p>Part <u>300 / D / 300.322</u> Parent participation.  <i>(a)</i> Public agency responsibility-general. Each public agency must <u>take steps to ensure that one or both of the parents of a child with a disability are present at each IEP Team meeting or are afforded the opportunity to participate</u>, including--</p>	<p>707 KAR 1:320. Individual education program. Section 4. Parent Participation. <i>(1)</i> <u>An LEA shall ensure that one (1) or both of the parents of a child with a disability are present at each ARC meeting or are afforded the opportunity to participate</u>. Except for meetings concerning a disciplinary change in placement or a safety issue, an LEA shall provide <u>written notice to the parents</u> of a child with a disability <u>at least seven (7) days before an ARC</u></p>

	<p><u>(1) Notifying parents of the meeting early enough to ensure that they will have an opportunity to attend;</u> and</p> <p><u>(2) Scheduling the meeting at a mutually agreed on time and place.</u></p>	<p><u>meeting.</u> The meeting shall be scheduled at a mutually-agreed-on time and place.</p>
<p>Can ARC/IEP meeting be held without parents present?</p>	<p>Part <u>300 / D / 300.322</u> Parent participation.  <u>(d) Conducting an IEP Team meeting without a parent in attendance. A meeting may be conducted without a parent in attendance if the public agency is unable to convince the parents that they should attend.</u> In this case, the public agency must keep a record of its attempts to arrange a mutually agreed on time and place, such as--  <u>(1) Detailed records of telephone calls made or attempted and the results of those calls;</u>  <u>(2) Copies of correspondence sent to the parents and any responses received; and</u>  <u>(3) Detailed records of visits made to the parent's home or place of employment and the results of those visits.</u></p>	<p>707 KAR 1:320. Individual education program. Section 4. Parent Participation.  <u>(6) An ARC meeting may be conducted without a parent in attendance if the LEA is unable to convince the parent that he should attend.</u> The LEA shall have a record of its attempts to arrange a mutually-agreed-on time and place, which may include: (a) Detailed records of telephone calls made or attempted and the results of those calls; (b) Copies of correspondence sent to the parents and any responses received; and (c) Detailed records of visits to the parent's home or place of employment and the results of those visits.</p>
<p>Where in IEP should transportation be documented?</p>	<p>Regulations: Part <u>300 / A / 300.34</u>  <u>(c) Individual related services</u> terms defined. The terms used in this definition are defined as follows:  <u>(16) Transportation</u> includes--  (i) Travel to and from school and between schools;  (ii) Travel in and around school buildings; and</p>	<p>707 KAR 1:002. Definitions. Section 1. Definitions.  <u>(51)(a) "Related services" means transportation</u> and such developmental, corrective, or supportive services as are required to assist a child with a disability to benefit from special education.</p>

	<p>(iii) Specialized equipment (such as special or adapted buses, lifts, and ramps), if required to provide special transportation for a child with a disability.</p>	
<p>Rights of parents to review records</p>	<p>Part <u>300 / E / 300.501</u> Opportunity to examine records; parent participation in meetings.  <u>(a)</u> Opportunity to examine records. The parents of a child with a disability must be afforded, in accordance with the procedures of Sec. Sec. 300.613 through 300.621, an opportunity to inspect and review all education records with respect to--  <u>(1)</u> The identification, evaluation, and educational placement of the child; and  <u>(2)</u> The provision of FAPE to the child.</p>	<p>707 KAR 1:360. Confidentiality of information. Section 1. Access Rights. (1) An LEA shall permit a parent to inspect and review any education records relating to his child that are collected, maintained, or used by the LEA. The LEA shall comply with a request without unnecessary delay and before any meeting regarding an IEP, dispute resolution meeting, or due process hearing, and <u>in no case more than forty-five (45) days after the request has been made.</u></p>
<p>Students with IEP transferring to another school district within Kentucky in same school year</p>	<p>Part <u>300 / D / 300.323 /</u>  <u>(e)</u> IEPs for children who <u>transfer public agencies in the same State</u>. If a child with a disability (who had an IEP that was in effect in a previous public agency in the same State) transfers to a new public agency in the same State, and enrolls in a new school within the same school year, <u>the new public agency (in consultation with the parents) must provide FAPE to the child (including services comparable to those described in the child's IEP from the previous public agency)</u>, until the new public agency either--  <u>(1)</u> Adopts the child's IEP from the previous public agency; or  <u>(2)</u> Develops, adopts, and implements a new IEP</p>	<p>707 KAR 1:320. Individual education program. Section 6. Program for Students who Transfer. (1) If a child with a disability <u>transfers between LEAs within the same academic year within Kentucky, and had an IEP in effect in Kentucky, the child shall be provided a free, appropriate public education by the receiving LEA including services comparable to those described in the previous IEP.</u> These services shall be provided in consultation with the parents and until the receiving LEA adopts the previous IEP or develops, adopts, and implements a new IEP.</p>

	that meets the applicable requirements in Sec. Sec. 300.320 through 300.324.	
Students with IEP transferring from another state to Kentucky in same school year	<p>Part <u>300 / D / 300.323 /</u>  (f) IEPs for children who <u>transfer from another State</u>. If a child with a disability (who had an IEP that was in effect in a previous public agency in another State) transfers to a public agency in a new State, and enrolls in a new school within the same school year, the new public agency (in consultation with the parents) <u>must provide the child with FAPE (including services comparable to those described in the child's IEP from the previous public agency)</u>, until the new public agency--</p> <p>(1) Conducts an evaluation pursuant to Sec. Sec. 300.304 through 300.306 (if determined to be necessary by the new public agency); and</p> <p>(2) Develops, adopts, and implements a new IEP, if appropriate, that meets the applicable requirements in Sec. Sec. 300.320 through 300.324.</p>	<p>707 KAR 1:320. Individual education program. Section 6. Program for Students who Transfer.</p> <p>(2) If a child with a disability transfers from an LEA <u>outside Kentucky to an LEA within Kentucky within the same academic year, and had an IEP in effect in the other state, the child shall be provided a free, appropriate public education by the receiving LEA including services comparable to those described in the previous IEP</u>. These services shall be provided in consultation with the parents and until the receiving LEA conducts an evaluation, if determined necessary, and develops, adopts, and implements a new IEP if the child is a child with a disability as defined in 707 KAR 1:002, Section 1(9).</p>
Parents receive a copy of IEP	<p>Part <u>300 / D / 300.322</u> Parent participation.</p> <p>(f) <u>Parent copy of child's IEP. The public agency must give the parent a copy of the child's IEP at no cost to the parent.</u></p>	<p>707 KAR 1:320. Individual education program. Section 4. Parent Participation.</p> <p>(8) <u>An LEA shall give the parent a copy of the child's IEP at no cost to the parent.</u></p>
When should transition begin for youth with disabilities?	<p>Part <u>300 / D / 300.322</u> Parent participation.</p> <p>(b) Information provided to parents.</p> <p>(2) For a child with a disability <u>beginning not later than the first IEP to be in effect when the child turns 16, or younger if determined appropriate by the IEP Team,</u></p>	<p>707 KAR 1:320. Individual education program. Section 4. Parent Participation.</p> <p>(3) If the child is in the <u>eight grade year, or has reached the age of fourteen (14) years, the invitation shall state that a purpose of the meeting</u></p>

	<p>the notice also must--</p> <p>(i) Indicate--</p> <p>(A) That a purpose of the meeting will be the consideration of the <u>postsecondary goals and transition services for the child</u>, in accordance with Sec. 300.320(b); and</p>	<p><u>will be the development of a statement for the need for transition services</u> for the child and state that the child is invited. This subsection shall apply to a child younger than fourteen (14) years of age if determined to be appropriate by the ARC.</p> <p>(4) For a child with a disability, <u>beginning no later than the IEP that will be in effect when the child turns sixteen (16)</u>, the invitation shall state that a <u>purpose of the meeting is the consideration of the postsecondary goals and needed transition services</u> for the child and shall include the identity of any other agency that is invited to send a representative. This subsection shall apply to a child younger than sixteen (16) years of age if determined to be appropriate by the ARC.</p>
<p>What happens when child reaches age of majority (18 years old in Kentucky)?</p>	<p>Part <u>300 / D / 300.320 /</u></p> <p>(c) Transfer of rights at age of majority. Beginning not later than <u>one year before the child reaches the age of majority under State law</u>, the IEP must include a <u>statement that the child has been informed of the child's rights</u> under Part B of the Act, if any, that will transfer to the child on reaching the age of majority under Sec. 300.520.</p>	<p>707 KAR 1:320. Individual education program. Section 5. Contents of IEP.</p> <p>(14) <u>At least one (1) year prior to the child reaching the age of majority</u>, the IEP shall include a <u>statement that the child has been informed of the child's rights</u> under 707 KAR Chapter 1, and that the <u>rights will transfer to the child upon reaching the age of majority</u>.</p>
<p>Placement of child</p>	<p>Part <u>300 / B / 300.116</u> Placements.</p> <p>(a) The placement decision--</p> <p>(1) Is made <u>by a group of persons, including the parents</u>, and other persons knowledgeable about the child, the meaning of the evaluation data, and the placement options; and</p> <p>(2) Is made in conformity with the LRE provisions of this subpart, including Sec. Sec. 300.114 through 300.118;</p>	<p>39 707 KAR 1:350. Placement decisions. Section 1. Placement Decisions.</p> <p>(5) In determining the educational placement of a child with a disability, the LEA shall ensure that the <u>placement decision is made by the ARC in conformity with the least restrictive environment provisions</u>. (6) A child's placement shall be: (a) Determined at least annually; (b) Based on the child's IEP; and (c) As close as possible to the</p>

	<p>(b) The child's placement--  <u>(1)</u> Is determined at least annually;  <u>(2)</u> Is based on the child's IEP; and  <u>(3)</u> Is as close as possible to the child's home;  (c) Unless the IEP of a child with a disability requires some other arrangement, the child is educated in the school that he or she would attend if nondisabled;</p> <p>Part <u>300 / D / 300.327</u> Educational placements. Consistent with Sec. 300.501(c), <u>each public agency must ensure that the parents of each child with a disability are members of any group that makes decisions on the educational placement of their child.</u></p>	<p>child's home. (7) Unless the IEP of a child with a disability requires some other arrangement, the child shall be educated in the school that he would attend if nondisabled.</p>
<p>Notice to parents regarding safety issues or a change in placement due to violation of code of student conduct</p>		<p>707 KAR 1:340. Procedural safeguards and state complaint procedures.  Section 3. Notice to Parents.  (2) An LEA shall provide <u>written notice</u> to the parents of a child with a disability <u>at least twenty-four (24) hours before a meeting concerning a safety issue or a change in placement due to a violation of a code of student conduct.</u></p>
<p>Appeals from placement decisions</p>		<p>707 KAR 1:340. Procedural safeguards and state complaint procedures.  Section 15. Appeals from Placement Decisions. (1) The <u>parent of a child with a disability who disagrees with any decision regarding placement under Section 13 or 14 of this administrative regulation or the manifestation determination, or an LEA that believes that maintaining the current placement of the child is substantially likely to result in injury to the child or to others may request a hearing by filing</u></p>



		<p><u>using the procedures</u> contained in Sections 8 and 11.</p>
<p>Manifestation Determination</p>	<p>Part <u>300 / E / 300.530 / e</u> Manifestation determination.</p> <p>(1) <u>Within 10 school days of any decision to change the placement of a child with a disability because of a violation of a code of student conduct</u>, the LEA, the parent, and relevant members of the child's IEP Team (as determined by the parent and the LEA) must review all relevant information in the student's file, including the child's IEP, any teacher observations, and any relevant information provided by the parents to determine--</p> <p>(i) If the conduct in question was caused by, or had a direct and substantial relationship to, the child's disability; or</p> <p>(ii) If the conduct in question was the direct result of the LEA's failure to implement the IEP.</p> <p>(2) The conduct must be determined to be a manifestation of the child's disability if the LEA, the parent, and relevant members of the child's IEP Team determine that a condition in either paragraph (e)(1)(i) or (1)(ii) of this section was met.</p> <p>(3) If the LEA, the parent, and relevant members of the child's IEP Team determine the condition described in paragraph (e)(1)(ii) of this section was met, the LEA must take immediate steps to remedy those deficiencies.</p> <p>(f) <u>Determination that behavior was a manifestation. If the LEA, the parent, and relevant members of the IEP Team make the determination that the conduct was a</u></p>	<p>Section 14. Manifestation Determination. (1) <u>Within ten (10) school days of any decision to change the placement of a child with a disability because of a violation of a code of student conduct</u>, the relevant members of the child's ARC, as determined by the LEA and the parent, <u>shall convene a meeting to review all relevant information in the student's file, including the child's IEP, any teacher observations, teacher-collected data, and any relevant information provided by the parents to determine:</u> (a) If the conduct in question was caused by, or had a direct and substantial relationship to the child's disability; or (b) If the conduct in question was the direct result of the LEA's failure to implement the IEP.....</p> <p>(4) If the <u>ARC determines that the conduct was a manifestation of the child's disability</u>, the ARC shall:</p> <p>(a)1. Conduct a functional behavioral assessment, unless the LEA had conducted a functional behavioral assessment before the behavior that resulted in the change of placement occurred and had implemented a behavioral intervention plan for the child; or 2. Review the behavioral intervention plan, (if one had already been developed) and modify it, as necessary, to address the behavior; and (b) Return the child to the placement from which the child was removed unless the LEA and the parent agree to a change of placement as part of the modification of the behavioral intervention plan or because of the special circumstances explained in subsection (5) of this section.... (5) School personnel may remove a child with a disability to an interim alternative educational</p>

	<p><u>manifestation of the child's disability, the IEP Team must--</u></p> <p>(1) Either--</p> <p>(i) Conduct a functional behavioral assessment, unless the LEA had conducted a functional behavioral assessment before the behavior that resulted in the change of placement occurred, and implement a behavioral intervention plan for the child; or</p> <p>(ii) If a behavioral intervention plan already has been developed, review the behavioral intervention plan, and modify it, as necessary, to address the behavior; and</p> <p>(2) Except as provided in paragraph (g) of this section, return the child to the placement from which the child was removed, unless the parent and the LEA agree to a change of placement as part of the modification of the behavioral intervention plan.</p>	<p>setting for not more than forty-five (45) school days without regard to whether the behavior is a manifestation of the child's disability, if the child: (a) Carries a weapon to or possesses a weapon at school, on school premises, or to or at a school function under the jurisdiction of the Kentucky Department of Education or the LEA; (b) Knowingly possesses or uses illegal drugs, or sells or solicits the sale of a controlled substance while at school, on school premises, or at a school function under the jurisdiction of the Kentucky Department of Education or the LEA; or (c) Has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function under the jurisdiction of the Kentucky Department of Education or the LEA. (6) On the date on which a decision is made to make a removal that constitutes a change of placement of a child with a disability because of a violation of the code of student conduct, the LEA shall notify the parents of the decision and provide the parents with a copy of the procedural safeguards in accordance with Section 4 of this administrative regulation. (7) The ARC of the child shall determine the interim alternative educational setting and the services for any child removed under Sections 13(4), (10) and 14(5) of this administrative regulation.</p>
<p>Discipline Procedures</p>	<p>Part <u>300 / E / 300.530</u> Authority of school personnel.</p> <p><u>(b) General.</u></p> <p><u>(1) School personnel under this section may remove a child with a disability who violates a code of student conduct from his or her current placement to an appropriate interim alternative</u></p>	<p>Section 13. Discipline Procedures.</p> <p><u>(5) After a child with a disability has been removed from the child's current placement for ten (10) school days in the same school year,</u> educational services as described in subsection (6)(a) and (b) of this section shall be provided during any subsequent days of removal. (6) A child with a</p>

	<p><u>educational setting, another setting, or suspension, for not more than 10 consecutive school days (to the extent those alternatives are applied to children without disabilities), and for additional removals of not more than 10 consecutive school days in that same school year for separate incidents of misconduct (as long as those removals do not constitute a change of placement under Sec. 300.536).</u></p> <p><u>(2) After a child with a disability has been removed from his or her current placement for 10 school days in the same school year, during any subsequent days of removal the public agency must provide services to the extent required under paragraph (d) of this section.</u></p>	<p><u>disability who is removed from the child's current placement for more than ten (10) consecutive school days shall: (a) Continue to receive a free, appropriate public education so as to enable the child to continue to participate in the general curriculum, although in another setting, and to progress toward meeting the goals set out in the child's IEP; and (b) Receive, as appropriate, a functional behavioral assessment, and behavioral intervention services, and modifications, that are designed to address the behavior violation so that it does not recur..... (10) If a removal is a change in placement because of disciplinary removals, the child's ARC shall convene within ten (10) school days after the change of placement is made and shall determine the appropriate educational services for the child.</u> If the student has been placed in an interim alternative educational setting, the LEA shall invite staff from that alternative setting to the ARC meeting.</p>
<p>Filing a formal complaint with state education Agency (SEA), which is Kentucky Department of Education (KDE)</p>	<p>Part <u>300 / B / 300.152</u> Minimum State complaint procedures.</p> <p><u>(a) Time limit; minimum procedures. Each SEA must include in its complaint procedures a time limit of 60 days after a complaint is filed under Sec. 300.153 to--....</u></p> <p>(5) Issue a written decision to the complainant that addresses each allegation in the complaint and contains--</p> <p>(i) Findings of fact and conclusions; and</p> <p>(ii) The reasons for the SEA's final decision.</p> <p><b>Part <u>300 / B / 300.153</u> Filing a complaint.</b></p> <p>(c) <u>The complaint must allege a violation that</u></p>	<p>707 KAR 1:340. Procedural safeguards and state complaint procedures.</p> <p>Section 7. State Complaint Procedures. (1) The following procedures shall apply to the Kentucky Department of Education as to written complaints submitted pursuant to 34 C.F.R. 300.151 through 300.153: (a) <u>The Kentucky Department of Education shall have of sixty (60) days after a complaint is filed to carry out an independent investigation, if necessary; .....</u></p> <p>(e) The department shall issue a written decision addressing each allegation in the complaint and containing the findings of fact and conclusions and the reasons for the final decision.</p>

	<p><u>occurred not more than one year prior to the date that the complaint is received</u> in accordance with Sec. 300.151.</p>	<p>(3) The complaint shall include: ....(h) Information indicating <u>that the violation did not occur more than one (1) year prior to the date of the receipt of the complaint</u>.....</p> <p>(5) The complainant, parent, or the LEA shall have a right to appeal the written decision from a complaint to the Commissioner of the Kentucky Department of Education. This appeal shall be filed within fifteen (15) business days of the receipt of the decision.....</p> <p>(7) The Kentucky Department of Education shall ensure the final decision from a complaint shall be effectively implemented. To achieve compliance, the Department of Education may apply: (a) Technical assistance activities; (b) Negotiations; or (c) Corrective actions. Right to Mediation and Due Process Hearings.</p>
<p>Mediation</p>	<p>Part <u>300 / E / 300.506</u> Mediation.</p> <p><u>(a) General.</u> Each public agency must ensure that procedures are established and implemented to allow parties to disputes involving any matter under this part, including matters arising prior to the filing of a due process complaint, to resolve disputes through a mediation process.</p> <p><u>(b) Requirements.</u> The procedures must meet the following requirements:</p> <p><u>(1) The procedures must ensure that the mediation process--</u></p> <p><u>(i) Is voluntary on the part of the parties;</u></p> <p><u>(ii) Is not used to deny or delay a parent's right to a hearing on the parent's due process complaint, or to deny any other rights afforded under Part B of the Act; and</u></p> <p><u>(iii) Is conducted by a qualified and impartial</u></p>	<p>707 KAR 1:340. Procedural safeguards and state complaint procedures.</p> <p>Section 9. Mediation Rights. (1) The mediation process, if chosen, shall: (a) Be voluntary; (b) Not be used to deny or delay a parent's right to a due process hearing under Sections 8 and 11 of this administrative regulation or 34 C.F.R. 300.507, or to deny any other rights afforded under this administrative regulation or IDEA Subpart E; and (c) Be conducted by a qualified and impartial mediator trained in effective mediation techniques....(3) <u>The Kentucky Department of Education shall bear the cost of the mediation process.</u> (4) The sessions in the mediation process shall be: (a) <u>Scheduled in a timely manner not to exceed sixty (60) days;</u> and (b) Held at a location that is convenient to both parties to the dispute. (5) In a mediation session in which a</p>

	<p>mediator who is trained in effective mediation techniques.....</p> <p><u>(4)</u> The <u>State must bear the cost of the mediation process</u>, including the costs of meetings described in paragraph (b)(2) of this section.</p> <p><u>(5)</u> Each session in the mediation process must be scheduled in a timely manner and must be held in a location that is convenient to the parties to the dispute.</p> <p><u>(6)</u> If the parties resolve a dispute through the mediation process, the parties must execute a legally binding agreement that sets forth that resolution and that--</p> <p><u>(i)</u> States that all discussions that occurred during the mediation process will remain confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding; and</p> <p><u>(ii)</u> Is signed by both the parent and a representative of the agency who has the authority to bind such agency.</p> <p><u>(7)</u> A written, signed mediation agreement under this paragraph is enforceable in any State court of competent jurisdiction or in a district court of the United States. Discussions that occur during the mediation process must be confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding of any Federal court or State court of a State receiving assistance under this part.</p> <p><u>(c)</u> Impartiality of mediator.</p> <p><u>(1)</u> An individual who serves as a mediator under this part--</p> <p><u>(i)</u> May not be an employee of the SEA or the LEA that is involved in the education or care of the child; and</p> <p><u>(ii)</u> Must not have a personal or professional</p>	<p>resolution is reached by the parties, a legally-binding written agreement shall be executed that:</p> <p>(a) Sets forth the resolution and a timeline in which it shall be implemented; (b) States that all discussions that occurred in the mediation process shall be confidential; and (c) May not be used as evidence in any subsequent due process hearing or civil proceeding.</p>
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	<p>interest that conflicts with the person's objectivity.  <u>(2)</u> A person who otherwise qualifies as a mediator is not an employee of an LEA or State agency described under Sec. 300.228 solely because he or she is paid by the agency to serve as a mediator.</p>	
<p>Request Due Process</p>	<p>Part <u>300 / E / 300.507</u> Filing a due process complaint.  <u>(a)</u> General.  <u>(1)</u> A parent or a public agency may file a due process complaint on any of the matters described in Sec. 300.503(a)(1) and (2) (relating to the identification, evaluation or educational placement of a child with a disability, or the provision of FAPE to the child).  <u>(2)</u> The due process complaint must allege a violation that occurred not more than two years before the date the parent or public agency knew or should have known about the alleged action that forms the basis of the due process complaint, or, if the State has an explicit time limitation for filing a due process complaint under this part, in the time allowed by that State law, except that the exceptions to the timeline described in Sec. 300.511(f) apply to the timeline in this section.....</p> <p>Part <u>300 / E / 300.508</u> Due process complaint.  <u>(b)</u> Content of complaint. The due process complaint required in paragraph (a)(1) of this section must include--  <u>(1)</u> The name of the child;  <u>(2)</u> The address of the residence of the child;</p>	<p>707 KAR 1:340. Procedural safeguards and state complaint procedures.  Section 10. Dispute Resolution. (1) <u>Within fifteen (15) days of receiving notice of parental request for a due process hearing, the LEA shall convene a meeting with the parent and the relevant member or members of the ARC who have specific knowledge of the facts identified in the due process hearing request.</u> The parent and the LEA shall determine the relevant ARC members to attend the resolution session. A representative of the LEA who has decision-making authority on behalf of the LEA shall also attend this meeting. An attorney for the LEA shall not attend the meeting unless an attorney accompanies the parent. (2) The purpose of this meeting is: (a) To allow the parents to discuss their due process hearing request; (b) To discuss the facts that formed the basis of the request; and (c) To give the LEA an opportunity to resolve the complaint. (3) This meeting shall not take place if the parents and the LEA agree in writing to waive the meeting or agree to use the mediation process. (4) If the parties reach a resolution to the dispute, the parties shall execute a legally-binding agreement that is; (a) Signed by both the parent and a representative of the LEA who has the authority to bind the LEA; and (b) Is enforceable in</p>

	<p>(3) The name of the school the child is attending;</p> <p>(4) In the case of a homeless child or youth (within the meaning of section 725(2) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a(2)), available contact information for the child, and the name of the school the child is attending;</p> <p>(5) A description of the nature of the problem of the child relating to the proposed or refused initiation or change, including facts relating to the problem; and</p> <p>(6) A proposed resolution of the problem to the extent known and available to the party at the time.....</p> <p>(d) Sufficiency of complaint.</p> <p>(1) The due process complaint required by this section must be deemed sufficient unless the party receiving the due process complaint notifies the hearing officer and the other party in writing, within 15 days of receipt of the due process complaint, that the receiving party believes the due process complaint does not meet the requirements in paragraph (b) of this section.</p> <p>(2) <u>Within five days of receipt of notification under paragraph (d)(1) of this section, the hearing officer must make a determination on the face of the due process complaint of whether the due process complaint meets the requirements of paragraph (b) of this section, and must immediately notify the parties in writing of that determination.</u></p>	<p>any state court of competent jurisdiction or a district court of the United States. (5) The dispute resolution agreement may be voided by either party within three (3) business days of the agreement's execution. (6) <u>If the LEA has not resolved the complaint to the satisfaction of the parents within thirty (30) days of the receipt of the due process hearing request, the due process hearing may occur.</u> (7) The timeline for issuing a final decision pursuant to 34 C.F.R. 300.515 shall begin at the expiration of the thirty (30) day timeline referred to in subsection (6) of this section, except for adjustments allowed in subsections (11) and (12) of this section.....(9) If the LEA is unable to obtain the participation of the parent in the resolution meeting after reasonable efforts have been made and documented, the LEA may request, at the conclusion of the thirty (30) day period, that a hearing officer dismiss the parent's due process hearing request. (10) The LEA shall keep a record of the reasonable efforts made to obtain the participation of the parents in the resolution meeting such as: (a) Detailed records of telephone calls made or attempted and the results of those calls; (b) Copies of correspondence sent to the parents and any responses received; and (c) Detailed records of any visits made to the parent's home or place of employment and the results of those visits. (11) <u>If the LEA fails to hold the resolution meeting within fifteen (15) days of receiving the notice of a parent's due process hearing request or fails to participate in the resolution meeting, the parent may seek the intervention of a hearing officer to begin the forty-five (45) day due process hearing timeline in 34 C.F.R. 300.515.</u> (12) The forty-five (45) day timeline for the due process hearing in 34 C.F.R. 300.515 starts the day after one (1) of the following</p>
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		<p>events: (a) Both parties agree in writing to waive the resolution meeting; (b) After either the mediation or resolution meeting starts but before the end of the thirty (30) day period, the parties agree in writing that no agreement is possible; or (c) If both parties agree in writing to continue the mediation at the end of the thirty (30) day resolution period, but later the parent or the LEA withdraws from the mediation process.</p> <p>Section 11. Hearing Rights. (1) The parent of a child with a disability or the attorney representing the child, or the LEA that files a request for a hearing shall provide notice to the Kentucky Department of Education, to request a hearing. The notice shall contain: (a) The name of the child; (b) The address of the residence of the child; (c) The name of the school the child is attending; (d) A description of the nature of the problem; and (e) Facts relating to the problem and a proposed resolution to the extent known and available to the parents at the time. (2) The Kentucky Department of Education shall provide a model form entitled "Request for a Due Process Hearing", that meets these requirements to assist parents in filing a request a due process hearing....</p>
<p>Appeal Due Process</p>	<p>Part <u>300 / E / 300.514</u> Finality of decision; appeal; impartial review.  (b) Appeal of decisions; impartial review.  (1) If the hearing required by Sec. 300.511 is conducted by a public agency other than the SEA, any party aggrieved by the findings and decision in the hearing may appeal to the SEA.  (2) If there is an appeal, <u>the SEA must conduct</u></p>	<p>707 KAR 1:340. Procedural safeguards and state complaint procedures.  Section 12. Appeal of Decision. (1) A party to a due process hearing that is aggrieved by the hearing decision may appeal the decision to members of the Exceptional Children Appeals Board as assigned by the Kentucky Department of Education. The appeal shall be perfected by sending, <u>by certified mail, to</u></p>



	<p><u>an impartial review of the findings and decision appealed.</u> The official conducting the review must--</p> <ul style="list-style-type: none"><li>(i) Examine the entire hearing record;</li><li>(ii) Ensure that the procedures at the hearing were consistent with the requirements of due process;</li><li>(iii) Seek additional evidence if necessary. If a hearing is held to receive additional evidence, the rights in Sec. 300.512 apply;</li><li>(iv) Afford the parties an opportunity for oral or written argument, or both, at the discretion of the reviewing official;</li><li>(v) Make an independent decision on completion of the review; and</li><li>(vi) <u>Give a copy of the written, or, at the option of the parents, electronic findings of fact and decisions to the parties.</u></li></ul>	<p><u>the Kentucky Department of Education, a request for appeal, within thirty (30) calendar days of the date of the hearing officer's decision. (2) A decision made by the Exceptional Children Appeals Board shall be final unless a party appeals the decision to state circuit court or federal district court.</u></p>
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Key:

ARC	Admissions and Release Committee
Day	Day means calendar day unless otherwise indicated as business day or school day. (IDEA Regulations: Part <u>300 / A / 300.11 / a</u> )
IEP	Individualized Education Program
IEE	Independent Educational Evaluation
IDEA	Individuals with Disabilities Education Improvement Act 2004
KAR	Kentucky Administrative Regulations
KDE	Kentucky Department of Education
LEA	Local Education Agency (in Kentucky it is County or Independent public school system)
IDEA Part B	Is the section of IDEA for children ages 3-21
School Day	School day means any day, including a partial day that children are in attendance at school for instructional purposes. (IDEA Regulations: Part <u>300 / A / 300.11 / c / 1</u> )
SEA	State Education Agency (Kentucky Department of Education)

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**[Kentucky Administrative Regulations Special Education Programs](#)  
[707 KAR 1:270 – 707 KAR 1:380 Revised August 4, 2008](#)**

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