

Department of Education
Colorado State Board of Education

1 Colorado Code of Regulations 301-8

RULES FOR THE ADMINISTRATION OF THE EXCEPTIONAL CHILDREN'S EDUCATIONAL ACT

The official version of the ECEA Rules, 1 CCR 301-8, 2220-R-1.00, et seq., can be found on the Colorado Secretary of State's Website at: <http://www.sos.state.co.us/CCR/>

2220-R-1.00 STATEMENT OF BASIS AND PURPOSE

1.00 (15) The statutory authority for the amendments to these Rules is found in Title 22, Article 20, Sections 103 and 119. The purpose of these amendments is to comply with Colorado House Bill 11-1277, which was enacted in June 2011 to align Colorado's disability categories for students with disabilities with the eligibility categories in the federal Individuals with Disabilities Education Act, 20 U.S.C. 1400 et seq. and 34 C.F.R. 300.8. The law requires that the new eligibility categories be implemented via adoption of new rules amending the existing eligibility categories in these Rules by December 1, 2012. HB 11-1277 also modified some of the terminology and definitions applicable to special education; these Rules have therefore been updated to reflect the new language by incorporating the language of the statute.

2220-R-2.00

DEFINITIONS USED IN THESE RULES

[2.01 NO CHANGE]

2.02 Administrative Unit

Administrative Unit (AU) means a school district, board of cooperative services, or the State Charter School Institute, that is providing educational services to exceptional children and that is responsible for the local administration of these Rules. In order to qualify as an administrative unit, school districts and boards of cooperative services shall meet all minimum standards established in Section 3.01 of these Rules. All administrative units shall be approved by the Department of Education.

2.02 (1) Administrative unit of residence.

Pursuant to sections 22-1-102 and 22-20-107.5, C.R.S., an administrative unit of residence (AUR) shall mean the unit in which the child resides on a day-to-day basis with the following exceptions to apply when a child has been determined to have a disability:

- 2.02 (1) (a) If a child with a disability is living at one of the regional centers, ~~including satellite homes of such centers, operated by the Department of Human Services or any other facility operated by or under contract to the Department of Human Services or at the Colorado Mental Health Institutes at Pueblo or Fort Logan,~~ an eligible facility approved facility school, a mental health institute operated by the Department of Human Services, or if the child attends the Colorado School for the Deaf and the Blind, such child shall be deemed to reside where the parent or guardian of such child resides.
- 2.02 (1) (b) If a child lives in one of the regional centers, ~~or the mental health institutes at Pueblo or Fort Logan, or in an eligible facility~~ a facility, or a group home, and the administrative unit of residence cannot be determined because parental rights have been relinquished by the parents or terminated by a court, the parents are incarcerated, cannot be located, reside out of state ~~and, in all such circumstances, the Colorado Department of Human Services has made the placement within a facility,~~ or the child is legally emancipated, the child shall be considered a resident of the administrative unit in which ~~such facility~~ the regional center, mental health institute, facility or group home is located.
- 2.02 (1) (c) If the child resides in a foster care home, the child shall be deemed to be a resident of the administrative unit in which the foster care home is located.
- 2.02 (1) (d) When a child attends a school in another district under the provisions of the public schools of choice law, the child shall be considered a resident of the administrative unit in which the parent or guardian resides.
- 2.02 (1) (e) When a child attends a Charter School in another district, the child shall be considered a resident of the administrative unit in which the parent or guardian resides.
- 2.02 (1) (f) When a child attends a public school on-line program in another district, the child shall be considered a resident of the administrative unit in which the parent or guardian resides.
- 2.02 (1) (g) If a child with a disability is homeless, as defined by Section 22-1-102.5, C.R.S., the provisions of Section 22-1-102(2), C.R.S., apply.
- 2.02 (1) (h) Disputes regarding residency.

If there is a dispute as to which administrative unit constitutes the administrative unit of residence, the Commissioner of Education shall have the authority to determine questions of residency and thus responsibility after reviewing necessary details involved in the determination of residency.

[2.02(2) NO CHANGE]

[2.03 - 2.07 NO CHANGE]

2.08 Children with Disabilities

Children with Disabilities shall mean those persons from three to twenty-one years of age who, by reason of one or more of the following conditions, are unable to receive reasonable benefit from general education ~~without additional supports in the public schools because of specific disabling conditions.~~ A child shall not be determined to have a disability if the determinant factor for that

determination is: lack of appropriate instruction in reading or math or limited English proficiency; and if the child does not otherwise meet the eligibility criteria under this Section 2.08. A child upon reaching his/her third birthday becomes eligible for services as of that date. A child reaching the age of 21 after the commencement of the academic year has the right to complete the semester in which the 21st birthday occurs or attend until he/she graduates, whichever comes first. In such a case, the child is not entitled to extended school year services during the summer following such current academic year. If it is determined, through an appropriate evaluation, under Section 4.02(4) of these Rules, that a child has one of the following disabilities but only needs a related service (as defined in Section 2.37 of these Rules) and not special education (as defined in Sections 2.43 and 2.51 of these Rules), then the child is not a child with a disability under these Rules. For purposes of Part C of IDEA Child Find activities, *Children with Disabilities* also means persons from birth to twenty-one years of age consistent with Section 22-20-103(5)(b), C.R.S.

~~2.08 (1) A child with a physical disability shall have a sustained illness or disabling physical condition which prevents the child from receiving reasonable educational benefit from regular education.~~

~~2.08 (1) (a) A sustained illness means a prolonged, abnormal physical condition requiring continued monitoring characterized by limited strength, vitality, or alertness due to chronic or acute health problems and a disabling condition means a severe physical impairment. Conditions such as, but not limited to, traumatic brain injury, autism, attention deficit disorder and cerebral palsy may qualify as a physical disability, if they prevent a child from receiving reasonable educational benefit from regular education.~~

~~2.08 (1) (b) Criteria for a physical disability preventing the child from receiving reasonable educational benefit from regular education should be dependent upon the child's diagnosis and degree of involvement in the regular school setting as characterized by any of the following:~~

~~2.08 (1) (b) (i) The child's chronic health problem or sustained illness requires continual monitoring, intervention, and/or specialized programming in order to accommodate the effects of the illness so as to reasonably benefit from the education program.~~

~~2.08 (1) (b) (ii) The child's disabling condition interferes with ambulation, attention, hand movements, coordination, communication, self-help skills and other activities of daily living to such a degree that it requires special services, equipment, and/or transportation.~~

~~2.08 (2) A child with a vision disability shall have a deficiency in visual acuity and/or visual field and/or visual performance where, even with the use of lenses or corrective devices, he/she is prevented from receiving reasonable educational benefit from regular education.~~

~~2.08 (2) (a) A vision disability shall be one or more of the following:~~

~~2.08 (2) (a) (i) Visual acuity of no better than 20/70 in the better eye after correction.~~

~~2.08 (2) (a) (ii) Visual field restriction to 20 degrees or less.~~

~~2.08 (2) (a) (iii) A physical condition of visual system which cannot be medically corrected and as such affects visual functioning to the extent that specially designed instruction is needed. These criteria are reserved for special situations such as, but not restricted to, oculomotor apraxia, cortical visual impairment,~~

~~and/or a progressive visual loss where field and acuity deficits alone may not meet the aforementioned criteria.~~

~~The term "visual disability" does not include children who have learning problems which are primarily the result of visual perceptual and/or visual motor difficulties.~~

~~2.08 (2) (b) Criteria for a vision disability preventing the child from receiving reasonable educational benefit from regular education shall include:~~

~~2.08 (2) (b) (i) Requirement for Braille and/or adaptation of educational material, or~~

~~2.08 (2) (b) (ii) Requirement of specialized methods, aids, and/or equipment for learning, literacy, and/or mobility.~~

~~2.08 (3) A child with a hearing disability shall have a deficiency in hearing sensitivity as demonstrated by an elevated threshold of auditory sensitivity to pure tones or speech where, even with the help of amplification, the child is prevented from receiving reasonable educational benefit from regular education.~~

~~2.08 (3) (a) A "deficiency in hearing sensitivity" shall be one of the following:~~

~~2.08 (3) (a) (i) An average pure tone hearing loss in the speech range (500 - 2000 Hz) of at least 20 dBHL in the better ear which is not reversible within a reasonable period of time.~~

~~2.08 (3) (a) (ii) An average high frequency, pure tone hearing loss of at least 35 dBHL in the better ear for two or more of the following frequencies: 2000, 4000 or 6000 Hz.~~

~~2.08 (3) (a) (iii) A unilateral hearing loss of at least 35 dBHL which is not reversible within a reasonable period of time.~~

~~2.08 (3) (b) Criteria for a hearing disability preventing the child from receiving reasonable educational benefit from regular education shall include one or more of the following:~~

~~2.08 (3) (b) (i) Sound-field word recognition (unaided) of less than 75% in quiet as measured with standardized open-set audiometric speech discrimination tests presented at average conversational speech (50-55 dBHL). Interpretation shall be modified for closed-set tests.~~

~~2.08 (3) (b) (ii) Receptive and/or expressive language delay as determined by standardized tests:~~

~~2.08 (3) (b) (ii) (A) under 3 years: less than one-half of expected development for chronological age.~~

~~2.08 (3) (b) (ii) (B) 3 to 8 years: 1 year delay or more.~~

~~2.08 (3) (b) (ii) (C) 9 to 13 years: 2 years delay or more.~~

~~2.08 (3) (b) (ii) (D) 14 to 21 years: 3 years delay or more.~~

~~2.08 (3) (b) (iii) An impairment of speech articulation, voice and/or fluency.~~

- ~~2.08 (3) (b) (iv) Significant discrepancy between verbal and nonverbal performance on a standardized intelligence test.~~
- ~~2.08 (3) (b) (v) Delay in reading comprehension due to language deficit.~~
- ~~2.08 (3) (b) (vi) Poor academic achievement.~~
- ~~2.08 (3) (b) (vii) Inattentive, inconsistent and/or inappropriate classroom behavior.~~
- ~~2.08 (4) A child with significant limited intellectual capacity shall have reduced general intellectual functioning which prevents the child from receiving reasonable educational benefit from regular education.~~
- ~~2.08 (4) (a) Reduced general intellectual functioning shall mean limited intellectual capacity or ability which usually originates in the developmental period and exists concurrently with impairment in adaptive behavior.~~
- ~~2.08 (4) (b) Criteria for significant limited intellectual capacity preventing the child from receiving reasonable educational benefit from regular education shall include:~~
- ~~2.08 (4) (b) (i) A score of more than 2.0 standard deviations below the mean on individually administered measures of cognition.~~
- ~~2.08 (4) (b) (ii) Evidence that the level of independent adaptive behavior is significantly below the culturally imposed expectations of personal and social responsibilities.~~
- ~~2.08 (4) (b) (iii) A deficiency in academic achievement, as indicated by scores 2.0 standard deviations below the mean in measures of language, reading and math.~~
- ~~None of these indicators, by itself, shall be a sufficient criterion for determination of a significant limited intellectual capacity; however, all three indicators shall be evident for the determination of this disability. Professional judgment shall be required for interpretation of scores and/or other findings.~~
- ~~2.08 (5) A child with a significant identifiable emotional disability shall have emotional or social functioning which prevents the child from receiving reasonable educational benefit from regular education.~~
- ~~2.08 (5) (a) Emotional or social functioning shall mean one or more of the following:~~
- ~~2.08 (5) (a) (i) Exhibits pervasive sad affect, depression and feelings of worthlessness; cries suddenly or frequently.~~
- ~~2.08 (5) (a) (ii) Displays unexpected and atypical affect for the situation.~~
- ~~2.08 (5) (a) (iii) Excessive fear and anxiety.~~
- ~~2.08 (5) (a) (iv) Persistent physical complaints not due to a medical condition.~~
- ~~2.08 (5) (a) (v) Exhibits withdrawal, avoidance of social interaction and/or lack of personal care to an extent that maintenance of satisfactory interpersonal relationships is prevented.~~

- ~~2.08 (5) (a) (vi) Out of touch with reality; has auditory and visual hallucinations, thought disorders, disorientation or delusions.~~
- ~~2.08 (5) (a) (vii) Cannot get mind off certain thoughts or ideas; cannot keep self from engaging in repetitive and/or useless actions.~~
- ~~2.08 (5) (a) (viii) Displays consistent pattern of aggression toward objects or persons to an extent that development or maintenance of satisfactory internal relationships is prevented.~~
- ~~2.08 (5) (a) (ix) Pervasive oppositional, defiant or noncompliant responses.~~
- ~~2.08 (5) (a) (x) Significantly limited self-control, including an impaired ability to pay attention.~~
- ~~2.08 (5) (a) (xi) Exhibits persistent pattern of stealing, lying or cheating.~~
- ~~2.08 (5) (a) (xii) Persistent patterns of bizarre and/or exaggerated behavior reactions to routine environments.~~
- ~~2.08 (5) (b) Criteria for significant identifiable emotional disability preventing the child from receiving reasonable education benefit from regular education shall include the following characteristics and qualifiers:~~
 - ~~2.08 (5) (b) (i) One or both of the following characteristics shall be present:~~
 - ~~2.08 (5) (b) (i) (A) Academic functioning: an inability to receive reasonable educational benefit from regular education which is not primarily the result of intellectual, sensory or other health factors, but due to the identified emotional condition.~~
 - ~~2.08 (5) (b) (i) (B) Social/emotional functioning: an inability to build or maintain interpersonal relationships which significantly interferes with the child's social development. Social development involves those adaptive behaviors and social skills which enable a child to meet environmental demands and assume responsibility for his/her own and others' welfare.~~
 - ~~2.08 (5) (b) (ii) All four of the following qualifiers shall be documented for either of the above characteristics demonstrated. The first qualifier may not be applicable in the case of court ordered placements, triennial reviews and identification of children ages five years and younger.~~
 - ~~2.08 (5) (b) (ii) (A) A variety of instructional and/or behavioral interventions were implemented within regular education and the child remains unable to receive reasonable educational benefit from regular education or his/her presence continues to be detrimental to the education of others.~~
 - ~~2.08 (5) (b) (ii) (B) Indicators of social/emotional dysfunction exist to a marked degree; that is, at a rate and intensity above the child's peers and outside of his/her ethnic and cultural norms and outside the range of normal development expectations.~~

- ~~2.08 (5) (b) (ii) (C) Indicators of social/emotional dysfunction are pervasive, and are observable in at least two different settings within the child's environment, one of which shall be school.~~
- ~~2.08 (5) (b) (ii) (D) Indicators of social/emotional dysfunction have existed over a period of time and are not isolated incidents or transient, situational responses to stressors in the child's environment.~~
- ~~2.08 (6) Specific Learning Disability~~
- ~~2.08 (6) (a) A child with a specific learning disability shall have a learning disorder that prevents the child from receiving reasonable educational benefit from general education.~~
- ~~2.08 (6) (a) (i) Specific learning disability means a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, that may manifest itself in the imperfect ability to listen, think, speak, read, write, spell or to do mathematical calculations, including conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. Specific learning disability does not include learning problems that are primarily the result of: visual, hearing, or motor disabilities; significant limited intellectual capacity; significant identifiable emotional disability; cultural factors; environmental or economic disadvantage; or limited English proficiency.~~
- ~~2.08 (6) (b) A child may be determined to have a specific learning disability that prevents the child from receiving reasonable educational benefit from general education if the following criteria are met:~~
- ~~2.08 (6) (b) (i) The child does not achieve adequately for the child's age or to meet state-approved grade-level standards in one or more of the following areas, when provided with learning experiences and instruction appropriate for the child's age or state-approved grade-level standards:~~
- ~~2.08 (6) (b) (i) (A) Oral expression;~~
- ~~2.08 (6) (b) (i) (B) Listening comprehension;~~
- ~~2.08 (6) (b) (i) (C) Written expression;~~
- ~~2.08 (6) (b) (i) (D) Basic reading skill;~~
- ~~2.08 (6) (b) (i) (E) Reading fluency skills;~~
- ~~2.08 (6) (b) (i) (F) Reading comprehension;~~
- ~~2.08 (6) (b) (i) (G) Mathematical calculation;~~
- ~~2.08 (6) (b) (i) (H) Mathematics problem solving; and~~
- ~~2.08 (6) (b) (ii) The child does not make sufficient progress to meet age or state-approved grade-level standards in one or more of the areas identified in Section 2.08(6)(b)(i) when using a process based on the child's response to scientific, research-based intervention as determined by a body of evidence demonstrating:—~~

- ~~2.08 (6) (b) (ii) (A) Academic skill deficit(s); and~~
- ~~2.08 (6) (b) (ii) (B) Insufficient progress in response to scientific, research-based intervention.~~
- ~~2.08 (7) A child with a speech or language impairment shall have a communicative disorder which prevents the child from receiving reasonable educational benefit from regular education.~~
- ~~2.08 (7) (a) Speech-language disorders may be classified under the headings of articulation, fluency, voice, functional communication or delayed language development and shall mean a dysfunction in one or more of the following:~~
- ~~2.08 (7) (a) (i) Receptive and expressive language (oral and written) difficulties including syntax (word order, word form, developmental level), semantics (vocabulary, concepts and word finding), and pragmatics (purposes and uses of language).~~
- ~~2.08 (7) (a) (ii) Auditory processing, including sensation (acuity), perception (discrimination, sequencing, analysis and synthesis) association and auditory attention.~~
- ~~2.08 (7) (a) (iii) Deficiency of structure and function of oral peripheral mechanism.~~
- ~~2.08 (7) (a) (iv) Articulation including substitutions, omissions, distortions or additions of sound.~~
- ~~2.08 (7) (a) (v) Voice, including deviation of respiration, phonation (pitch, intensity, quality), and/or resonance.~~
- ~~2.08 (7) (a) (vi) Fluency, including hesitant speech, stuttering, cluttering and related disorders.~~
- ~~2.08 (7) (a) (vii) Problems in auditory perception such as discrimination and memory.~~
- ~~2.08 (7) (b) Criteria for a speech or language impairment that prevents a child from receiving reasonable educational benefit from regular education shall include:~~
- ~~2.08 (7) (b) (i) Interference with oral and/or written communication in academic and social interactions in his/her primary language.~~
- ~~2.08 (7) (b) (ii) Demonstration of undesirable or inappropriate behavior as a result of limited communication skills.~~
- ~~2.08 (7) (b) (iii) The inability to communicate without the use of assistive, augmentative/alternative communication devices or systems.~~
- ~~2.08 (8) A child with multiple disabilities shall have two or more areas of significant impairment, one of which shall be a cognitive impairment except in the case of deaf-blindness. Cognitive impairment shall mean significant limited intellectual capacity. The other areas of significant impairment include: physical, visual, auditory, communicative or emotional. The combination of such impairments creates a unique condition that is evidenced through a multiplicity of needs which prevent the child from receiving reasonable educational benefit from regular education.~~

- ~~2.08 (8) (a) The definition of impairment shall be the same as that for each of the single disabilities.~~
- ~~2.08 (8) (b) Criteria for multiple disabilities preventing a child from receiving reasonable educational benefit from regular education shall be the same as that considered for each of the single disabilities. Indicators for the combination of impairments creating a unique condition shall be:~~
- ~~2.08 (8) (b) (i) Inability to comprehend and utilize instructional information.~~
- ~~2.08 (8) (b) (ii) Inability to generalize skills consistently.~~
- ~~2.08 (8) (b) (iii) Inability to communicate fluently.~~
- ~~2.08 (8) (b) (iv) Inability to demonstrate problem solving skills when such information is presented in a traditional academic curriculum.~~
- ~~2.08 (9) A preschool child with a disability shall be three through five years of age and shall, by reason of one or more of the following conditions, be unable to receive reasonable educational benefit from regular education: long-term physical impairment or illness, significant limited intellectual capacity, significant identifiable emotional disorder, specific learning disability, or speech language impairment.~~
- ~~2.08 (9) (a) Children ages three through five who would otherwise qualify according to one or more of the above categorical conditions but for whom the category cannot be appropriately determined may qualify for preschool special education if multiple sources of information are utilized and if such children meet one or more of the following criteria:~~
- ~~2.08 (9) (a) (i) Children who rank at the seventh percentile or below on a valid standardized diagnostic instrument, or the technical equivalent in standard scores (76 if the mean is 100 and the standard deviation is 16) or standard deviations (1.5 standard deviations below the mean) in one or more of the following areas of development: cognition, communication, physical and psychosocial.~~
- ~~2.08 (9) (a) (ii) Children with identifiable conditions known through empirical data to be associated with significant delays in development.~~
- ~~2.08 (9) (a) (iii) In extraordinary cases when a standardized score cannot be determined, a child may be determined disabled based on the informed opinion of the assessment team which includes the parent(s) and with documentation of the rationale for the inability to obtain a standardized score.~~
- ~~2.08 (9) (b) Criteria for a preschool child being unable to receive reasonable educational benefit from regular education shall be a substantial discrepancy between the child's performance and behavior as compared to children of a comparable age.~~
- ~~2.08 (10) An infant/toddler with a disability shall be a child from birth through two years of age who has significant developmental delays and who potentially may be unable to receive reasonable educational benefit from regular education is eligible for early intervention services and shall be defined by one of the following:~~
- ~~2.08 (10) (a) Significant developmental delays shall mean those children who have a significant delay in at least one or more of the following areas of development: cognition,~~

~~communication, physical, motor, vision, hearing, psychosocial and self-help skills as assessed by qualified professionals utilizing appropriate methods and procedures. Significant development delay shall mean, development that qualified personnel determine to be outside the range of "normal" or "typical" for a same aged peer. Conditions associated with significant developmental delays shall mean those children who have identifiable conditions known to have a high probability of resulting in significant developmental delays, but who may not be exhibiting delays in development at the time of diagnosis. Those identifiable conditions are:~~

- ~~2.08 (10) (a) (i) Chromosomal syndromes and conditions associated with mental retardation.~~
- ~~2.08 (10) (a) (ii) Congenital syndromes and conditions associated with delays in development.~~
- ~~2.08 (10) (a) (iii) Sensory impairments.~~
- ~~2.08 (10) (a) (iv) Metabolic disorders.~~
- ~~2.08 (10) (a) (v) Prenatal and perinatal infections and significant medical problems.~~
- ~~2.08 (10) (a) (vi) Low birth weight infants weighing less than 1,200 grams.~~
- ~~2.08 (10) (a) (vii) Post-natal acquired problems known to result in significant developmental delays.~~

2.08 (1) A child with an Autism Spectrum Disorder (ASD) is a child with a developmental disability significantly affecting verbal and non-verbal social communication and social interaction, generally evidenced by the age of three. Other characteristics often associated with ASD are engagement in repetitive activities and stereotyped movements, resistance to environmental changes or changes in daily routines, and unusual responses to sensory experiences.

2.08 (1) (a) The Autism Spectrum Disorder prevents the child from receiving reasonable educational benefit from general education as evidenced by at least one characteristic in each of the following three areas (i.e., subsections (a)(i) through (a)(iii), below):

2.08 (1) (a) (i) The child displays significant difficulties or differences or both in interacting with or understanding people and events. Examples of qualifying characteristics include, but are not limited to: significant difficulty establishing and maintaining social-emotional reciprocal relationships, including a lack of typical back and forth social conversation; and/or significant deficits in understanding and using nonverbal communication including eye contact, facial expression and gestures;

2.08 (1) (a) (ii) The child displays significant difficulties or differences which extend beyond speech and language to other aspects of social communication, both receptively and expressively. Examples of qualifying characteristics include, but are not limited to: an absence of verbal language or, if verbal language is present, typical integrated use of eye contact and body language is lacking; and/or significant difficulty sharing, engaging in imaginative play and developing and maintaining friendships; and

2.08 (1) (a) (iii) The child seeks consistency in environmental events to the point of exhibiting significant rigidity in routines and displays marked distress over changes in

the routine, and/or has a significantly persistent preoccupation with or attachment to objects or topics.

2.08 (1) (b) The following characteristics may be present in a child with ASD, but shall not be the sole basis for determining that a child is an eligible child with ASD if the child does not also meet the eligibility criteria set out in subsection (a) of this rule, above.

2.08 (1) (b) (i) The child exhibits delays or regressions in motor, sensory, social or learning skills.

2.08 (1) (b) (ii) The child exhibits precocious or advanced skill development, while other skills may develop at or below typical developmental rates.

2.08 (1) (b) (iii) The child exhibits atypicality in thinking processes and in generalization. The child exhibits strengths in concrete thinking while difficulties are demonstrated in abstract thinking, awareness and judgment. Perseverative thinking and impaired ability to process symbolic information is present.

2.08 (1) (b) (iv) The child exhibits unusual, inconsistent, repetitive or unconventional responses to sounds, sights, smells, tastes, touch or movement.

2.08 (1) (b) (v) The child's capacity to use objects in an age appropriate or functional manner is absent or delayed. The child has difficulty displaying a range of interests or imaginative activities or both.

2.08 (1) (b) (vi) The child exhibits stereotypical motor movements, which include repetitive use of objects and/or vocalizations, echolalia, rocking, pacing or spinning self or objects.

2.08 (2) A child with Hearing Impairment, Including Deafness shall have a deficiency in hearing sensitivity as demonstrated by an elevated threshold of auditory sensitivity to pure tones or speech where, even with the help of amplification, the child is prevented from receiving reasonable educational benefit from general education.

2.08 (2) (a) A "deficiency in hearing sensitivity" shall be one of the following as measured by behavioral or electrophysiological audiological assessments:

2.08 (2) (a) (i) Three frequency, pure tone average hearing loss in the speech range (500 – 4000 Hertz {Hz}) of at least 20 decibels Hearing Level (dBHL) in the better ear which is not reversible.

2.08 (2) (a) (ii) A high frequency, pure tone average hearing loss of at least 35 dBHL in the better ear for two or more of the following frequencies: 2000, 3000, 4000 or 6000 Hz.

2.08 (2) (a) (iii) A three frequency, pure tone average unilateral hearing loss in the speech range (500 – 4000Hz) of at least 35 dBHL which is not reversible.

2.08 (2) (a) (iv) A transient hearing loss, meeting one of the criteria in (a)(i) – (a)(iii) above, that is exhibited for three (3) months cumulatively during a calendar year (i.e., any three months during the calendar year) and that typically is caused by non-permanent medical conditions such as otitis media or other ear problems.

- 2.08 (2) (b) The Hearing Impairment, Including Deafness, as described above, prevents the child from receiving reasonable educational benefit from general education as evidenced by one or more of the following:
- 2.08 (2) (b) (i) Delay in auditory skills and/or functional auditory performance including speech perception scores (in quiet or noise), which demonstrates the need for specialized instruction in auditory skill development or assistive technology use;
- 2.08 (2) (b) (ii) Receptive and/or expressive language (spoken or signed) delay including a delay in syntax, pragmatics, semantics, or if there is a significant discrepancy between the receptive and expressive language scores and/or function which adversely impacts communication and learning;
- 2.08 (2) (b) (iii) An impairment of speech articulation, voice and/or fluency;
- 2.08 (2) (b) (iv) Lack of adequate academic achievement and/or sufficient progress to meet age or state-approved grade-level standards in reading, writing, and/or math;
- 2.08 (2) (b) (v) Inconsistent performance in social and learning environments compared to typically developing peers; and/or
- 2.08 (2) (b) (vi) Inability to demonstrate self advocacy skills or utilize specialized technology/resources to access instruction.
- 2.08 (3) A child with a Serious Emotional Disability shall have emotional or social functioning which prevents the child from receiving reasonable educational benefit from general education.
- 2.08 (3) (a) Serious Emotional Disability means a condition exhibiting one or more of the following characteristics over a long period of time and to a marked degree:
- 2.08 (3) (a) (i) An inability to learn which is not primarily the result of intellectual, sensory or other health factors;
- 2.08 (3) (a) (ii) An inability to build or maintain interpersonal relationships which significantly interferes with the child's social development;
- 2.08 (3) (a) (iii) Inappropriate types of behavior or feelings under normal circumstances;
- 2.08 (3) (a) (iv) A general pervasive mood of unhappiness or depression; and/or
- 2.08 (3) (a) (v) A tendency to develop physical symptoms or fears associated with personal or school problems.
- 2.08 (3) (b) As a result of the child's Serious Emotional Disability, as described above, the child exhibits one of the following characteristics:
- 2.08 (3) (b) (i) Impairment in academic functioning as demonstrated by an inability to receive reasonable educational benefit from general education which is not primarily the result of intellectual, sensory, or other health factors, but due to the identified serious emotional disability.
- 2.08 (3) (b) (ii) Impairment in social/emotional functioning as demonstrated by an inability to build or maintain interpersonal relationships which significantly interferes with the child's social development. Social development involves those adaptive

behaviors and social skills which enable a child to meet environmental demands and assume responsibility for his or her own welfare.

2.08 (3) (c) In order to qualify as a child with a Serious Emotional Disability, all four of the following qualifiers shall be documented:

2.08 (3) (c) (i) A variety of instructional and/or behavioral interventions were implemented within general education and the child remains unable to receive reasonable educational benefit from general education.

2.08 (3) (c) (ii) Indicators of social/emotional dysfunction exist to a marked degree; that is, at a rate and intensity above the child's peers and outside of his or her cultural norms and the range of normal development expectations.

2.08 (3) (c) (iii) Indicators of social/emotional dysfunction are pervasive, and are observable in at least two different settings within the child's environment. For children who are attending school, one of the environments shall be school.

2.08 (3) (c) (iv) Indicators of social/emotional dysfunction have existed over a period of time and are not isolated incidents or transient, situational responses to stressors in the child's environment.

2.08 (3) (d) The term "Serious Emotional Disability" does not apply to children who are socially maladjusted, unless it is determined that they have an emotional disability under paragraph (3)(a) of this section 2.08.

2.08 (4) A child with an Intellectual Disability shall have reduced general intellectual functioning, existing concurrently with deficits in adaptive behavior and manifested during the developmental period, which prevents the child from receiving reasonable educational benefit from general education.

2.08 (4) (a) The IEP team shall identify a child as having an Intellectual Disability as documented by all of the following criteria:

2.08 (4) (a) (i) A full scale score of 2.0 or more standard deviations below the mean on individually administered measures of cognition.

2.08 (4) (a) (ii) A comprehensive adaptive skills assessment based on a body of evidence that reflects the child's social, linguistic, and cultural background. The level of independent adaptive behavior is significantly below the culturally imposed expectations of personal and social responsibility. This body of evidence shall include results from each of the following:

2.08 (4) (a) (ii) (A) A full scale score of 2.0 or more standard deviations below the mean on a standard or nationally normed assessment of adaptive behavior;

2.08 (4) (a) (ii) (B) Interview of parents; and

2.08 (4) (a) (ii) (C) Observations of the child's adaptive behavior that must occur in more than one educational setting. A discrepancy must occur in two or more domains related to adaptive behavior in more than one educational setting.

- 2.08 (4) (b) A deficiency in academic achievement, either as indicated by scores 2.0 or more standard deviations below the mean in formal measures of language, reading and math, or a body of evidence on informal measures when it is determined that reliable and valid assessment results are not possible due to the student's functioning level.
- 2.08 (4) (c) In making a finding of eligibility based upon assessment results, professional judgment shall be required for interpretation of scores and/or other findings.
- 2.08 (5) A child with Multiple Disabilities shall have two or more areas of significant impairment, one of which shall be an intellectual disability. The other areas of impairment include: Orthopedic Impairment; Visual Impairment, Including Blindness; Hearing Impairment, Including Deafness; Speech or Language Impairment; Serious Emotional Disability; Autism Spectrum Disorders; Traumatic Brain Injury; or Other Health Impaired. The combination of such impairments creates a unique condition that is evidenced through a multiplicity of severe educational needs which prevent the child from receiving reasonable educational benefit from general education.
- 2.08 (5) (a) In order to be eligible as a child with multiple disabilities, the child must satisfy all eligibility criteria for each individual disability, as described in these Rules. Documentation for each identified eligibility category must be included.
- 2.08 (5) (b) The Multiple Disabilities, as described in section 2.08(5) above, prevents the child from receiving reasonable educational benefit from general education such that the child exhibits two or more of the following:
- 2.08 (5) (b) (i) Inability to comprehend and utilize instructional information.
- 2.08 (5) (b) (ii) Inability to communicate efficiently and effectively.
- 2.08 (5) (b) (iii) Inability to demonstrate problem solving skills when such information is presented in a traditional academic curriculum.
- 2.08 (5) (b) (iv) Inability to generalize skills consistently.
- 2.08 (6) A child with an Orthopedic Impairment has a severe neurological/muscular/skeletal abnormality that impedes mobility, which prevents the child from receiving reasonable educational benefit from general education.
- 2.08 (6) (a) Orthopedic Impairment may be a result of a congenital anomaly (e.g. spina bifida, osteogenesis imperfecta, clubfoot); effects of a disease (e.g. bone tumor, muscular dystrophy, juvenile arthritis); or from other causes (e.g. cerebral palsy, amputations, trauma, and/or fractures or burns that cause contractures).
- 2.08 (6) (b) The Orthopedic Impairment, as described above, prevents the child from receiving reasonable educational benefit from general education because the disabling condition interferes with functions of daily living, including but not limited to, ambulation, attention, hand movements, coordination, communication, self-help skills and other activities of daily living, to such a degree that the child requires specialized instruction and related services, which may include special equipment.
- 2.08 (7) Other Health Impaired (OHI) means having limited strength, vitality, or alertness, including a heightened alertness to environmental stimuli, that results in limited alertness with respect to the educational environment due to a chronic or acute health problem, including but not limited to asthma, attention deficit disorder or attention deficit hyperactivity disorder.

diabetes, epilepsy, a heart condition, hemophilia, leukemia, kidney disease, sickle cell anemia or Tourette syndrome. As a result of the child's Other Health Impairment, as described above, the child is prevented from receiving reasonable educational benefit from general education, as evidenced by one or more of the following:

2.08 (7) (a) Limited strength as indicated by an inability to perform typical tasks at school;

2.08 (7) (b) Limited vitality as indicated by an inability to sustain effort or to endure throughout an activity; and/or

2.08 (7) (c) Limited alertness as indicated by an inability to manage and maintain attention, to organize or attend, to prioritize environmental stimuli, including heightened alertness to environmental stimuli that results in limited alertness with respect to the educational environment.

2.08 (8) A child with a Specific Learning Disability shall have a learning disorder that prevents the child from receiving reasonable educational benefit from general education.

2.08 (8) (a) Specific Learning Disability means a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, that may manifest itself in the imperfect ability to listen, think, speak, read, write, spell or to do mathematical calculations, including conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. Specific Learning Disability does not include learning problems that are primarily the result of: visual impairment, including blindness; hearing impairment, including deafness; orthopedic impairment; intellectual disability; serious emotional disability; cultural factors; environmental or economic disadvantage; or limited English proficiency.

2.08 (8) (b) A child may be determined to have a Specific Learning Disability that prevents the child from receiving reasonable educational benefit from general education if a body of evidence demonstrates the following criteria are met:

2.08 (8) (b) (i) The child does not achieve adequately for the child's age or to meet state-approved grade-level standards and exhibits significant academic skill deficit(s) in one or more of the following areas, when provided with learning experiences and instruction appropriate for the child's age or state-approved grade-level standards:

2.08 (8) (b) (i) (A) Oral expression;

2.08 (8) (b) (i) (B) Listening comprehension;

2.08 (8) (b) (i) (C) Written expression;

2.08 (8) (b) (i) (D) Basic reading skill;

2.08 (8) (b) (i) (E) Reading fluency skills;

2.08 (8) (b) (i) (F) Reading comprehension;

2.08 (8) (b) (i) (G) Mathematical calculation;

2.08 (8) (b) (i) (H) Mathematics problem solving; and

- 2.08 (8) (b) (ii) The child does not make sufficient progress to meet age or state-approved grade-level standards in one or more of the areas identified in Section 2.08(6)(b)(i) when using a process based on the child's response to scientific, research-based intervention as determined by a body of evidence demonstrating:
- 2.08 (8) (b) (ii) (A) Academic skill deficit(s); and
- 2.08 (8) (b) (ii) (B) Insufficient progress in response to scientific, research-base intervention.
- 2.08 (9) A child with a Speech or Language Impairment shall have a communicative disorder which prevents the child from receiving reasonable educational benefit from general education.
- 2.08 (9) (a) Speech or Language Impairment may be classified under the headings of articulation, fluency, voice, functional communication or delayed language development and shall mean a dysfunction in one or more of the following:
- 2.08 (9) (a) (i) Receptive and expressive language (oral and written) difficulties, including syntax (word order, word form, developmental level), semantics (vocabulary, concepts and word finding), and pragmatics (purposes and uses of language):
- 2.08 (9) (a) (ii) Auditory processing, including sensation (acuity), perception (discrimination, sequencing, analysis and synthesis), association and auditory attention;
- 2.08 (9) (a) (iii) Deficiency of structure and function of oral peripheral mechanism;
- 2.08 (9) (a) (iv) Articulation including substitutions, omissions, distortions or additions of sound;
- 2.08 (9) (a) (v) Voice, including deviation of respiration, phonation (pitch, intensity, quality), and/or resonance;
- 2.08 (9) (a) (vi) Fluency, including hesitant speech, stuttering, cluttering and related disorders; and/or
- 2.08 (9) (a) (vii) Problems in auditory perception such as discrimination and memory.
- 2.08 (9) (b) The Speech or Language Impairment, as set out above, prevents the child from receiving reasonable educational benefit from general education and shall include one or more of the following:
- 2.08 (9) (b) (i) Interference with oral and/or written communication in academic and social interactions in his/her primary language;
- 2.08 (9) (b) (ii) Demonstration of undesirable or inappropriate behavior as a result of limited communication skills; and/or
- 2.08 (9) (b) (iii) The inability to communicate without the use of assistive, augmentative/alternative communication devices or systems.
- 2.08 (10) A child with a Traumatic Brain Injury (TBI) is a child with an acquired injury to the brain caused by an external physical force resulting in total or partial functional disability or

psychosocial impairment, or both, which impairment adversely affects the child's ability to receive reasonable educational benefit from general education. A qualifying Traumatic Brain Injury is an open or closed head injury 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. The term "traumatic brain injury" under this rule does not apply to brain injuries that are congenital or degenerative, or to brain injuries induced by birth trauma.

- 2.08 (10) (a) To be eligible as a child with a Traumatic Brain Injury, there must be evidence of the following criteria:
- 2.08 (10) (a) (i) Either medical documentation of a traumatic brain injury, or a significant history of one or more traumatic brain injuries reported by a reliable and credible source and/or corroborated by numerous reporters; and
- 2.08 (10) (a) (ii) The child displays educational impact most probably and plausibly related to the traumatic brain injury.
- 2.08 (10) (b) Additionally, to be eligible as a child with a Traumatic Brain Injury, the traumatic brain injury prevents the child from receiving reasonable educational benefit from general education as evidenced by one or more of the following:
- 2.08 (10) (b) (i) A limited ability to sustain attention and/or poor memory skills, including but not limited to difficulty retaining short-term memory, long-term memory, working memory and incidental memory;
- 2.08 (10) (b) (ii) An inefficiency in processing, including but not limited to a processing speed deficit and/or mental fatigue;
- 2.08 (10) (b) (iii) Deficits in sensory-motor skills that affect either one, or both, visual or auditory processing, and may include gross motor and/or fine motor deficits;
- 2.08 (10) (b) (iv) Delays in acquisition of information including new learning and visual-spatial processing;
- 2.08 (10) (b) (v) Difficulty with language skills, including but not limited to receptive language, expressive language and social pragmatics;
- 2.08 (10) (b) (vi) Deficits in behavior regulation, including but not limited to impulsivity, poor judgment, ineffective reasoning and mental inflexibility;
- 2.08 (10) (b) (vii) Problems in cognitive executive functioning, including but not limited to difficulty with planning, organization and/or initiation of thinking and working skills;
- 2.08 (10) (b) (viii) Delays in adaptive living skills, including but not limited to difficulty with activities of daily living (ADL); and/or
- 2.08 (10) (b) (ix) Delays in academic skills, including but not limited to reading, writing, and math delays that cannot be explained by any other disability. They may also demonstrate an extremely uneven pattern in cognitive and achievement testing, work production and academic growth.

- 2.08 (11) A child with a Visual Impairment, Including Blindness shall have a deficiency in visual acuity and/or visual field and/or visual functioning where, even with the use of lenses or corrective devices, he/she is prevented from receiving reasonable educational benefit from general education.
- 2.08 (11) (a) A determination that a child is an eligible child with a Visual Impairment, Including Blindness shall be based upon one or more of the following:
- 2.08 (11) (a) (i) Visual acuity of no better than 20/70 in the better eye after correction;
- 2.08 (11) (a) (ii) Visual field restriction to 20 degrees or less; and/or
- 2.08 (11) (a) (iii) A physical condition of visual system which cannot be medically corrected and, as such, affects visual functioning to the extent that specially designed instruction is needed. These criteria are reserved for special situations such as, but not restricted to cortical visual impairment and/or a progressive visual loss where field and/or acuity deficits alone may not meet the aforementioned criteria.
- 2.08 (11) (b) As a result of the Visual Impairment, Including Blindness, as set out above, the child requires specialized instruction, which may include special aids, materials, and equipment, for learning, literacy, activities of daily living, social interaction, self advocacy, and, as needed, orientation and mobility.
- 2.08 (11) (c) The term "Visual Impairment, Including Blindness" does not include children who have learning problems which are primarily the result of visual perceptual and/or visual motor difficulties.
- 2.08 (12) A child with Deaf-blindness has concomitant hearing and visual impairments, the combination of which causes such severe communication and other developmental and educational needs that they cannot be accommodated in special education programs solely for children with deafness or children with blindness. A child may qualify as an eligible child with Deaf-blindness by meeting one of the following criteria:
- 2.08 (12) (a) The child shall have a deficiency in hearing sensitivity as demonstrated by an elevated threshold of auditory sensitivity to pure tones or speech, as specified in section 2.08(2)(a) and (b); and a deficiency in visual acuity and/or visual field and/or visual functioning, as specified in section 2.08(11)(a) and (b), where, even with the help of amplification and/or use of lenses or corrective devices, he/she is prevented from receiving reasonable educational benefit from general education; or
- 2.08 (12) (b) The child has documented hearing and/or visual impairment that, if considered individually per section 2.08(2)(a) and (b) and section 2.08 (11)(a) and (b), may not meet the requirements for Hearing Impairment, Including Deafness or Visual Impairment, Including Blindness, but the combination of such losses adversely affect the student's educational performance; or
- 2.08 (12) (c) The child has a documented medical diagnosis of a progressive medical condition that will result in concomitant hearing and visual losses.
- 2.08 (13) A Preschooler with a Disability is a child three through five years of age who is experiencing developmental delays in one or more of the following areas: physical development, cognitive development, communication development, social or emotional development, or adaptive

development, which developmental delays prevent the child from receiving reasonable educational benefit from general education.

- 2.08 (13) (a) For children ages three through five efforts will be made to identify a child's primary disability under one of the other Part B eligibility criteria. A child shall be determined to be eligible under the Preschooler with a Disability category only in those situations in which a clear determination cannot be made under any other category as measured by developmentally appropriate diagnostic instruments and procedures. In order for a child to be deemed a Preschooler with a Disability, multiple sources of information must be used to determine if a child meets one or more of the following criteria:
- 2.08 (13) (a) (i) A score in the seventh percentile or below on a valid standardized diagnostic instrument, or the technical equivalent in standard scores (75 if the mean is 100 and the standard deviation is 15) or standard deviations (1.5 standard deviations below the mean) in one or more of the following areas of development: physical development, cognitive development, communication development, social or emotional development, or adaptive development as one of the multiple sources of evaluation information.
- 2.08 (13) (a) (ii) Empirical data showing a condition known to be associated with significant delays in development.
- 2.08 (13) (a) (iii) A body of evidence indicating that the child's patterns of learning are significantly different from age expectations across settings and written documentation by the evaluation team, including the parent(s).
- 2.08 (13) (b) For a child who is identified as a Preschooler with a Disability but then turns six years of age after December 1st and prior to the next regularly scheduled IEP meeting, an Administrative Unit may wait until the regularly scheduled IEP meeting to change the child's eligibility category.
- 2.08 (14) An Infant/Toddler with a Disability shall be a child from birth through two years of age meeting the definition and criteria described in 2 CCR 503-1, 16.920 D.

[2.09 – 2.13 NO CHANGE]

2.14 Eligible Facility

~~Eligible-Facility~~ means a day treatment center, residential child care facility, or other facility licensed by the department of human services pursuant to section 26-6-104, C.R.S., or a hospital licensed by the department of public health and environment pursuant to section 25-1.5-103, C.R.S., group care facility (e.g., a psychiatric residential treatment facility and a therapeutic treatment facility), group home, community centered board, hospital, or state-licensed day treatment facility that offers a school program providing special education services to children with disabilities that has been approved by the State Board of Education.

- 2.14 (1) Approved facility school means an educational program that is operated by a facility to provide educational services to students placed in the facility, including special education services to children with disabilities, and that has been placed, pursuant to section 22-2-407, C.R.S., on the list of facility schools that that are approved to receive reimbursement for providing those educational services. An educational program provided by an administrative

unit at a facility is not an approved facility school, but rather is an educational program of the administrative unit that does not require approval by the Department.

[2.15 – 2.43 NO CHANGE]

2.44 Special Education Expenditures

Special Education Expenditures are those costs which are incurred by an administrative unit, ~~or~~ state-operated program or approved facility school for professional services associated with special education referrals and ~~assessments~~evaluations of children who may be disabled and for the provision of special education and related services as identified on individual students' Individualized Educational Programs (IEPs), and do not include costs of the regular education program. Special Education expenditures shall be supplemental to the general education program and shall be above what is provided by the administrative unit, state-operated program, or approved facility school for general education students and staff and may include:

2.44 (1) Special education teachers;

2.44 (2) Home-hospital teachers for students with disabilities;

2.44 (3) Speech-language pathologists and speech-language pathology assistants;

2.44 (4) Specialty teachers;

2.44 (5) Special education instruction paraprofessionals;

2.44 (6) Educational interpreters;

2.44 (7) School nurses;

2.44 (8) Occupational therapists and occupational therapy assistant;

2.44 (9) Physical therapists and physical therapy assistants;

2.44 (10) School psychologists;

2.44 (11) School social workers;

2.44 (12) Audiologists;

2.44 (13) Orientation and mobility specialists;

2.44 (14) Other special education professionals;

2.44 (15) Special education administrators and office support;

2.44 (16) Other noncertified or nonlicensed support;

2.44 (17) Employee benefits for special education staff;

2.44 (18) Supplies, materials, and equipment used for individual students' special education programs and services;

2.44 (19) Purchased service contracts for personal services;

- 2.44 (20) Tuition to other administrative units and approved tuition rates to approved facility schools for special education;
- 2.44 (21) Staff travel related to special education;
- 2.44 (22) Professional development for special education staff, or all staff, if the content of the professional development is specific to services for children with disabilities;
- 2.44 (23) Other purchased services related to special education;
- 2.44 (24) Dues, fees and other expenditures specific to the special education program; and
- 2.44 (25) Parent counseling and training, as defined by the IDEA and its implementing regulations.

[2.45 – 2.53 NO CHANGE]

2220-R-3.00

ADMINISTRATION

[3.01 NO CHANGE]

3.02 Standards for ~~Eligible Facilities~~ Approved Facility Schools and State Operated Programs

3.02 (1) ~~Eligible Facilities~~ Approved Facility Schools

3.02 (1) (a) Minimum standards for special education ~~eligible facilities~~ approved facility schools.

To qualify as an approved school program, ~~eligible facilities~~ approved facility schools as determined by the State Board of Education shall satisfy the following standards:

- 3.02 (1) (a) (i) Prior licensing by appropriate state agencies.
- 3.02 (1) (a) (ii) Placements must be due to the need for mental health and/or medical treatment.
- 3.02 (1) (a) (iii) In the case of Day Treatment programs, placements must be due to the child being considered at risk for out of home placement.
- 3.02 (1) (a) (iv) The education of the children in placement at the eligible facility is the responsibility of the state or local education agency.
- 3.02 (1) (a) (v) The education of children in placement is not the responsibility of another Colorado State agency or entity.
- 3.02 (1) (a) (vi) Employment of sufficient qualified administrative, instructional and support staff to plan for and provide services for all children who are determined to have a disability.
- 3.02 (1) (a) (vii) Each eligible facility shall employ or contract in writing, on at least a part-time basis, for a Director of Special Education who meets the qualification standards established by Section 3.04(1)(d) of these Rules.

- 3.02 (1) (a) (viii) Development and implementation of an approved comprehensive plan including quality standards as set forth in guidelines developed by the Department of Education.
- 3.02 (1) (a) (ix) Agree to carry out the duties and responsibilities identified in Section 8.01(2) of these Rules.

[3.02(1)(b) – (1)(e) NO CHANGE]

- 3.02 (1) (f) Revocation of Approved Status.

~~Eligible facilities~~Approved facility schools with approved school programs that no longer meet state requirements shall be notified in writing by the Department of the specific areas of noncompliance and be given a specified period of time in which to remediate the areas of noncompliance. PPOR payments will be delayed until compliance is demonstrated. Should the ~~eligible facility~~approved facility schools fail to come into compliance, administrative units will be notified that the facility is out of compliance and that excess cost payments should be suspended and the Department of Education shall request that the State Board of Education revoke the facility's approval.

[3.02(2) NO CHANGE]

[3.03 – 3.06 NO CHANGE]

[4.00 – 8.00 NO CHANGE]

2220-R-9.00

OUT OF DISTRICT PLACEMENTS

9.01 DEFINITIONS

[9.01(1) – 9.01(2) NO CHANGE]

- 9.01 (3) ~~“Eligible Facility” means a day treatment center, residential child care facility, or other facility licensed by the department of human services pursuant to section 26-6-104, C.R.S., or a hospital licensed by the department of public health and environment pursuant to section 25-1.5-103, C.R.S. group care facility (e.g., a psychiatric residential treatment facility and a therapeutic treatment facility), group home, community-centered board, hospital, or state-licensed day treatment facility that offers a school program providing special education services to children with disabilities that has been approved by the State Board of Education.~~

- 9.01 (3) (a) *Approved facility school* means an educational program that is operated by a facility to provide educational services to students placed in the facility, including special education services to children with disabilities, and that has been placed, pursuant to section 22-2-407, C.R.S., on the list of facility schools that that are approved to receive reimbursement for providing those educational services. An educational program provided by an administrative unit at a facility is not an approved facility school, but rather is an educational program of the administrative unit that does not require approval by the Department.

[9.01(4) – 9.01(8) NO CHANGE]

[9.02 – 9.07 NO CHANGE]

[10.00 RESERVED]

[11.00 RESERVED]

[12.00 NO CHANGE]