

EXECUTIVE SUMMARY
WEST VIRGINIA DEPARTMENT OF EDUCATION
Annual Application Under Part B of the Individuals with Disabilities Education Act
as Amended in 2004 For Federal Fiscal Year 2020 (2020-2021)

PUBLIC COMMENT PERIOD: MARCH 2 THROUGH APRIL 30, 2020.
(COMMENT FORM ATTACHED)

Background:

West Virginia annually submits to the U.S. Department of Education, Office of Special Education Programs (OSEP) its plan to allocate funding under Part B of the Individuals with Disabilities Education Act of 2004 (IDEA), including assurances and certifications regarding the status of the state's implementation of IDEA. WVDE implements IDEA and the required assurances primarily through Policy 2419: *Regulations for the Education of Students with Exceptionalities*, effective August 14, 2017.

To receive IDEA funding, OSEP requires states to publish the proposed application at least 60 days prior to the date on which the plan is submitted, with an opportunity for public comment in accordance with the General Education Provisions Act, §441(b)(7) and IDEA regulations at 34 C.F.R §300.165. To address Section IV of the application, State Administration, the required list of rules, regulations or policies that are state-imposed is attached.

The proposed WV Part B Application is hereby offered for public comment **March 2 through April 30, 2020**. Comments should be submitted by e-mail to sdclay@k12.wv.us or by mail to:

Shana Clay, CPA
Coordinator, Office of Special Education & Student Support
West Virginia Department of Education
Building 6, Suite 248
1900 Kanawha Blvd. East
Charleston, WV 25305

Please direct any questions to Shana Clay at the above e-mail, or phone (304) 558-2696, or toll free (800) 642-8541. A copy of the plan, with a fillable comment form has been posted on the WVDE, Office of Special Education & Student Support website: <https://wvde.us/special-education/finance/annual-state-idea-funding-application/>.

Impact: IDEA Part B provides over \$75 million for students with disabilities, including entitlement funds for each district to provide direct services and funding for state activities to ensure general supervision of the federal program and improvement of services to children.

OMB NO. 1820-0030

Expires: 1/31/2023

**ANNUAL STATE APPLICATION UNDER PART B OF THE
INDIVIDUALS WITH DISABILITIES EDUCATION ACT AS AMENDED IN 2004
FOR FEDERAL FISCAL YEAR 2020**

CFDA No. 84.027A and 84.173A

ED FORM No. 9055

**UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF SPECIAL EDUCATION PROGRAMS**

Washington, DC 20202-2600

Public Burden Statement

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless such collection displays a currently valid OMB control number. The valid OMB control number for this collection is 1820-0030. Public reporting burden for this collection of information is estimated to average 14 hours per responses, and an average of 25 additional hours for responses reporting data related to significant disproportionality in a given year, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. The obligation to respond to this collection is required to obtain or retain a benefit under 20 U.S.C. 1411 and 1419. If you have comments or concerns regarding the status of your individual submission of this form, please contact Jennifer Simpson at Jennifer.Simpson@ed.gov or at the Office of Special Education and Rehabilitative Services US Department of Education, 400 Maryland Avenue SW, Washington, DC 20202.

Respondents are required to submit information for Sections I-IV of the Annual State Application in order to receive a grant under Section(s) 611 and/or 619 of the Individuals with Disabilities Education Act. Respondents are required to provide the data in Section V pursuant to IDEA section 618(a)(3), which provides the Secretary authority to collect annual data on any information that may be required by the Secretary and 34 CFR §300.647(b)(7), which requires States to report all risk ratio thresholds, minimum cell sizes, minimum n-sizes, standards for measuring reasonable progress if the State uses the “reasonable progress” flexibility in 34 CFR §300.647(d)(2), and the rationales for each, to the Department.

Section I

A. Submission Statement for Part B of IDEA

Please select 1 or 2 below. Check 3 if appropriate.

1. The State provides assurances that it has in effect policies and procedures to meet all eligibility requirements of Part B of the Act as found in PL 108-446, the Individuals with Disabilities Education Act and applicable regulations (IDEA). The State is able to meet all assurances found in Section II.A of this Application.
2. The State cannot provide assurances for all eligibility requirements of Part B of the Act as found in PL 108-446. The State has determined that it is unable to make the assurances that are checked as 'No' in Section II.A. However, the State assures that throughout the period of this grant award the State will operate consistent with all requirements of IDEA in PL 108-446 and applicable regulations. The State will make such changes to existing policies and procedures as are necessary to bring those policies and procedures into compliance with the requirements of the IDEA, as amended, as soon as possible, and not later than June 30, 2021. The State has included the date by which it expects to complete necessary changes associated with assurances marked 'No'. (Refer to Assurances found in Section II.A.)

Optional:

3. The State is submitting modifications to State policies and procedures previously submitted to the Department. These modifications are: (1) deemed necessary by the State, for example when the State revises applicable State law or regulations; (2) required by the Secretary because there is a new interpretation of the Act or regulations by a Federal court or the State's highest court; and/or (3) because of an official finding of noncompliance with Federal law or regulations.

B. Conditional Approval for Current Grant Year

If the State received conditional approval for the current grant year, check the appropriate statement(s) below:

1. Conditional Approval Related to Assurances in Section II.A:

- a. Section II.A provides documentation of completion of all issues identified in the FFY 2019 conditional approval letter.
- b. As noted in Section II.A, the State has not completed all issues identified in the FFY 2019 conditional approval letter.

2. Conditional Approval Related to Other Issues:

- a. The State previously submitted documentation of completion of all issues identified in the FFY 2019 conditional approval letter.
- b. The State is attaching documentation of completion of all issues identified in the FFY 2019 conditional approval letter. *(Attach documentation showing completion of all issues.)*
- c. The State has not completed all issues identified in the FFY 2019 conditional approval letter. *(Attach documentation showing completion of any issues and a list of items not yet completed.)*

Section II

A. Assurances Related to Policies and Procedures

The State makes the following assurances that it has policies and procedures in place as required by Part B of the Individuals with Disabilities Education Act. (20 U.S.C. 1411-1419; 34 CFR §§300.100-300.174)

Yes <i>(Assurance is given.)</i>	No <i>(Assurance cannot be given. Provide date on which State will complete changes in order to provide assurance.)</i> <i>Check and enter date(s) as applicable</i>	Assurances Related to Policies and Procedures
X		1. A free appropriate public education is available to all children with disabilities residing in the State between the ages of 3 and 21, inclusive, including children with disabilities who have been suspended or expelled, in accordance with 20 U.S.C. 1412(a)(1); 34 CFR §§300.101-300.108.
X		2. The State has established a goal of providing a full educational opportunity to all children with disabilities and a detailed timetable for accomplishing that goal. (20 U.S.C. 1412(a)(2); 34 CFR §§300.109-300.110)
X		3. All children with disabilities residing in the State, including children with disabilities who are homeless or are wards of the State and children with disabilities attending private schools, regardless of the severity of their disabilities, and who are in need of special education and related services, are identified, located, and evaluated and a practical method is developed and implemented to determine which children with disabilities are currently receiving needed special education and related services in accordance with 20 U.S.C. 1412(a)(3); 34 CFR §300.111.
X		4. An individualized education program, or an individualized family service plan that meets the requirements of section 636(d), is developed, reviewed, and revised for each child with a disability in accordance with 34 CFR §§300.320 through 300.324, except as provided in §§300.300(b)(3) and 300.300(b)(4). (20 U.S.C. 1412(a)(4); 34 CFR §300.112)
X		5. To the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are not disabled, and special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only when the nature or severity of the disability of a child is such that education in regular classes with the use of supplementary aids and services cannot be

Yes <i>(Assurance is given.)</i>	No <i>(Assurance cannot be given. Provide date on which State will complete changes in order to provide assurance.)</i> <i>Check and enter date(s) as applicable</i>	Assurances Related to Policies and Procedures
		achieved satisfactorily in accordance with 20 U.S.C. 1412(a)(5)(A)-(B); 34 CFR §§300.114-300.120.
X		6. Children with disabilities and their parents are afforded the procedural safeguards required by 34 CFR §§300.500 through 300.536 and in accordance with 20 U.S.C. 1412(a)(6); 34 CFR §300.121.
X		7. Children with disabilities are evaluated in accordance with 34 CFR §§300.300 through 300.311. (20 U.S.C. 1412(a)(7); 34 CFR §300.122)
X		8. Agencies in the State comply with 34 CFR §§300.610 through 300.626 (relating to the confidentiality of records and information). (20 U.S.C. 1412(a)(8); 34 CFR §300.123)
X		9. Children participating in early intervention programs assisted under Part C, and who will participate in preschool programs assisted under this part, experience a smooth and effective transition to those preschool programs in a manner consistent with section 637(a)(9). By the third birthday of such a child, an individualized education program or, if consistent with 34 CFR §300.323(b) and section 636(d), an individualized family service plan, has been developed and is being implemented for the child. The local educational agency will participate in transition planning conferences arranged by the designated lead agency under section 635(a)(10). (20 U.S.C. 1412(a)(9); 34 CFR §300.124)
X		10. Agencies in the State, and the SEA if applicable, comply with the requirements of 34 CFR §§300.130 through 300.148 (relating to responsibilities for children in private schools), including that to the extent consistent with the number and location of children with disabilities in the State who are enrolled by their parents in private elementary schools and secondary schools in the school district served by a local educational agency, provision is made for the participation of those children in the program assisted or carried out under this part by providing for such children special education and related services in accordance with the requirements found in 34 CFR §§300.130 through 300.148 unless the Secretary has arranged for services to those children under subsection (f) [By pass]. (20 U.S.C. 1412(a)(10); 34 CFR §§300.129-300.148)

Yes <i>(Assurance is given.)</i>	No <i>(Assurance cannot be given. Provide date on which State will complete changes in order to provide assurance.)</i> <i>Check and enter date(s) as applicable</i>	Assurances Related to Policies and Procedures
X		11. The State educational agency is responsible for ensuring that the requirements of Part B are met including the requirements of 34 CFR §§300.113, 300.149, 300.150 through 300.153, and 300.175 and 300.176 and that the State monitors and enforces the requirements of Part B in accordance with 34 CFR §§300.600-300.602 and 300.606-300.608. (20 U.S.C. 1412(a)(11); 34 CFR §300.149)
X		12. The Chief Executive Officer of a State or designee of the officer shall ensure that an interagency agreement or other mechanism for interagency coordination is in effect between each public agency described in subparagraph (b) of 34 CFR §300.154 and the State educational agency, in order to ensure that all services described in paragraph (b)(1)(i) that are needed to ensure a free appropriate public education are provided, including the provision of such services during the pendency of any dispute under §300.154(a)(3). Such agreement or mechanism shall meet the requirements found in 20 U.S.C. 1412(a)(12)(A)-(C); 34 CFR §300.154.
X		13. The State educational agency will not make a final determination that a local educational agency is not eligible for assistance under this part without first affording that agency reasonable notice and an opportunity for a hearing. (20 U.S.C. 1412(a)(13); 34 CFR §300.155)
X		14. The State educational agency has established and maintains qualifications to ensure that personnel necessary to carry out this part are appropriately and adequately prepared and trained, including that those personnel have the content knowledge and skills to serve children with disabilities as noted in 20 U.S.C. 1412(a)(14)(A)-(E), as amended by the Every Student Succeeds Act; 34 CFR §300.156.
X		15. The State has established goals for the performance of children with disabilities in the State that meet the requirements found in 20 U.S.C. 1412(a)(15)(A)-(C), as amended by the Every Student Succeeds Act; 34 CFR §300.157.
X		16. All children with disabilities are included in all general State and districtwide assessment programs, including assessments described under section 1111 of the Elementary and Secondary Education Act of 1965, with appropriate accommodations and alternate assessments where necessary and as indicated in their respective individualized

Yes <i>(Assurance is given.)</i>	No <i>(Assurance cannot be given. Provide date on which State will complete changes in order to provide assurance.)</i> <i>Check and enter date(s) as applicable</i>	Assurances Related to Policies and Procedures
		education programs as noted in 20 U.S.C. 1412(a)(16)(A)-(E); as amended by the Every Student Succeeds Act; 34 CFR §300.160.
X		17. Funds paid to a State under this part will be expended in accordance with all the provisions of Part B including 20 U.S.C. 1412(a)(17)(A)-(C); 34 CFR §300.162.
X		18. The State will not reduce the amount of State financial support for special education and related services for children with disabilities, or otherwise made available because of the excess costs of educating those children, below the amount of that support for the preceding fiscal year, unless a waiver is granted, in accordance with 20 U.S.C. 1412(a)(18)(A)-(D); 34 CFR §§300.163 through 300.164.
X		19. Prior to the adoption of any policies and procedures needed to comply with this section (including any amendments to such policies and procedures), the State ensures that there are public hearings, adequate notice of the hearings, and an opportunity for comment available to the general public, including individuals with disabilities and parents of children with disabilities. (20 U.S.C. 1412(a)(19); 34 CFR §300.165)
X		20. In complying with 34 CFR §§300.162 and 300.163, a State may not use funds paid to it under this part to satisfy State-law mandated funding obligations to local educational agencies, including funding based on student attendance or enrollment, or inflation. (20 U.S.C. 1412(a)(20); 34 CFR §300.166)
X		21. The State has established and maintains an advisory panel for the purpose of providing policy guidance with respect to special education and related services for children with disabilities in the State as found in 20 U.S.C. 1412(a)(21)(A)-(D); 34 CFR §§300.167-300.169.
X		22. The State educational agency examines data, including data disaggregated by race and ethnicity, to determine if significant discrepancies are occurring in the rate of long-term suspensions and expulsions of children with disabilities in accordance with 20 U.S.C. 1412(a)(22)(A)-(B); 34 CFR §300.170.
X		23a. The State adopts the National Instructional Materials Accessibility Standard for the purposes of providing instructional materials to blind persons or other persons with print disabilities, in a timely manner after the publication of the National Instructional Materials Accessibility

Yes (Assurance is given.)	No (Assurance cannot be given. Provide date on which State will complete changes in order to provide assurance.) Check and enter date(s) as applicable	Assurances Related to Policies and Procedures
		Standard in the Federal Register in accordance with 20 U.S.C. 1412(a)(23)(A) and (D); 34 CFR §300.172.
		23b. (Note: Check either "23b.1" or "23b.2" whichever applies.
X		<p>23b.1 The State educational agency coordinates with the National Instructional Materials Access Center and not later than 12/03/06 the SEA as part of any print instructional materials adoption process, procurement contract, or other practice or instrument used for purchase of print instructional materials enters into a written contract with the publisher of the print instructional materials to:</p> <ul style="list-style-type: none"> • require the publisher to prepare and, on or before delivery of the print instructional materials, provide to the National Instructional Materials Access Center, electronic files containing the contents of the print instructional materials using the National Instructional Materials Accessibility Standard; or • purchase instructional materials from the publisher that are produced in, or may be rendered in, specialized formats. (20 U.S.C. 1412(a)(23)(C); 34 CFR §300.172)
		23b.2 The State educational agency has chosen not to coordinate with the National Instructional Materials Access Center but assures that it will provide instructional materials to blind persons or other persons with print disabilities in a timely manner. (20 U.S.C. 1412(a)(23)(B); 34 CFR §300.172)
X		24. The State has in effect, consistent with the purposes of the IDEA and with section 618(d) of the Act, policies and procedures designed to prevent the inappropriate overidentification or disproportionate representation by race and ethnicity of children as children with disabilities, including children with disabilities with a particular impairment described in 34 CFR §300.8. (20 U.S.C 1412(a)(24); 34 CFR §300.173)
X		25. The State educational agency shall prohibit State and local educational agency personnel from requiring a child to obtain a prescription for a substance covered by the Controlled Substances Act (21 U.S.C. 812(c)) as a condition of attending school, receiving an evaluation under 34 CFR §§300.300 through 300.311, or receiving services under the IDEA as described in 20 U.S.C. 1412(a)(25)(A)-(B); 34 CFR §300.174.

B. Other Assurances

The State also makes the following assurances:

Yes	Other Assurances
X	1. The State shall distribute any funds the State does not reserve under 20 U.S.C. 1411(e) to local educational agencies (including public charter schools that operate as local educational agencies) in the State that have established their eligibility under section 613 for use in accordance with this part as provided for in 20 U.S.C. 1411(f)(1)-(3); 34 CFR §300.705.
X	2. The State shall provide data to the Secretary on any information that may be required by the Secretary. (20 U.S.C. 1418(a)(3); 34 CFR §§300.640-300.645.)
X	3. The State, local educational agencies, and educational service agencies shall use fiscal control and fund accounting procedures that insure proper disbursement of and accounting for Federal funds. (34 CFR §76.702)
X	4. As applicable, the assurance in OMB Standard Form 424B (Assurances for Non-Construction Programs), relating to legal authority to apply for assistance; access to records; conflict of interest; merit systems; nondiscrimination; Hatch Act provisions; labor standards; flood insurance; environmental standards; wild and scenic river systems; historic preservation; protection of human subjects; animal welfare; lead-based paint; Single Audit Act; and general agreement to comply with all Federal laws, executive orders and regulations.

C. Certifications

The State is providing the following certifications:

Yes	
X	1. The State certifies that ED Form 80-0013, <i>Certification Regarding Lobbying</i> , is on file with the Secretary of Education. With respect to the <i>Certification Regarding Lobbying</i> , the State recertifies that no Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making or renewal of Federal grants under this program; that the State shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," when required (34 CFR Part 82, Appendix B); and that the State Agency shall require the full certification, as set forth in 34 CFR Part 82, Appendix A, in the award documents for all sub awards at all tiers.
X	2. The State certifies that certification in the Education Department General Administrative Regulations (EDGAR) at 34 CFR §76.104 relating to State eligibility, authority and approval to submit and carry out the provisions of its State application, and consistency of that application with State law are in place within the State.
X	3. The State certifies that the arrangements to establish responsibility for services pursuant to 20 U.S.C. 1412(a)(12)(A)-(C); 34 CFR §300.154 (or 20 U.S.C. 1412(a)(12)(A)); 34 CFR §300.154(a) are current. This certification must be received prior to the expenditure of any funds reserved by the State under 20 U.S.C. 1411(e)(1); 34 CFR §300.171.

D. Statement

I certify that the State of West Virginia can make the assurances checked as 'yes' in Section II.A and II.B and the certifications required in Section II.C of this application. These provisions meet the requirements of the Part B of the Individuals with Disabilities Education Act as found in PL 108-446. The State will operate its Part B program in accordance with all of the required assurances and certifications.

If any assurances have been checked 'no', I certify that the State will operate throughout the period of this grant award consistent with the requirements of the IDEA as found in PL 108-446 and any applicable regulations, and will make such changes to existing policies and procedures as are necessary to bring those policies and procedures into compliance with the requirements of the IDEA, as amended, as soon as possible, and not later than June 30, 2021. (34 CFR § 76.104)

I, the undersigned authorized official of the

West Virginia Department of Education,
(Name of State and official name of State agency)

am designated by the Governor of this State to submit this application for FFY 2020 funds under Part B of the Individuals with Disabilities Education Act (IDEA).

Printed/Typed Name and Title of Authorized Representative of the State: W. Clayton Burch, State Superintendent of Schools	
Signature:	Date:

Section III

Description of Use of Funds Under Part B of the Individuals with Disabilities Education Act—20 U.S.C. 1411(e)(5); 34 CFR § 300.171

States must provide the Description of Use of Funds by completing and submitting the Excel Interactive Spreadsheet with the FFY 2020 Application.

Describe how the amount retained by the State educational agency under 20 U.S.C. 1411(e)(1) will be used to meet the following activities under Part B. (20 U.S.C. 1411(e)(1)-(3), (6) and (7)) The Department annually identifies for States the maximum amounts that a State may retain under Section 1411(e)(1) and (2).¹ The dollar amounts **listed in the Excel Interactive Spreadsheet** by the State for administration and for other State activities should add up to less or equal to the dollar amount provided to the State by the Department for each of these activities.

Enter whole dollar amounts (do not enter cents) in appropriate cells on the State's Excel Interactive Worksheet. The Excel Interactive Spreadsheet must be submitted as part of the State's application.

Describe the process used to get input from LEAs regarding the distribution of amounts among activities described in the Excel Interactive Spreadsheet to meet State priorities. (20 U.S.C. 1411(e)(5)(B); 34 CFR § 300.704)

The application is posted online and disseminated to all LEA directors of special education during the public comment period and posted publicly on the West Virginia Department of Education Web site. The West Virginia Part B Application was posted March 2, 2020 for public review and comment through April 30, 2020.

Specific input from LEAs regarding distribution of amounts among activities included:

- Out-of-state services invoices
- Meeting with representative of WV Council of Administrators of Special Education (CASE)
- LEA correspondence
- LEA IDEA Part B Annual Plans/Funding Applications
- State Performance Plan/Annual Performance Report data
- Annual Desk Audits (LEA Monitoring)
- Recommendations from the WV Advisory Council for the Education of Exceptional Children
- Stakeholder group for High Cost / High Acuity Expenditure Fund requirements
- LEA applications for reimbursement from the High Cost / High Acuity Expenditure fund
- LEA requests for technical assistance and professional learning in areas such as Personalized Learning, standards-based IEPs, differentiated instruction, informative assessment, technology, positive behavioral interventions and supports, discipline, transition and autism services.
- LEA requests for assistance with personnel shortages in speech, orientation and mobility, and autism.
- LEA requests for assistance with diagnostic onsite reviews of schools identified through ESSA for achievement gaps in the students with disabilities subgroup
- State Systemic Improvement Plan
- Meetings with Stakeholders
- Results-Driven Priorities improvement plans targeting graduation, literacy, numeracy, and engagement

¹Each State may reserve for each fiscal year not more than the maximum amount the State was eligible to reserve for State administration under this section for fiscal year 2004 or \$800,000 (adjusted in accordance with 20 U.S.C. 1411(e)(1)(B)), whichever is greater; and each outlying area may reserve for each fiscal year not more than 5 percent of the amount the outlying area receives under 20 U.S.C. 1411(b)(1) for the fiscal year or \$35,000, whichever is greater.

For each fiscal year beginning with fiscal year 2005, the Secretary shall cumulatively adjust: 1) the maximum amount the State was eligible to reserve for State administration under this part for fiscal year 2004; and 2) \$800,000, by the rate of inflation as measured by the percentage increase, if any, from the preceding fiscal year in the Consumer Price Index For All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor.

Section IV

State Administration

Section 608(a) of the IDEA requires each State that receives funds under this title to:

- (1) ensure that any State rules, regulations, and policies relating to this title conform to the purposes of this title;
- (2) identify in writing to local educational agencies located in the State and the Secretary any such rule, regulation, or policy as a State-imposed requirement that is not required by this title and Federal regulations; and
- (3) minimize the number of rules, regulations, and policies to which the local educational agencies and schools located in the State are subject under this title.

States must attach to this application a list identifying any rule, regulation, or policy that is State-imposed (not required by IDEA or Federal regulations). If there are no such State-imposed rules, regulations, or policies, please so indicate. In addition, the State is required to inform local education agencies in writing of such State-imposed rules, regulation or policy. (20 U.S.C. 1407(a); 34 CFR § 300.199)

The Individuals with Disabilities Education Improvement Act (IDEA) is silent on specific requirements for its implementation but requires that each State have in effect policies and procedures necessary to implement the statute. In accordance with IDEA's requirement, West Virginia Board of Education (WVBE) Policy 2419: *Regulations for the Education of Students with Exceptionalities*, establishes policies and procedures through which the State and districts in West Virginia (WV) implement the statute.

State procedures not specifically required by IDEA but incorporated into rule, regulation or policy implementing IDEA must be identified in writing to the Secretary of the United States Department of Education (USDOE) and to districts located in the State. The attached summary provides a list of requirements not specifically stated in IDEA, the basis upon which they were created and the Policy 2419 citations where these requirements may be found. The bases for the requirements include:

- Individuals with Disabilities Education Improvement Act (IDEA)
- Other Federal Laws
- West Virginia Code
- West Virginia Board of Education Policies
- Case law

NOTE: Policy 2419: *Regulations for the Education of Students with Exceptionalities* was revised effective August 14, 2017. The following table has been updated accordingly.

Specific procedures based on IDEA requirements	Policy 2419 Citation
Allowable timelines for responding to written referrals for special education evaluation through the Student Assistance Team (SAT). Timelines include: 1) five school days from receipt of referral for notification of the SAT meeting; 2) ten school days after receipt of the SAT referral to conduct the SAT meeting; 3) forty-five school days to review SAT recommendations; 4) within five days after the SAT decision to request initial multidisciplinary evaluation or to conduct an evaluation requested by the parent, send prior written notice and request parent consent for evaluation; 5) within five days of SAT decision to refuse written parental request for initial evaluation, provide PWN and procedural safeguards. (§300.11)	Chapter 2- Section 3.D.

The principal, classroom teacher or other designated individual is responsible for documenting the date written parental consent for initial evaluation is received and immediately forwarding this request to the special education director or designee (§300.300; §300.301;§300.9)	Chapter 2-Section 3.D.
Timeline for completing an initial evaluation and corresponding individual evaluation reports is 80 days (§300.301). IDEA requires 60 days unless states have established other timelines.	Chapter 3-Section 2.A.
Additional evaluations must be completed within 60 calendar days from receipt of parental consent, and written requests for additional evaluations must be sent within five school days of the EC/IEP Team meeting. If evaluation for additional eligibility is needed, conduct within 80 days. (§300.15; §300.39; §300.324; §300.306; §300.320)	Chapter 3-Section 2.C.
IEP team responds to written parental request for an additional evaluation within five days of receipt and provides prior written notice of its response.	Chapter 3-Section 2.D.
The date of receipt by the school/district of parent consent to evaluate/reevaluate must be documented in WVEIS student record (§300.9; §300.301; §300.305).	Chapter 3-Section 3. A.
Provision of non-written notices that meet IDEA requirements must be documented to indicate requirements are met (§300.9;§300.301;§300.305; §300.503)	Chapter 3-Section 3.B.2.
Consent for evaluation/reevaluation will be sent within five days of the decision to evaluate/reevaluate. Parent failure to respond within ten school days requires the district must provide a second notice (§300.9; §300.300-301; §300.305; §300.503)	Chapter 3-Section 3.A.; 3.B.2.
After thirty school days from the initial request for consent, the district may proceed with a reevaluation or pursue an initial evaluation through mediation and/or due process complaint (§300.300).	Chapter 3-Section 3. B.2.
Parents must be provided written notice of an upcoming Eligibility Committee (EC) Meeting at least eight days prior to the meeting date (§300.306).	Chapter 4- Section 1
When more than one exceptionality is present, the EC must discuss the impact of each exceptionality and determine the student's primary area of exceptionality (§300.306).	Chapter 4 -Section 1
Content of EC report (§300.306)	Chapter 4 - Section 2
Criteria for determining eligibility under one of the following disabilities are specified: autism, blindness and low vision, deafblindness, deafness, developmental delay, emotional/behavioral disorder, hard of hearing, intellectual disability, orthopedic impairment, other health impairment, specific learning disabilities (SLD), speech/ language impairment and traumatic brain injury. Criteria for eligibility as a student with the most significant cognitive disability is defined. (IDEA includes definitions for each but not specific criteria) (§300.8)	Chapter 4-Section 3. A.,B.,C.,D.,E.,F.,H.,I.,J.,K., L.,M.,N.
Multi-tiered System of Support (MTSS) is defined. Determining SLD using MTSS (response to intervention) process includes: 1) components of multi-leveled (tiered) instruction and intervention and 2) problem solving process. (§300.307)	Chapter 4-Section 3. L.
Specific documentation is required to demonstrate that each of the three SLD eligibility standards has been met (§300.309). Additional documentation of a pattern strengths and weaknesses is specified. Regarding observation of a student suspected of SLD, document the name and title of the observer and the site, date and duration of the observation (§300. 310).	Chapter 4-Section 3. L.

When a parental request for an IEP Team meeting is refused by the district, a response and PWN are required within five days of receipt of request.	Chapter 5 - Section 1.C.
Prior written notice must be provided at the conclusion of the IEP Team meeting, and IEP Team meetings must be convened within twenty-one days upon parent or general education teacher written request (§300.503).	Chapter 5 - Section 1.B. and C.
Excused team members must submit In-Lieu of Attendance Report form to parents and the IEP Team chair between receipt of parental consent for the excusal and the IEP Team meeting (§300.321)	Chapter 5 - Section 1.D.
Written notice of IEP Team meetings must be provided to the parent eight days prior to the meeting (§300.322).	Chapter 5 - Section 1.F.
Districts are required to use WVDE IEP process forms/template (online IEP) to meet IDEA requirements (§300.320)	Chapter 5 - Section 2
IEPs must include all demographic components (§300.320).	Chapter 5 - Section 2.A.
Procedures for addressing the need for extended school year services including identifying critical skill areas on the IEP (§300.106).	Chapter 5 - Section 2.E. and H.
Timelines for in state and out of state transfers include: 1) making reasonable efforts to consult with the parent within two days of initial enrollment; 2) providing comparable services within one day of parent consultation. Timelines for instate transfers also include: The district's adopting the previously held IEP or developing and implementing a new IEP within ten school days of the parent consultation (§300.323)	Chapter 5 - Section 4.A.B.
The sending district must take reasonable steps to respond to a request for records from the receiving district within one school day of the request (§300.323)	Chapter 5 - Section 4.C.
In certain circumstances, timelines for C to B transition may not apply.	Chapter 5 - Section 5.D.
A short delay for the initiation of initial IEP services during the school year should not exceed 15 days (§300.323)	Chapter 6 - Section 1
Students are grouped to meet individual needs (§300.17; §300.320)	Chapter 6 - Section 3
Provision of staff for implementation of student IEPs (caseloads) (§300.17)	Chapter 6 - Section 4
Prior to a district placing a student in an out-of-state private school/facility, the district must provide documentation that: 1) FAPE cannot be provided within the state; 2) more than one school/facility was considered; 3) the school/facility has approved status in the other state; 4) a current and complete IEP has been developed; and 5) a current signed contract between the district and school/facility exists (§300.104).	Chapter 8 - Section 3
Develop and annually review a state plan for high cost/high acuity (state) funds in accordance with 34 CFR 300.704 and WV Code 18-20-5. High acuity is defined.	Chapter 9 - Section 1.B. and Glossary.
District responsibilities for improving results for students with disabilities in accordance with the required indicators on the WV State Performance Plan, i.e., including students in state assessments, collecting data for instruction and engaging in District Self-Assessment and planning for improvement, particularly in regard to discipline and disproportionality. (§300.600)	Chapter 9 - Section 2.A.B. C.D.E.
Districts must maintain written evidence that notice requirements have been met	Chapter 10 - Section 1
Prior written notice must be provided five days prior to implementing the proposed action or within five days of the refusal.	Chapter 10 - Section 3.B.
Districts must document attempts to gain consent when the parent fails to respond to a reevaluation request (§300.300)	Chapter 10 - Section 6.D.

Timelines for independent educational evaluations (IEE) include: 1) the district requests an explanation from the parent within five days of the written request for an IEE; 2) the district provides information about where an IEE may be obtained within ten school days of the written request; 3) the district takes action within ten school days of the IEE request (e.g., agrees to pay for the IEE, requests mediation and/or files a due process complaint. For already obtained independent IEEs for which the district does not agree to pay, the district may request a due process hearing and/or mediation within ten school days of receipt of the evaluation (§300.502)	Chapter 10 - Section 7.B.
District makes reasonable effort to assign a surrogate parent within thirty calendar days after determining a surrogate parent is needed.(§300.30; §300.519)	Chapter 10 - Section 8.A.
Early resolution is an optional process for parents and districts to resolve complaints. There is a fifteen day timeline for early resolution to occur prior to the district being required to submit a formal response to the complaint (§§300.151-153).	Chapter 11 - Section 2.D.
Specific procedures based on federal law other than IDEA	Policy 2419 Citation
Students with exceptionalities will be provided an instructional day, a school day and school calendar at least equivalent to that established for students without exceptionalities of the same chronological age in the same setting (Section 504 of the Rehabilitation Act of 1973)	Chapter 1 - Section 2
Consent is not required for the district to transmit education records to a district in which the student seeks to enroll (Family Educational Rights and Privacy Act)	Chapter 5 - Section 4.C.
Classroom facilities requirements for students with physical and/or sensory impairments must meet requirements in accordance with WV Code and policy and federal laws (Section 504 of the Rehabilitation Act of 1973; Americans with Disabilities Act)	Chapter 6 - Section 3
Specific procedures based on WV State Code	Policy 2419 Citation
Students with disabilities whose IEPs provide for an alternate diploma shall be allowed to participate in graduation ceremonies with their same grade classmates when requested by parents in writing and shall be allowed to continue to receive services until twenty-one years of age (§18-20-1).	Chapter 1 - Section 2.A.
The education of students who are gifted, specifically child find efforts, eligibility criteria and multidisciplinary evaluation, a free appropriate public education in the least restrictive environment, Individualized Education Program (IEP) considerations and procedural safeguard protections for students who are gifted grades one through eight and exceptional gifted grades nine through twelve (§18-20-2).	Policy 2419, Chapter 3 - Section 2 and all requirements pertaining to the education of students who are gifted throughout Policy 2419.
Developmental screening requirements, including the specific populations to be screened on an annual basis and timelines as follows: 1)screening must be conducted within 30 days of a parent request ; and 2) public notice prior to screening activities must be provided at least ten days prior to initiation of screening activities (§18-5-17).	Chapter 2 - Section 3.B.
Specific learning disability definition includes the alternative terms of dyslexia and dyscalculia. All students must receive necessary and appropriate screenings and early assessments for specific learning disabilities. Information and education must be given to parents regarding dyslexia, dyscalculia, and services available (§18-20-10).	Chapter 4 - Section 3.L.
Any teacher who disagrees with the IEP team’s decision must file a written explanation regarding his/her disagreement or recommendations (§18-20-1c).	Chapter 5 - Section 1.B.

Receiving and referring general education teachers' participation in IEP development recommendations (§18-20-1c).	Chapter 5 - Section 1.D.
An IEP Team meeting must be convened within twenty-one days of a teacher's request if he/she feels that services/placement is not appropriate and make modifications for the student, if needed or identified, to help the student succeed in the class or program.	Chapter 5 - Section 1.C.
Teacher in whose class or program a student with exceptional needs is enrolled shall read and sign a copy of the student's individualized education program acknowledging that he or she has read and understands it (§18-20-1c).	Chapter 5 - Section 2.M.
The general education teacher is entitled to a signed copy of the student's IEP prior to placement in the general education classroom. (§18-20-1c).	Chapter 6 - Section 2
Classroom facilities requirements for students with physical and/or sensory impairments must meet requirements in accordance with WV Code and policy and federal laws (§18-10F)	Chapter 6 - Section 3
Transportation requirements for all students with exceptionalities in accordance with WV Code (§18-5-13)	Chapter 6 - Section 3
Procedures for implementation of training that may be provided for general education teachers to assist with IEP implementation. Where prior training or consultation is not possible, it must be provided no later than 10 days following the placement of the student into the general education classroom (§18-20-1c)	Chapter 6 - Section 4.A.
Transfer of discipline records from the sending school to the WV receiving school is required (§18-A-5-1a)	Chapter 7 - Section 3.D.
Specific procedures based on WVBE Policies	Policy 2419 Citation
Student Assistance Team must be established in each school to review student needs and make recommendations, including referrals for a special education multidisciplinary evaluation (Policy 2510).	Chapter 2 - Section 3.C.
Lack of progress in receptive or expressive language of deaf or hard of hearing student must be explained.	Chapter 5 - Section 2.E.
Pre-employment transition services (Pre-ETS) defined. IEPs must include transition services by July 1, 2018 for 15-year-old students and by July 1, 2019 for 14-year-old students.	Chapter 5 - Section 2.F.
Requirements for participation in West Virginia Measures of Academic Progress including eligibility criteria for participation in the WV Statewide Alternate Assessment (Policy 2340 and West Virginia <i>Guidelines for Participation in State Assessments</i>)	Chapter 5 - Section 2.I.
Classroom facilities requirements for students with physical and/or sensory impairments must meet requirements in accordance with WV Code and policy and federal laws (Policy 6200).	Chapter 6- Section 3
Alternate Academic Achievement Standards for students with the most significant cognitive disabilities in reading/language arts, mathematics and science (Policies 2520.16).	
A member of the county collaborative team must include a member from the preschool special needs program (Policy 2525)	
Formal documentation and recognition that an eligible student with disabilities who is unable to meet the graduation requirements for a standard diploma has met the alternate diploma requirements specified on the student's IEP. (Policy 2510)	
A Facilitated IEP Team meeting is a voluntary early resolution prevention option utilizing an impartial facilitator to guide the IEP process during the meeting.	Chapter 11 – Section 1.

Case Law	Policy 2419 Citation
Burden of proof in a due process hearing is on the party seeking relief. <i>Shafter v. Weast</i> , 5460.5.49,126S.Ct.528,163L. Ed. 2 nd 387 (2005)	Chapter 11 - Section 4.A.
Subpoena power for hearing officers. <i>Boles v. Bd. of Educ. of the Co. of Kanawha</i> (S.D. WV 1989)	Chapter 11 - Section 4.M.
Classrooms for students with exceptionalities are in close proximity to classrooms for age-appropriate nonexceptional peers and are comparable to classrooms for students without exceptionalities. (<i>Harris v. Marockie</i>).	Chapter 6 - Section 3

West Virginia

FFY 2020

REGULAR AWARD AMOUNT Est. \$82,584,682

TOTAL AWARD AMOUNT \$82,584,682

ADMINISTRATION

Maximum Available for Administration.

Sec.
III

\$1,942,683

How much do you want to set aside for Administration in dollars?

OK

You must distribute, in whole dollars, the amount you want to set aside for Administration among the following activities:

For the purpose of administering IDEA Part B including Preschool Grants under 20 U.S.C. 1419, a High Cost Fund, and the coordination of activities under Part B with, and providing technical assistance to, other programs that provide services to children with disabilities. (Note: These funds may be used for Administering but not Financing a High Cost Fund)

a.

For the administration of Part C of IDEA, if the SEA is the Lead Agency for the State under Part C.

b.

You may set aside a portion of your Administration funds resulting from inflation for the following 4 Other State-Level Activities. Additional funds for these purposes may also be set aside under Other State-Level Activities. Based on the amount that you propose to set aside for Administration, the maximum amount of Administration funds that you may use for these 4 activities is:

\$545,984

For support and direct services, including technical assistance, personnel preparation, and professional development and training.

c.

To assist local educational agencies in providing positive behavioral interventions and supports and appropriate mental health services for children with disabilities.

d.

To assist local educational agencies in meeting personnel shortages.

e.

To support capacity building activities and improve the delivery of services by local

educational agencies to improve results for children with disabilities.

f.

Subtotal, Administration funds used for Other State-Level Activities

\$263,234

OK

If you receive a Preschool Grant under 20 U.S.C. 1419, you may use Administration funds, along with other funds, to develop and implement a State policy jointly with the lead agency under Part C and the SEA to provide early intervention services (which must include an educational component that promotes school readiness and incorporates preliteracy, language, and numeracy skills) in accordance with Part C to children with disabilities who are eligible for services under the Preschool Grant program and who previously received services under Part C until such children enter, or are eligible under State law to enter, kindergarten, or elementary school as appropriate.

g.

The total of details for your Administration set-aside is

\$1,942,683 **OK**

OTHER STATE-LEVEL ACTIVITIES

If you propose to set aside more than \$850,000 for Administration and you DO wish to use funds for a High Cost Fund, the maximum amount that you may use for Other State-Level Activities is:

\$9,043,483

Of the amount you set aside for Other State-Level Activities at least 10% must be used for the High Cost Fund.

If you propose to set aside more than \$850,000 for Administration and you DO NOT wish to use funds for a High Cost Fund, the maximum amount that you may use for Other State-Level Activities is:

\$8,139,135

If you propose to set aside \$850,000 or less for Administration and you DO wish to use funds for a High Cost Fund, the maximum amount that you may use for Other State-Level Activities is:

\$9,495,658

Of the amount you set aside for Other State-Level Activities at least 10% must be used for the High Cost Fund.

If you propose to set aside \$850,000 or less for Administration and you DO NOT wish to use funds for a High Cost Fund, the maximum amount that you may use for Other State-Level Activities is:

\$8,591,309

Do you wish to use funds for a High Cost Fund? (Yes or No)

Based on the amount that you intend to set aside for Administration, the size of your total award, and your decision

TO use set aside funds to support a High Cost Fund, the maximum that you may use for Other State-Level Activities is:

\$9,043,483

How much do you want to set aside for Other State-Level Activities?

OK

You must distribute the amount you want to set aside for Other State-Level Activities the following activities.

You can distribute amounts in any order you wish. The total balance remaining to be distributed at any time appears in red.

How much do you want to use for the High Cost Fund?

OK

You must use at least \$904,348

Required Activities:

\$0

For monitoring, enforcement, and complaint investigation. (You must use at least \$1 for this purpose)

h.

To establish and implement the mediation process required by 20 U.S.C. 1415(e), including providing for the cost of mediators and support personnel. (You must use at least \$1 for this purpose)

i.

\$0

Optional Authorized Activities:

\$0

For support and direct services, including technical assistance, personnel preparation, and professional development and training

j.

To assist local educational agencies in providing positive behavioral interventions and supports and appropriate mental health services for children with disabilities.

k.

\$0

To assist local educational agencies in meeting personnel shortages.

l.

\$0

To support capacity building activities and improve the delivery of services by local educational agencies to improve results for children with disabilities.	m. <input type="text" value="\$48,962"/>	\$0
To support paperwork reduction activities, including expanding the use of technology in the IEP process.	n. <input type="text" value="\$0"/>	\$0
To improve the use of technology in the classroom by children with disabilities to enhance learning.	o. <input type="text" value="\$0"/>	\$0
To support the use of technology, including technology with universal design principles and assistive technology devices, to maximize accessibility to the general education curriculum for children with disabilities.	p. <input type="text" value="\$200,000"/>	\$0
Development and implementation of transition programs, including coordination of services with agencies involved in supporting the transition of children with disabilities to postsecondary activities.	q. <input type="text" value="\$356,280"/>	\$0
Alternative programming for children with disabilities who have been expelled from school, and services for children with disabilities in correctional facilities, children enrolled in State-operated or State-supported schools, and children with disabilities in charter schools.	r. <input type="text" value="\$0"/>	\$0
To support the development and provision of appropriate accommodations for children with disabilities, or the development and provision of alternate assessments that are valid and reliable for assessing the performance of children with disabilities, in accordance with Sections 1111(b) and 1201 of the Elementary and Secondary Education Act of 1965.	s. <input type="text" value="\$317,393"/>	\$0
To provide technical assistance to schools and LEAs, and direct services, including direct student services described in section 1003A(c)(3) of the ESEA to children with disabilities, to schools or LEAs implementing comprehensive support and improvement activities or targeted support and improvement activities under section 1111(d) of the ESEA on the basis of consistent underperformance of the disaggregated subgroup of children with disabilities, including providing professional development to special and regular education teachers, who teach children with disabilities, based on scientifically based research to improve educational instruction, in order to improve academic achievement based on the challenging academic standards described in section 1111(b)(1) of the ESEA.	t. <input type="text" value="\$0"/>	\$0

The total of details for your Other State-Level Activities set-aside is

\$9,043,483 **OK**

You are almost done.

If you are using money for a High Cost Fund. You must report how much you will use for each of the following two activities. You reported that you would use

\$904,348

To establish and make disbursements from the high cost fund to local educational agencies in accordance with 20 U.S.C. 1411(e)(3) during the first and succeeding fiscal years of the high cost fund.

u.

To support innovative and effective ways of cost sharing by the State, by an LEA, or among a consortium of LEAs, as determined by the State in coordination with representatives from LEAs, subject to 20 U.S.C. 1411(e)(3)(B)(ii) (Amount may not be more than 5% of the amount reserved for the LEA Risk Pool.)

v.

Establishment of High Cost Fund (20 U.S.C. 1411(e)(3)(B)(i) - A State shall not use any of the funds the State reserves pursuant to 20 U.S.C. 1411(e)(3)(A)(i), but may use the funds the State reserves under 20 U.S.C. 1411(e)(1), to establish and support the high cost fund.

Subtotal, High Cost Fund

\$904,348

OK

**Office of Special Education & Student Support
Annual Application under Part B of the Individuals with Disabilities Education Act (IDEA) as
Amended in 2004, For Federal Fiscal Year 2020**

**COMMENT PERIOD: March 2 through April 30, 2020
COMMENT RESPONSE FORM**

The following form is provided to assist those who choose to comment on the Annual Application under Part B of the IDEA for FFY 2020 (2020-2021).

Name : _____ Organization: _____

Title: _____

Street Address: _____

City: _____ State: _____ Zip: _____

Please check the box below that best describes your role.

- | | | |
|---|--|--|
| <input type="checkbox"/> School System Superintendent | <input type="checkbox"/> School System Staff | <input type="checkbox"/> Parent/Family |
| <input type="checkbox"/> Principal | <input type="checkbox"/> Teacher | <input type="checkbox"/> Business/Industry |
| <input type="checkbox"/> Professional Support Staff | <input type="checkbox"/> Service Personnel | <input type="checkbox"/> Community Member |

COMMENTS/SUGGESTIONS
Section I. A. Submission Statement for Part B of IDEA
Section I. B. Conditional Approval for Current Grant Year
Section II A. Assurances Related to Policies and Procedures
Assurances #1 - #25
B. Other Assurances
Assurances # 1 - # 4

C. Certifications

Certifications #1 - # 4

**Section III:
Description of Use of Funds Under Part B of the Individuals with Disabilities
Education Act**

**Section IV.
State Administration**

Please direct all comments to:

Shana Clay, CPA, Coordinator,
Office of Special Education & Student Support
West Virginia Department of Education
Capitol Building 6, Suite 248
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305-0330
E-Mail Address: sdclay@k12.wv.us
Fax No: (304) 558-1613