**24:05:13:01.  Definitions.** Terms defined in § 24:43:01:01 and in SDCL 13-37-1 have the same meaning when used in this article. In addition, terms used in this article mean:

(1)  "Adult services," services pertaining to independent living, vocational development, preemployment services, or employment services designed for persons 16 years of age or older;

(2)  "Approved program," a written description of a school district's, state agency's, special education school's, or community support provider's policies and procedures for implementing its special education program that is found by the department to comply with this article;

(3)  "At no cost," the provision of specially designed instruction without charge to the parent except for incidental fees that are normally charged to students without disabilities or their parents as a part of the regular education program;

(4)  "Braillist," a person who produces materials in Braille by the use of a manual Braille writer, slate and stylus, or computer;

(5)  "Braille teacher," an individual who assists classroom teachers in the instruction of reading and writing through the use of Braille;

(6)  "Business day," Monday through Friday, except for federal and state holidays, unless holidays are specifically included in the designation of business day;

(7)  "Community support provider," "CSP," a nonprofit facility as defined in SDCL 27B-1-17(4);

(8)  "Consent,":

(a)  The parent has been fully informed of all information relevant to the activity for which consent is sought, in the parent's native language, or other mode of communication;

(b)  The parent understands and agrees in writing to the carrying out of the activity for which the parent's consent is sought, and the consent describes that activity and lists the records, if any, that will be released and to whom;

(c)  The parent understands that the granting of consent is voluntary on the part of the parent and may be revoked at anytime;

(d)  If a parent revokes consent, that revocation is not retroactive, it does not negate an action that has occurred after the consent was given and before the consent was revoked; and

(e)  If the parent revokes consent in writing for their child's receipt of special education services after the child is initially provided special education and related services, the local education agency is not required to amend the child's education records to remove any references to the child's receipt of special education and related services because of the revocation of consent;

(9)  "Core academic subjects," English, reading, language arts, mathematics, science, foreign languages, civics and government, economics, arts, history, and geography;

(10)  "Day," calendar day unless otherwise indicated as a business day or school day;

(11)  "Day school program," a specialized program provided in a facility, a school district, or a cooperative center that a child attends during the day, returning home at night;

(12)  "Department," the Department of Education;

(13)  "Early childhood special education program," a program specially designed to meet the unique needs of children with disabilities, birth through five years of age, including center-based instruction, home-based instruction, and instruction in hospitals and institutions;

(14)  "Eligible student," a person through the age of 21 years who is a resident of the state of South Dakota and who requires special education or special education and related services because of the person's educational needs;

(15)  "Every Student Succeeds Act," "ESSA," the federal reauthorization of Elementary and Secondary Education Act as codified at 20 U.S.C. § 6301 et seq., December 10, 2015, and 34 C.F.R. Part 200, published in the Federal Register on July 2, 2019;

(16)  "Extraordinary cost funds," amounts set aside by the secretary pursuant to SDCL 13-37-40;

(17)  "High cost program," a program in which:

(a)  Students have been identified as eligible for special education and related services;

(b)  Each student in the program has an IEP;

(c)  The cost of providing special education instruction and related services is more than fifty thousand dollars in excess of the total revenues credited to the special education fund of the school district referenced in SDCL 13-37-8.10; and

(d)  The district incurs the costs referenced in subdivision (c) due to the intensity, frequency, and diversity of the special education needs of one or more of the students in the program;

(18)  "High cost student," a student who meets the following criteria:

(a)  The student has been identified as eligible for special education and related services;

(b)  The student has an IEP;

(c)  The cost of providing special education instruction and related services for the student is at least twice the funding allocation for the student as defined in SDCL 13-37-35.1; and

(d)  The district incurs the costs referenced in subdivision (c) due to the intensity, frequency, and diversity of the special education needs of the student;

(19)  "Homeless children," the term, homeless children and youths, as defined in section 725 (42 U.S.C. § 11434a) of the McKinney-Vento Homeless Assistance Act, 42 U.S.C. § 11431 et seq., as amended to January 1, 2009;

(20)  "Individuals with Disabilities Education Act," "IDEA," the federal Individuals with Disabilities Education Act as codified at 20 U.S.C. §§ 1411 through 1420, December 3, 2004, and 34 C.F.R. Part 300, published in the Federal Register on August 14, 2006, December 1, 2008, and February 14, 2013;

(21)  "Individual educational program," "IEP," a written statement for a specific child with a disability, in accordance with chapter 24:05:27, based on a full and individual evaluation of the child and developed by an IEP team;

(22)  "Individualized education program team," "IEP team," as used in this article, the term, individualized education program team, or, IEP team, means the group of individuals described in § 24:05:27:01.01 that is responsible for developing, reviewing, or revising an IEP for a child with a disability;

(23)  "Least restrictive environment," a learning environment for a child in need of special education or special education and related services, including a child placed in a public or private institution or another care facility, that includes to the maximum extent appropriate children who are not in need of special education or special education and related services, as determined through the child's individual educational program;

(24)  "Limited English proficient," as the term is defined in section 9101(25) of the ESEA;

(25)  "Local education agency," a school district or other public authority under supervision of the department established by state law for the purpose of providing free public education on a regional basis which also provides special education and related services to children with disabilities within the state of South Dakota;

(26)  "National Instructional Materials Access Center," "NIMAC," the center established pursuant to section 674(e) of the IDEA;

(27)  "National Instructional Materials Accessibility Standard," "NIMAS," as the term is defined in section 674(e)(3)(B) of the IDEA;

(28)  "Policy," a rule, regulation, or standard enacted by a school district board;

(29)  "Physical education," the development of physical and motor fitness and fundamental motor skills and patterns through individual and group games and sports, including intramural and lifetime sports, special physical education, adapted physical education, movement education, and motor development;

(30)  "Related services," services that support the provision of special education, including transportation and those developmental, corrective, and other supportive services determined by an IEP team to be required for an eligible child to benefit from special education;

(31)  "Residential school program," an approved specialized program provided in a facility that a child attends 24 hours a day;

(32)  "Scientifically based research," as the term is defined in ESSA;

(33)  "Secretary," the secretary of the Department of Education;

(34)  "Self-contained program," a specialized instructional environment for eligible children in need of special education or special education and related services who require intensive instructional procedures;

(35)  "Special education," instruction specially designed to meet the unique needs of a student with disabilities at no cost to parents or guardians, including classroom instruction, instruction in physical education, home instruction, and instruction in hospitals, institutions, and other settings;

(36)  "Specially designed instruction," adapting, as appropriate to the needs of an eligible student, the content, methodology, or delivery of instruction;

(37)  "Standard deviation," a statistical measure of variation derived by squaring each deviation in a set of scores, taking the average of these scores, and then taking the square root of the results;

(38)  "Supplemental aid," a program in which:

(a)  Students have been identified as eligible for special education and related services;

(b)  Each student in the program has an IEP; and

(c)  The cost of providing special education instructions and related services is in excess of the total revenues credited to the special education fund of the school district referenced in SDCL 13-37-8.10;

(39)  "Travel training," instruction provided, as appropriate, to children with significant cognitive disabilities, and any other children with disabilities who require this instruction to enable them to develop an awareness of the environment in which they live and to learn the skills necessary to move effectively and safely from place to place within that environment (e.g., in school, in the home, at work, and in the community);

(40)  "Vocational education," organized educational programs which are directly related to the preparation of individuals for paid or unpaid employment or for additional preparation for a career requiring other than a baccalaureate or advance degree;

(41)  "Universal design," as the term is defined in section 3 of the Assistive Technology Act of 1998, 29 U.S.C. § 3002, as amended to January 1, 2009; and

(42)  "Ward of the state," a child who, as determined by the state where the child resides, is a foster child, a ward of the state, or in the custody of a public child welfare agency. Ward of the state does not include a foster child who has a foster parent who meets the definition of a parent in § 24:05:13:04.

**Source:** 16 SDR 41, effective September 7, 1989; 18 SDR 158, effective March 31, 1992; 20 SDR 33, effective September 8, 1993; 23 SDR 31, effective September 8, 1996; 23 SDR 63, effective November 4, 1996; 26 SDR 150, effective May 22, 2000; 33 SDR 236, effective July 5, 2007; 36 SDR 96, effective December 8, 2009; 40 SDR 40, effective September 11, 2013; 40 SDR 102, effective December 4, 2013; 40 SDR 202, effective June 2, 2014; 46 SDR 149, effective July 6, 2020.

**General Authority:** SDCL 13-37-1.1.

**Law Implemented:** SDCL 13-37-1.1, 13-37-1.2, 13-37-40, 13-37-41.