

TITLE 33
EDUCATION

CHAPTER 20
EDUCATION OF EXCEPTIONAL CHILDREN

33-2001. DEFINITIONS. (1) "Ancillary personnel" means those persons who render special services to exceptional children in regular or in addition to regular or special class instruction as defined by the state board of education.

(2) "Children with disabilities" means those children with cognitive impairments, hearing impairments, deafness, speech or language impairments, visual impairments, blindness, deaf-blindness, serious emotional disturbance, orthopedic impairments, severe or multiple disabilities, autism, traumatic brain injury, developmental delay or specific learning disabilities, and who by reason of the qualifying disability require special education and related services.

(3) "Exceptional children" means both children with disabilities and gifted/talented children with regard to funding for school districts.

(4) "Gifted/talented children" means those students who are identified as possessing demonstrated or potential abilities that give evidence of high performing capabilities in intellectual, creative, specific academic or leadership areas, or ability in the performing or visual arts and who require services or activities not ordinarily provided by the school in order to fully develop such capabilities.

(5) "Special education" or "special instructional service" means specially designed instruction or a related service, at no cost to the parents, to meet the unique needs of an exceptional child.

[(33-2001) I.C., sec. 2002A, as added by 1965, ch. 228, sec. 3, p. 542; am. 1974, ch. 127, sec. 1, p. 1305; am. and redesignated 1991, ch. 323, sec. 3, p. 839; am. 2010, ch. 235, sec. 16, p. 555.]

33-2002. RESPONSIBILITY OF SCHOOL DISTRICTS FOR EDUCATION OF CHILDREN WITH DISABILITIES. (1) Each public school district is responsible for and shall provide for the special education and related services of children with disabilities enrolled therein.

(2) Every public school district in the state shall provide instruction and training for persons between the ages of three (3) years and twenty-one (21) years who are children with disabilities as defined in this chapter and by the state board of education. The state board of education shall through its department of education determine eligibility criteria for children with disabilities, qualifications of special teachers and special personnel, programs of instruction and minimum standards for classrooms and equipment to be used in administering the provisions of this act.

(3) The child study team shall assess the importance and necessity of teaching Braille to each child who is legally blind. Preference shall be given to Braille. If the child study team determines that learning Braille is important with respect to a particular child, the child shall be given the opportunity to learn Braille.

(4) In accordance with the provisions of part B of the federal individuals with disabilities education act (IDEA), a student with a disability shall be informed by the school district or other public agency providing education to the student, at least one (1) year before he reaches the age of ma-

majority, that rights currently afforded to the parents or guardian of the student pursuant to IDEA, will transfer to the student when he reaches the age of majority. However, such rights shall remain with the parent or guardian after the student reaches the age of majority if the student is determined to be incompetent under Idaho law or if an individualized education program team determines the student lacks the ability to provide informed consent with respect to his educational program.

[(33-2002) 1963, ch. 13, sec. 183, p. 27; am. 1963, ch. 219, sec. 1, p. 628; am. 1965, ch. 228, sec. 1, p. 542; am. 1972, ch. 312, sec. 1, p. 774; am. 1974, ch. 10, sec. 11, p. 49; am. and redesignated 1991, ch. 323, sec. 4, p. 840; am. 1993, ch. 134, sec. 1, p. 330; am. 1998, ch. 24, sec. 1, p. 139.]

33-2003. RESPONSIBILITY OF SCHOOL DISTRICTS FOR EDUCATION OF GIFTED/TALENTED CHILDREN. Each public school district is responsible for and shall provide for the special instructional needs of gifted/talented children enrolled therein.

Public school districts in the state shall provide instruction and training for children between the ages of five (5) years and eighteen (18) years who are gifted/talented as defined in this chapter and by the state board of education. The state board of education shall, through its department of education, determine eligibility criteria and assist school districts in developing a variety of flexible approaches for instruction and training that may include administrative accommodations, curriculum modification and special programs.

[33-2003, added 1991, ch. 323, sec. 5, p. 840; am. 1993, ch. 409, sec. 1, p. 1501.]

33-2004. CONTRACTING BY APPROVED FORM FOR EDUCATION BY ANOTHER SCHOOL DISTRICT, APPROVED REHABILITATION CENTER OR HOSPITAL, OR A CORPORATION. The trustees of a school district may contract on a form adopted by the state superintendent of public instruction for the education of exceptional children by another school district or by any private or public rehabilitation center, hospital, corporation, or state agency approved by the state department of education and when the students are transferred from the school district to the institution, corporation or district, said school district shall agree to pay therefor to the institution, corporation or district contracting to educate the students, amounts computed as follows:

1. For each resident student educated by another school district, the amount of the tuition rate certified for the receiving district under the provisions of section [33-1405](#), Idaho Code;

When public school districts contract for the education of exceptional children residing within the several districts, one (1) district shall be designated as the educating district for the purpose herein.

2. For each resident student educated by contract by a rehabilitation center, hospital, corporation or state agency, the contract amount cannot be greater than the educational costs of the student.

When any rehabilitation center, hospital, corporation or state agency shall have contracted for the education of any exceptional children as defined in this chapter all such children shall be enrolled in the district of their residence; and the institution, hospital or corporation shall certify to the home school district the daily record of attendance of each such

pupil. The home district shall be eligible for reimbursement of costs approved by the state superintendent of public instruction as provided in this subsection and in section [33-1002](#), Idaho Code.

Reimbursement of approved costs shall be part of the district's exceptional child contract allowance and cannot exceed the amount of state support contracted students would generate if they were enrolled in an educational program for which average daily attendance is computed.

[33-2004, added 1963, ch. 13, sec. 186, p. 27; am. 1965, ch. 228, sec. 5, p. 542; am. 1972, ch. 25, sec. 1, p. 30; am. 1974, ch. 127, sec. 2, p. 1305; am. 1975, ch. 50, sec. 1, p. 97; am. 1980, ch. 179, sec. 13, p. 395; am. 1985, ch. 107, sec. 19, p. 210; am. 1996, ch. 133, sec. 2, p. 457.]

33-2005. ADDITIONAL DISBURSEMENT. School districts which identify and provide appropriate services to students with serious emotional disturbances at a high incidence level shall be eligible for an additional disbursement from state general funds. The state department of education shall determine the eligibility of school districts and the amount of additional disbursements. This determination shall be made in an equitable fashion and shall be limited by legislative appropriations.

[33-2005, added 1996, ch. 133, sec. 3, p. 458.]

33-2007. COST OF INSTRUCTION AND POSTAGE SUBJECT TO REIMBURSEMENT. Costs of instruction, including necessary transportation of teachers, shall be subject to reimbursement by the state department of education from state funds. Tuition charged by the University of Idaho and Idaho State College, together with necessary postage on completed lesson material, shall be paid by the school district wherein the maternity home is located, also subject to reimbursement from state funds. Costs of required books and supplies for each course shall be paid by the maternity home.

[33-2007, added 1963, ch. 13, sec. 186C, as added by 1963, ch. 350, sec. 1, p. 1010.]

33-2008. OUTPATIENTS. As to expectant or delivered mothers who are outpatients of a licensed maternity home, the public school district, in which the home is located, shall provide instruction, pursuant to this chapter, for said outpatients.

[33-2008, added 1963, ch. 13, sec. 186D, as added by 1963, ch. 350, sec. 1, p. 1010.]

33-2009. EDUCATION OF CHILDREN HOUSED IN JUVENILE DETENTION FACILITIES. Every public school district in this state within which is located a detention facility housing juvenile offenders pursuant to court order shall provide, subject to rules of the state board of education, instruction in accredited courses, by a certified instructor, for the juvenile offenders under twenty-one (21) years of age who are housed in the detention facility for juvenile offenders, and shall upon satisfactory completion of required public school courses or correspondence course from a state institution of higher learning in Idaho, issue credits or a diploma evidencing such achievement. Every student served by a public school district pursuant to

this section shall be counted as an exceptional child by the district for purposes of state reimbursement.

[33-2009, added 1989, ch. 155, sec. 20, p. 401; am. 1998, ch. 88, sec. 9, p. 303.]

33-2010. EDUCATION OF DISABLED ADULT STUDENTS HOUSED IN ADULT CORRECTIONAL FACILITIES. Any individual eighteen (18) years of age through the semester of school in which the person attains the age of twenty-one (21) years, who is incarcerated in an adult correctional facility shall not be entitled to special education and related services unless such person was identified as a child with a disability or had an individualized education program under part B of the federal individuals with disabilities education act (IDEA) in his last educational placement prior to incarceration.

[33-2010, added 1998, ch. 23, sec. 2, p. 139; am. 2002, ch. 70, sec. 1, p. 156.]