

Handouts

Theme D: Individualized Education Programs

These handouts are designed to accompany Modules 12-16.



*“As used in this part, the term *individualized education program* or IEP means a written statement for a child with a disability that is developed, reviewed, and revised in a meeting in accordance with §§300.320 through 300.324...”*

Section 300.20 Definition of
individualized education program.

Snapshot of Training Curriculum

Title of the Curriculum

Building the Legacy: Individuals with Disabilities Education Act Amendments of 2004.

Purpose of the Curriculum

To provide authoritative information about, and training materials on, IDEA and its final Part B regulations.

Source

The *Building the Legacy* training curriculum is a product of the National Dissemination Center for Children with Disabilities (NICHCY), produced at the request of the Office of Special Education Programs (OSEP) at the U.S. Department of Education.

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A snapshot table of contents for the training curriculum is shown at the right. As of December 2007, *Building the Legacy* has the 19 training modules listed there. A title in gray text will be available in 2008. The titles in bold—and marked with an asterisk (*)—are already available online. Come and get 'em at:

www.nichcy.org/training/contents.asp

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IDEA Regulations

Individualized Education Program (IEP) Team Meetings and Changes to the IEP

(See also Individualized Education Program (IEP) and Secondary Transition)

The reauthorized *Individuals with Disabilities Education Act* (IDEA) was signed into law on Dec. 3, 2004, by President George W. Bush. The provisions of the Act became effective on July 1, 2005, with the exception of some of the elements pertaining to the definition of a “highly qualified teacher” that took effect upon the signing of the Act. The final regulations were published on August 14, 2006. This is one in a series of documents, prepared by the Office of Special Education and Rehabilitative Services (OSERS) in the U.S. Department of Education that covers a variety of high-interest topics and brings together the regulatory requirements related to those topics to support constituents in preparing to implement the new regulations.¹ This document addresses significant changes in final regulatory requirements from preexisting regulations regarding IEP Team meetings and changes to the IEP.

IDEA Regulations

1. Identifies the members of the IEP Team.

The public agency must ensure that the IEP Team for each child with a disability includes:

- The parents of the child;
- Not less than one regular education teacher of the child (if the child is, or may be, participating in the regular education environment);
- Not less than one special education teacher of the child, or where appropriate, not less than one special education provider of the child;
- A representative of the public agency (who has certain specific knowledge and qualifications);
- An individual who can interpret the instructional implications of evaluation results and who may also be one of the other listed members;
- At the discretion of the parent or the agency, other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate; and
- Whenever appropriate, the child with a disability.

In accordance with 34 CFR 300.321(a)(7), the public agency must invite a child with a disability to attend the child's IEP Team meeting if a purpose of the meeting will be the consideration of the postsecondary goals for the child and the transition services needed to assist the child in reaching those goals under 34 CFR 300.320(b). [34 CFR 300.321(a) and (b)(1)] [20 U.S.C. 1414(d)(1)(B)]

2. Identifies instances when an IEP Team member may not need to attend.

A member of the IEP Team described in 34 CFR 300.321(a)(2) through (a)(5) is not required to attend an IEP Team meeting, in whole or in part, if the parent of a child with a disability and the public agency agree, in

¹ Topics in this series include: Alignment With the *No Child Left Behind Act*; Changes in Initial Evaluation and Reevaluation; Children Enrolled by Their Parents in Private Schools; Discipline; Disproportionality and Overidentification; Early Intervening Services; Highly Qualified Teachers; Identification of Specific Learning Disabilities; Individualized Education Program (IEP) Team Meetings and Changes to the IEP; Individualized Education Program (IEP); Local Funding; National Instructional Materials Accessibility Standard (NIMAS); Part C Amendments in *IDEA 2004*; Part C Option: Age 3 to Kindergarten Age; Procedural Safeguards: Surrogates, Notice and Consent; Procedural Safeguards: Mediation; Procedural Safeguards: Resolution Meetings and Due Process Hearings; Secondary Transition; State Complaint Procedures; State Funding; and Statewide and Districtwide Assessments. Documents are available on the IDEA website at: <http://IDEA.ed.gov>.

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writing, that the attendance of the member is not necessary because the member's area of the curriculum or related services is not being modified or discussed in the meeting.

A member of the IEP Team described in 34 CFR 300.321(a)(2) through (a)(5) may be excused from attending an IEP Team meeting, in whole or in part, when the meeting involves a modification to or discussion of the member's area of the curriculum or related services, if:

- The parent, in writing, and the public agency consent to the excusal; and
- The member submits, in writing to the parent and the IEP Team, input into the development of the IEP prior to the meeting.

[34 CFR 300.321(e)] [20 U.S.C. 1414(d)(1)(C)]

3. Provides for inviting representatives from the Part C system.

In the case of a child who was previously served under Part C of the IDEA, an invitation to the initial IEP Team meeting must, at the request of the parent, be sent to the Part C service coordinator or other representatives of the Part C system to assist with the smooth transition of services.

[34 CFR 300.321(f)] [20 U.S.C. 1414(d)(1)(D)]

4. Requires that the notice inform parents of other IEP Team participants.

The notice required under 34 CFR 300.322(a)(1) (regarding an IEP meeting), among other things, must inform the parents of the provisions in 34 CFR 300.321(a)(6) and (c) (relating to the participation of other individuals on the IEP Team who have knowledge or special expertise about the child), and 34 CFR 300.321(f) (relating to the participation of the Part C service coordinator or other representatives of the Part C system at the initial IEP Team meeting for a child previously served under Part C of the IDEA).

[34 CFR 300.322(b)(1)]

5. Revises requirements for when transition content must be included in an IEP meeting notice.

For a child with a disability beginning not later than the first IEP to be in effect when the child turns 16, or younger if determined appropriate by the IEP Team, the notice required under 34 CFR 300.322(a)(1) (regarding an IEP meeting), among other things, must:

- Indicate that a purpose of the meeting will be the consideration of the postsecondary goals and transition services for the child, in accordance with 34 CFR 300.320(b) and that the agency will invite the student; and
- Identify any other agency that will be invited to send a representative.

[34 CFR 300.322(b)(2)]

6. Sets forth provisions regarding consideration of IFSPs for children aged three through five.

In the case of a child with a disability aged three through five (or, at the discretion of the State educational agency (SEA), a two-year-old child with a disability who will turn age three during the school year), the IEP Team must consider an IFSP that contains the IFSP content (including the natural environments statement) described in section 636(d) of the IDEA and its implementing regulations (including an educational component that promotes school readiness and incorporates pre-literacy, language, and numeracy skills for children with IFSPs under 34 CFR 300.323 who are at least three years of age), and that is developed in accordance with the IEP procedures under Part B.

The IFSP may serve as the IEP of the child, if using the IFSP as the IEP is consistent with State policy and agreed to by the agency and the child's parents.

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In implementing these IFSP provisions, the public agency must provide to the child's parents, a detailed explanation of the differences between an IFSP and an IEP. If the parents choose an IFSP, the public agency must obtain written informed consent from the parents.

[34 CFR 300.323(b)] [20 U.S.C. 1414(d)(2)(B)]

7. Requires that the IEP be accessible to teachers and others responsible for its implementation.

Each public agency must ensure that:

- The child's IEP is accessible to each regular education teacher, special education teacher, related services provider, and any other service provider who is responsible for its implementation; and
- Each teacher and provider described in this provision, is informed of his or her specific responsibilities related to implementing the child's IEP and the specific accommodations, modifications, and supports that must be provided for the child in accordance with the IEP.

[34 CFR 300.323(d)]

8. Addresses the IEP for a student who transfers to a different school district in the State.

If a child with a disability (who had an IEP that was in effect in a previous public agency in the same State) transfers to a new public agency in the same State, and enrolls in a new school within the same school year, the new public agency (in consultation with the parents) must provide a free appropriate public education (FAPE) to the child (including services comparable to those described in the child's IEP from the previous public agency), until the new public agency either adopts the child's IEP from the previous public agency, or develops, adopts, and implements a new IEP that meets the applicable requirements in 34 CFR 300.320 through 300.324.

[34 CFR 300.323(e)] [20 U.S.C. 1414(d)(2)(C)(i)(I)]

9. Addresses the IEP for a student who transfers from another State.

If a child with a disability (who had an IEP that was in effect in a previous public agency in another State) transfers to a public agency in a new State, and enrolls in a new school within the same school year, the new public agency (in consultation with the parents) must provide the child with FAPE (including services comparable to those described in the child's IEP from the previous public agency), until the new public agency conducts an evaluation pursuant to 34 CFR 300.304 through 300.306 (if determined to be necessary by the new public agency) and develops, adopts, and implements a new IEP, if appropriate, that meets the applicable requirements in 34 CFR 300.320 through 300.324.

[34 CFR 300.323(f)] [20 U.S.C. 1414(d)(2)(C)(i)(II)]

10. Addresses transmittal of records for students who transfer.

To facilitate the transition for a child described in 34 CFR 300.323(e) and (f) (who transfers within the State or from another State), the new public agency in which the child enrolls must take reasonable steps to promptly obtain the child's records, including the IEP and supporting documents and any other records relating to the provision of special education or related services to the child, from the previous public agency in which the child was enrolled, pursuant to 34 CFR 99.31(a)(2) (Family Education Rights and Privacy Act (FERPA)) and the previous public agency in which the child was enrolled must take reasonable steps to promptly respond to the request from the new public agency.

[34 CFR 300.323(g)] [20 U.S.C. 1414(d)(2)(C)(ii)]

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11. Adds a new provision for amending the IEP without another meeting.

In making changes to a child's IEP after the annual IEP Team meeting for a school year, the parent of a child with a disability and the public agency may agree not to convene an IEP Team meeting for the purposes of making those changes, and instead may develop a written document to amend or modify the child's current IEP.

If changes are made to the child's IEP in accordance with 34 CFR 300.324(a)(4)(i), the public agency must ensure that the child's IEP Team is informed of those changes.

[34 CFR 300.324(a)(4)] [20 U.S.C. 1414(d)(3)(D)]

Changes to the IEP may be made either by the entire IEP Team at an IEP Team meeting, or as provided in 34 CFR 300.324(a)(4), by amending the IEP rather than by redrafting the entire IEP. Upon request, a parent must be provided with a revised copy of the IEP with the amendments incorporated.

[34 CFR 300.324(a)(6)] [20 U.S.C. 1414(d)(3)(F)]

12. Encourages consolidation of IEP meetings.

To the extent possible, the public agency must encourage the consolidation of reevaluation meetings for the child and other IEP Team meetings for the child.

[34 CFR 300.324(a)(5)] [20 U.S.C. 1414(d)(3)(E)]

13. Provides for the review and, as appropriate, revision of the IEP.

Each public agency must ensure that, the IEP Team reviews the child's IEP periodically, but not less than annually, to determine whether the annual goals for the child are being achieved and revises the IEP, as appropriate, to address:

- Any lack of expected progress toward the annual goals and in the general education curriculum, if appropriate;
- The results of any reevaluation;
- Information about the child provided to, or by, the parents, as described under 34 CFR 300.305(a)(2) (related to evaluations and reevaluations);
- The child's anticipated needs; or
- Other matters.

In conducting a review of the child's IEP, the IEP Team must consider the special factors described in 34 CFR 300.324(a)(2) (development of the IEP).

A regular education teacher of the child, as a member of the IEP Team, must, consistent with 34 CFR 300.324(a)(3) (participation of regular teacher in development of the IEP), participate in the review and revision of the IEP of the child.

[34 CFR 300.324(b)] [20 U.S.C. 1414(d)(4)]

14. Authorizes alternative means of meeting participation.

When conducting IEP Team meetings and placement meetings pursuant to subparts D and E of Part 300, and carrying out administrative matters under section 615 of the IDEA (such as scheduling, exchange of witness lists, and status conferences), the parent of a child with a disability and a public agency may agree to use alternative means of meeting participation, such as video conferences and conference calls.

[34 CFR 300.328] [20 U.S.C. 1414(f)]

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U.S. Department of Education's Topic Brief (on the Regulations)

IDEA Regulations

Individualized Education Program (IEP)

(See also Individualized Education Program (IEP) Team Meetings and Changes to the IEP; Statewide and Districtwide Assessments; and Secondary Transition)

The reauthorized *Individuals with Disabilities Education Act* (IDEA) was signed into law on Dec. 3, 2004, by President George W. Bush. The provisions of the Act became effective on July 1, 2005, with the exception of some of the elements pertaining to the definition of a "highly qualified teacher" that took effect upon the signing of the Act. The final regulations were published on August 14, 2006. This is one in a series of documents, prepared by the Office of Special Education and Rehabilitative Services (OSERS) in the U.S. Department of Education that covers a variety of high-interest topics and brings together the regulatory requirements related to those topics to support constituents in preparing to implement the new regulations.¹ This document addresses significant changes from preexisting regulations to the final regulatory requirements regarding IEPs.

IDEA Regulations

1. Revises general requirements for the content of IEPs.

As used in Part 300, the term individualized education program or IEP means a written statement for each child with a disability that is developed, reviewed, and revised in a meeting in accordance with 34 CFR 300.320 through 300.324, and that must include:

- A statement of the child's present levels of academic achievement and functional performance...
- A statement of measurable annual goals, including academic and functional goals designed to:
 - o Meet the child's needs that result from the child's disability to enable the child to be involved in and make progress in the general education curriculum; and
 - o Meet each of the child's other educational needs that result from the child's disability;
- For children with disabilities who take alternate assessments aligned to alternate achievement standards, a description of benchmarks or short-term objectives;

¹Topics in this series include: Alignment With the *No Child Left Behind Act*; Changes in Initial Evaluation and Reevaluation; Children Enrolled by Their Parents in Private Schools; Discipline; Disproportionality and Overidentification; Early Intervening Services; Highly Qualified Teachers; Identification of Specific Learning Disabilities; Individualized Education Program (IEP) Team Meetings and Changes to the IEP; Individualized Education Program (IEP); Local Funding; National Instructional Materials Accessibility Standard (NIMAS); Part C Amendments in *IDEA 2004*; Part C Option: Age 3 to Kindergarten Age; Procedural Safeguards: Surrogates, Notice and Consent; Procedural Safeguards: Mediation; Procedural Safeguards: Resolution Meetings and Due Process Hearings; Secondary Transition; State Complaint Procedures; State Funding; and Statewide and Districtwide Assessments. Documents are available on the IDEA website at: <http://IDEA.ed.gov>.

Individualized Education Program (IEP)

- A description of:
 - o How the child's progress toward meeting the annual goals described in 34 CFR 300.320(a)(2) will be measured; and
 - o When periodic reports on the progress the child is making toward meeting the annual goals (such as through the use of quarterly or other periodic reports, concurrent with the issuance of report cards) will be provided;
- A statement of the special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the child, or on behalf of the child...
- A statement of any individual appropriate accommodations that are necessary to measure the academic achievement and functional performance of the child on State and districtwide assessments consistent with section 612(a)(16) of the Act; and if the IEP Team determines that the child must take an alternate assessment instead of a particular regular State or districtwide assessment of student achievement, a statement of why the child cannot participate in the regular assessment and why the particular alternate assessment selected is appropriate for the child....

[34 CFR 300.320(a)] [20 U.S.C. 1414(d)(1)(A)(i)]

2. Revises requirements for the content of IEPs relating to transition services.

Beginning not later than the first IEP to be in effect when the child turns 16, or younger if determined appropriate by the IEP Team, and updated annually thereafter, the IEP must include:


- Appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills; and
- The transition services (including courses of study) needed to assist the child in reaching those goals.

[34 CFR 300.320(b)] [20 U.S.C. 1414(d)(1)(A)(i)(VIII)(aa) and (bb)]

3. Clarifies requirements regarding transfer of rights.

Beginning not later than one year before the child reaches the age of majority under State law, the IEP must include a statement that the child has been informed of the child's rights under Part B of the Act, if any, that will transfer to the child on reaching the age of majority under 34 CFR 300.520.

[34 CFR 300.320(c)] [20 U.S.C. 1414(d)(1)(A)(i)(VIII)(cc)]

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U.S. Department of Education's Topic Brief (on the Regulations)

Individualized Education Program (IEP)

4. Includes a rule of construction regarding the content of IEPs.

Nothing in 34 CFR 300.320 shall be construed to require:

- That additional information be included in a child's IEP beyond what is explicitly required in section 614 of the Act; or
- The IEP Team to include information under one component of a child's IEP that is already contained under another component of the child's IEP.

[34 CFR 300.320(d)] [20 U.S.C. 1414(d)(1)(A)(ii)]

5. Sets forth requirements for IEPs when children with disabilities transfer from one public agency to another.

If a child with a disability (who had an IEP that was in effect in a previous public agency in the same State) transfers to a new public agency in the same State, and enrolls in a new school within the same school year, the new public agency (in consultation with the parents) must provide a free appropriate public education (FAPE) to the child (including services comparable to those described in the child's IEP from the previous public agency), until the new public agency either:

- Adopts the child's IEP from the previous public agency; or
- Develops, adopts, and implements a new IEP that meets the applicable requirements in 34 CFR 300.320 through 300.324.

[34 CFR 300.323(e)] [20 U.S.C. 1414(d)(2)(C)(i)(I)]

If a child with a disability (who had an IEP that was in effect in a previous public agency in another State) transfers to a public agency in a new State, and enrolls in a new school within the same school year, the new public agency (in consultation with the parents) must provide the child with FAPE (including services comparable to those described in the child's IEP from the previous public agency), until the new public agency:

- Conducts an evaluation pursuant to 34 CFR 300.304 through 300.306 (if determined to be necessary by the new public agency); and
- Develops, adopts, and implements a new IEP, if appropriate, that meets the applicable requirements in 34 CFR 300.320 through 300.324.

[34 CFR 300.323(f)] [20 U.S.C. 1414(d)(2)(C)(i)(II)]

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U.S. Department of Education's Topic Brief (on the Regulations)

Individualized Education Program (IEP)

To facilitate the transition for a child described in 34 CFR 300.323(e) and (f):

- The new public agency in which the child enrolls must take reasonable steps to promptly obtain the child's records, including the IEP and supporting documents and any other records relating to the provision of special education or related services to the child, from the previous public agency in which the child was enrolled, pursuant to 34 CFR 99.31(a)(2) [Family Educational Rights and Privacy Act regulations regarding conditions under which prior consent is not required to disclose information]; and
- The previous public agency in which the child was enrolled must take reasonable steps to promptly respond to the request from the new public agency.

[34 CFR 300.323(g)] [20 U.S.C. 1414(d)(2)(C)(ii)]

IDEA 2004's Final Regulations for:

The IEP Team

§300.321 IEP Team.

(a) *General.* The public agency must ensure that the IEP Team for each child with a disability includes—

(1) The parents of the child;

(2) Not less than one regular education teacher of the child (if the child is, or may be, participating in the regular education environment);

(3) Not less than one special education teacher of the child, or where appropriate, not less than one special education provider of the child;

(4) A representative of the public agency who—

(i) Is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children with disabilities;

(ii) Is knowledgeable about the general education curriculum; and

(iii) Is knowledgeable about the availability of resources of the public agency.

(5) An individual who can interpret the instructional implications of evaluation results, who may be a member of the team described in paragraphs (a)(2) through (a)(6) of this section;

(6) At the discretion of the parent or the agency, other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate; and

(7) Whenever appropriate, the child with a disability.

(b) *Transition services participants.* (1) In accordance with paragraph (a)(7) of this section, the public agency must invite a child with a disability to attend the child's IEP Team meeting if a purpose of the meeting will be the consideration of the postsecondary goals for the child and the transition services needed to assist the child in reaching those goals under §300.320(b).

(2) If the child does not attend the IEP Team meeting, the public agency must take other steps to ensure that the child's preferences and interests are considered.

(3) To the extent appropriate, with the consent of the parents or a child who has reached the age of majority, in implementing the requirements of paragraph (b)(1) of this section, the public agency must invite a representative of any participating agency that is likely to be responsible for providing or paying for transition services.

(c) *Determination of knowledge and special expertise.* The determination of the knowledge or special expertise of any individual described in paragraph (a)(6) of this section must be made by the party (parents or public agency) who invited the individual to be a member of the IEP Team.

(d) *Designating a public agency representative.* A public agency may designate a public agency member of the IEP Team to also serve as the agency representative, if the criteria in paragraph (a)(4) of this section are satisfied.

(e) *IEP Team attendance.* (1) A member of the IEP Team described in paragraphs (a)(2) through (a)(5) of this section is not required to attend an IEP Team meeting, in whole or in part, if the



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The IEP Team

parent of a child with a disability and the public agency agree, in writing, that the attendance of the member is not necessary because the member's area of the curriculum or related services is not being modified or discussed in the meeting.

(2) A member of the IEP Team described in paragraph (e)(1) of this section may be excused from attending an IEP Team meeting, in whole or in part, when the meeting involves a modification to or discussion of the member's area of the curriculum or related services, if—

(i) The parent, in writing, and the public agency consent to the excusal; and

(ii) The member submits, in writing to the parent and the IEP Team, input into the development of the IEP prior to the meeting.

(f) *Initial IEP Team meeting for child under Part C.* In the case of a child who was previously served under Part C of the Act, an invitation to the initial IEP Team meeting must, at the request of the parent, be sent to the Part C service coordinator or other representatives of the Part C system to assist with the smooth transition of services.

(Authority: 20 U.S.C. 1414(d)(1)(B)–(d)(1)(D))



IDEA 2004's Final Regulations for:

Parent Participation

§300.322 Parent participation.

(a) *Public agency responsibility—general.* Each public agency must take steps to ensure that one or both of the parents of a child with a disability are present at each IEP Team meeting or are afforded the opportunity to participate, including—

(1) Notifying parents of the meeting early enough to ensure that they will have an opportunity to attend; and

(2) Scheduling the meeting at a mutually agreed on time and place.

(b) *Information provided to parents.* (1) The notice required under paragraph (a)(1) of this section must—

(i) Indicate the purpose, time, and location of the meeting and who will be in attendance; and

(ii) Inform the parents of the provisions in §300.321(a)(6) and (c) (relating to the participation of other individuals on the IEP Team who have knowledge or special expertise about the child), and §300.321(f) (relating to the participation of the Part C service coordinator or other representatives of the Part C system at the initial IEP Team meeting for a child previously served under Part C of the Act).

(2) For a child with a disability beginning not later than the first IEP to be in effect when the child turns 16, or younger if determined appropriate by the IEP Team, the notice also must—

(i) Indicate—

(A) That a purpose of the meeting will be the consideration of the postsecondary goals and transition services for the child, in accordance with §300.320(b); and

(B) That the agency will invite the student; and

(ii) Identify any other agency that will be invited to send a representative.

(c) *Other methods to ensure parent participation.* If neither parent can attend an IEP Team meeting, the public agency must use other methods to ensure parent participation, including individual or conference telephone calls, consistent with §300.328 (related to alternative means of meeting participation).

(d) *Conducting an IEP Team meeting without a parent in attendance.* A meeting may be conducted without a parent in attendance if the public agency is unable to convince the parents that they should attend. In this case, the public agency must keep a record of its attempts to arrange a mutually agreed on time and place, such as—

(1) Detailed records of telephone calls made or attempted and the results of those calls;

Two Additional and Relevant Provisions

§300.327 Educational placements.

Consistent with §300.501(c), each public agency must ensure that parents of each child with a disability are members of any group that makes decisions on the educational placement of their child.

(Authority: 20 U.S.C. 1414(e))

§300.328 Alternative means of meeting participation.

When conducting IEP Team meetings and placement meetings pursuant to this subpart, and subpart E of this part, and carrying out administrative matters under section 615 of the Act (such as scheduling, exchange of witness lists, and status conferences), the parent of a child with a disability and a public agency may agree to use alternative means of meeting participation, such as video conferences and conference calls. (Authority: 20 U.S.C. 1414(f))

(over) 

Parent Participation

(2) Copies of correspondence sent to the parents and any responses received; and

(3) Detailed records of visits made to the parent's home or place of employment and the results of those visits.

(e) *Use of interpreters or other action, as appropriate.* The public agency must take whatever action is necessary to ensure that the parent understands the proceedings of the IEP Team meeting, including arranging for an interpreter for parents with deafness or whose native language is other than English.

(f) *Parent copy of child's IEP.* The public agency must give the parent a copy of the child's IEP at no cost to the parent.

(Authority: 20 U.S.C. 1414(d)(1)(B)(i))

Charting the IEP Through IDEA's Regulations and Your Handouts

Instructions: Use the chart below throughout Module 13, *Content of the IEP*, to keep track of where important IEP concepts or definitions appear in IDEA's regulations and in these handouts. We've alphabetized the concepts in the column on the left, with the first one done for you (except the notes you'd like to take!). Later, you can use this sheet as a handy reference for finding key IEP regulations.

Key Definition or Concept	Where in the regulations?	Where in these handouts?	Notes
Assistive technology devices: Definition Assistive technology services: Definition	§300.5	HandoutD-6	
Core academic subjects: Definition			
FAPE: Definition FAPE: Age ranges			
IEP: Definition IEP: Contents			
LRE: Definition			
Nonacademic services: Definition Nonacademic settings: Definition			
Physical education: Definition			

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**Charting the IEP Through IDEA's Regulations
and Your Handouts**

Key Definition or Concept	Where in the regulations?	Where in these handouts?	Notes
Related services: Definition			
Special education: Definition			
Supplementary aids & services: Definition			
Transition services: Definition			

Selected IDEA Regulations Relevant to “The Big Picture” of IEPs

§300.5 Assistive technology device.

Assistive technology device means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve the functional capabilities of a child with a disability. The term does not include a medical device that is surgically implanted, or the replacement of such device.

§300.6 Assistive technology service.

Assistive technology service means any service that directly assists a child with a disability in the selection, acquisition, or use of an assistive technology device. The term includes—

- (a) The evaluation of the needs of a child with a disability, including a functional evaluation of the child in the child’s customary environment;
- (b) Purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by children with disabilities;
- (c) Selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing assistive technology devices;
- (d) Coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;
- (e) Training or technical assistance for a child with a disability or, if appropriate, that child’s family; and
- (f) Training or technical assistance for professionals (including individuals providing education or rehabilitation services), employers, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of that child.

§300.10 Core academic subjects.

Core academic subjects means English, reading or language arts, mathematics, science, foreign languages, civics and government, economics, arts, history, and geography.



§300.17 Free appropriate public education.

Free appropriate public education or *FAPE* means special education and related services that—

- (a) Are provided at public expense, under public supervision and direction, and without charge;
- (b) Meet the standards of the SEA, including the requirements of this part;
- (c) Include an appropriate preschool, elementary school, or secondary school education in the State involved; and
- (d) Are provided in conformity with an individualized education program (IEP) that meets the requirements of §§300.320 through 300.324.

§300.34 Related services.

(a) *General. Related services* means transportation and such developmental, corrective, and other supportive services as are required to assist a child with a disability to benefit from special education, and includes speech-language pathology and audiology services, interpreting services, psychological services, physical and occupational therapy, recreation, including therapeutic recreation, early

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identification and assessment of disabilities in children, counseling services, including rehabilitation counseling, orientation and mobility services, and medical services for diagnostic or evaluation purposes. Related services also include school health services and school nurse services, social work services in schools, and parent counseling and training.

(b) *Exception; services that apply to children with surgically implanted devices, including cochlear implants.*

(1) Related services do not include a medical device that is surgically implanted, the optimization of that device's functioning (e.g., mapping), maintenance of that device, or the replacement of that device.

(2) Nothing in paragraph (b)(1) of this section—

(i) Limits the right of a child with a surgically implanted device (e.g., cochlear implant) to receive related services (as listed in paragraph (a) of this section) that are determined by the IEP Team to be necessary for the child to receive FAPE.

(ii) Limits the responsibility of a public agency to appropriately monitor and maintain medical devices that are needed to maintain the health and safety of the child, including breathing, nutrition, or operation of other bodily functions, while the child is transported to and from school or is at school; or

(iii) Prevents the routine checking of an external component of a surgically implanted device to make sure it is functioning properly, as required in §300.113(b).

(c) *Individual related services terms defined.* The terms used in this definition are defined as follows:

(1) *Audiology* includes—

(i) Identification of children with hearing loss;

(ii) Determination of the range, nature, and degree of hearing loss, including referral for medical or other professional attention for the habilitation of hearing;

(iii) Provision of habilitative activities, such as language habilitation, auditory training, speech reading (lip-reading), hearing evaluation, and speech conservation;

(iv) Creation and administration of programs for prevention of hearing loss;

(v) Counseling and guidance of children, parents, and teachers regarding hearing loss; and

(vi) Determination of children's needs for group and individual amplification, selecting and fitting an appropriate aid, and evaluating the effectiveness of amplification.

(2) *Counseling services* means services provided by qualified social workers, psychologists, guidance counselors, or other qualified personnel.

(3) *Early identification and assessment of disabilities in children* means the implementation of a formal plan for identifying a disability as early as possible in a child's life.

(4) *Interpreting services* includes—

(i) The following, when used with respect to children who are deaf or hard of hearing: Oral transliteration services, cued language transliteration services, sign language transliteration and interpreting services, and transcription services, such as communication access real-time translation (CART), C-Print, and TypeWell; and

(ii) Special interpreting services for children who are deaf-blind.

(5) *Medical services* means services provided by a licensed physician to determine a child's medically related disability that results in the child's need for special education and related services.

(continued on next page) 

(6) *Occupational therapy*—

(i) Means services provided by a qualified occupational therapist; and

(ii) Includes—

(A) Improving, developing, or restoring functions impaired or lost through illness, injury, or deprivation;

(B) Improving ability to perform tasks for independent functioning if functions are impaired or lost; and

(C) Preventing, through early intervention, initial or further impairment or loss of function.

(7) *Orientation and mobility services*—

(i) Means services provided to blind or visually impaired children by qualified personnel to enable those students to attain systematic orientation to and safe movement within their environments in school, home, and community; and

(ii) Includes teaching children the following, as appropriate:

(A) Spatial and environmental concepts and use of information received by the senses (such as sound, temperature and vibrations) to establish, maintain, or regain orientation and line of travel (e.g., using sound at a traffic light to cross the street);

(B) To use the long cane or a service animal to supplement visual travel skills or as a tool for safely negotiating the environment for children with no available travel vision;

(C) To understand and use remaining vision and distance low vision aids; and

(D) Other concepts, techniques, and tools.

(8)(i) *Parent counseling and training* means assisting parents in understanding the special needs of their child;

(ii) Providing parents with information about child development; and

(iii) Helping parents to acquire the necessary skills that will allow them to support the implementation of their child's IEP or IFSP.

(9) *Physical therapy* means services provided by a qualified physical therapist.

(10) *Psychological services* includes—

(i) Administering psychological and educational tests, and other assessment procedures;

(ii) Interpreting assessment results;

(iii) Obtaining, integrating, and interpreting information about child behavior and conditions relating to learning;

(iv) Consulting with other staff members in planning school programs to meet the special educational needs of children as indicated by psychological tests, interviews, direct observation, and behavioral evaluations;

(v) Planning and managing a program of psychological services, including psychological counseling for children and parents; and

(vi) Assisting in developing positive behavioral intervention strategies.

(11) *Recreation* includes—

(i) Assessment of leisure function;

(ii) Therapeutic recreation services;

(iii) Recreation programs in schools and community agencies; and

(iv) Leisure education.

(12) *Rehabilitation counseling* services means services provided by qualified personnel in individual or group sessions that focus specifically on career development, employment preparation,

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achieving independence, and integration in the workplace and community of a student with a disability. The term also includes vocational rehabilitation services provided to a student with a disability by vocational rehabilitation programs funded under the Rehabilitation Act of 1973, as amended, 29 U.S.C. 701 et seq.

(13) *School health services and school nurse services* means health services that are designed to enable a child with a disability to receive FAPE as described in the child's IEP. School nurse services are services provided by a qualified school nurse. School health services are services that may be provided by either a qualified school nurse or other qualified person.

(14) *Social work services in schools* includes—

(i) Preparing a social or developmental history on a child with a disability;

(ii) Group and individual counseling with the child and family;

(iii) Working in partnership with parents and others on those problems in a child's living situation (home, school, and community) that affect the child's adjustment in school;

(iv) Mobilizing school and community resources to enable the child to learn as effectively as possible in his or her educational program; and

(v) Assisting in developing positive behavioral intervention strategies.

(15) *Speech-language pathology services* includes—

(i) Identification of children with speech or language impairments;

(ii) Diagnosis and appraisal of specific speech or language impairments;

(iii) Referral for medical or other professional attention necessary for the habilitation of speech or language impairments;

(iv) Provision of speech and language services for the habilitation or prevention of communicative impairments; and

(v) Counseling and guidance of parents, children, and teachers regarding speech and language impairments.

(16) *Transportation* includes—

(i) Travel to and from school and between schools;

(ii) Travel in and around school buildings; and

(iii) Specialized equipment (such as special or adapted buses, lifts, and ramps), if required to provide special transportation for a child with a disability.



§300.39 Special education.

(a) *General.* (1) *Special education* means specially designed instruction, at no cost to the parents, to meet the unique needs of a child with a disability, including—

(i) Instruction conducted in the classroom, in the home, in hospitals and institutions, and in other settings; and

(ii) Instruction in physical education.

(2) *Special education* includes each of the following, if the services otherwise meet the requirements of paragraph (a)(1) of this section—

(i) Speech-language pathology services, or any other related service, if the service is considered special education rather than a related service under State standards;

(ii) Travel training; and

(iii) Vocational education.

(continued on next page)

(b) *Individual special education terms defined.* The terms in this definition are defined as follows:

(1) *At no cost* means that all specially-designed instruction is provided without charge, but does not preclude incidental fees that are normally charged to nondisabled students or their parents as a part of the regular education program.

(2) *Physical education* means—

(i) The development of—

(A) Physical and motor fitness;

(B) Fundamental motor skills and patterns; and

(C) Skills in aquatics, dance, and individual and group games and sports (including intramural and lifetime sports); and

(ii) Includes special physical education, adapted physical education, movement education, and motor development.

(3) *Specially designed instruction* means adapting, as appropriate to the needs of an eligible child under this part, the content, methodology, or delivery of instruction—

(i) To address the unique needs of the child that result from the child's disability; and

(ii) To ensure access of the child to the general curriculum, so that the child can meet the educational standards within the jurisdiction of the public agency that apply to all children.

(4) *Travel training* means providing instruction, as appropriate, to children with significant cognitive disabilities, and any other children with disabilities who require this instruction, to enable them to—

(i) Develop an awareness of the environment in which they live; and

(ii) 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).

(5) *Vocational education* means organized educational programs that are directly related to the preparation of individuals for paid or unpaid employment, or for additional preparation for a career not requiring a baccalaureate or advanced degree.

§300.42 Supplementary aids and services.

Supplementary aids and services means aids, services, and other supports that are provided in regular education classes, other education-related settings, and in extracurricular and nonacademic settings, to enable children with disabilities to be educated with nondisabled children to the maximum extent appropriate in accordance with §§300.114 through 300.116.

§300.43 Transition services.

(a) *Transition services* means a coordinated set of activities for a child with a disability that—

(1) Is designed to be within a results-oriented process, that is focused on improving the academic and functional achievement of the child with a disability to facilitate the child's movement from school to post-school activities, including postsecondary education, vocational education, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation;

(2) Is based on the individual child's needs, taking into account the child's strengths, preferences, and interests; and includes—

(i) Instruction;

(ii) Related services;

(iii) Community experiences;

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(iv) The development of employment and other post-school adult living objectives; and

(v) If appropriate, acquisition of daily living skills and provision of a functional vocational evaluation.

(b) *Transition services* for children with disabilities may be special education, if provided as specially designed instruction, or a related service, if required to assist a child with a disability to benefit from special education.

§300.107 Nonacademic services.

The State must ensure the following:

(a) Each public agency must take steps, including the provision of supplementary aids and services determined appropriate and necessary by the child's IEP Team, to provide nonacademic and extracurricular services and activities in the manner necessary to afford children with disabilities an equal opportunity for participation in those services and activities.

(b) Nonacademic and extracurricular services and activities may include counseling services, athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by the public agency, referrals to agencies that provide assistance to individuals with disabilities, and employment of students, including both employment by the public agency and assistance in making outside employment available.

§300.108 Physical education.

The State must ensure that public agencies in the State comply with the following:

(a) *General.* Physical education services, specially designed if necessary, must be made available to every child with a disability receiving FAPE,

unless the public agency enrolls children without disabilities and does not provide physical education to children without disabilities in the same grades.

(b) *Regular physical education.* Each child with a disability must be afforded the opportunity to participate in the regular physical education program available to nondisabled children unless-

(1) The child is enrolled full time in a separate facility; or

(2) The child needs specially designed physical education, as prescribed in the child's IEP.

(c) *Special physical education.* If specially designed physical education is prescribed in a child's IEP, the public agency responsible for the education of that child must provide the services directly or make arrangements for those services to be provided through other public or private programs.

(d) *Education in separate facilities.* The public agency responsible for the education of a child with a disability who is enrolled in a separate facility must ensure that the child receives appropriate physical education services in compliance with this section.

§300.117 Nonacademic settings.

In providing or arranging for the provision of nonacademic and extracurricular services and activities, including meals, recess periods, and the services and activities set forth in §300.107, each public agency must ensure that each child with a disability participates with nondisabled children in the extracurricular services and activities to the maximum extent appropriate to the needs of that child. The public agency must ensure that each child with a disability has the supplementary aids and services determined by the child's IEP Team to be appropriate and necessary for the child to participate in nonacademic settings.



Additional IDEA Regulations Relevant to “The Big Picture” of IEPs



§300.106 Extended school year services.

(a) *General.* (1) Each public agency must ensure that extended school year services are available as necessary to provide FAPE, consistent with paragraph (a)(2) of this section.

(2) Extended school year services must be provided only if a child’s IEP Team determines, on an individual basis, in accordance with §§300.320 through 300.324, that the services are necessary for the provision of FAPE to the child.

(3) In implementing the requirements of this section, a public agency may not—

(i) Limit extended school year services to particular categories of disability; or

(ii) Unilaterally limit the type, amount, or duration of those services.

(b) *Definition.* As used in this section, the term extended school year services means special education and related services that—

(1) Are provided to a child with a disability—

(i) Beyond the normal school year of the public agency;

(ii) In accordance with the child’s IEP; and

(iii) At no cost to the parents of the child; and

(2) Meet the standards of the SEA.

§300.110 Program options.

The State must ensure that each public agency takes steps to ensure that its children with disabilities have available to them the variety of educational programs and services available to nondisabled children in the area served by the agency, including art, music, industrial arts, consumer and homemaking education, and vocational education.

§300.114 LRE requirements.

(a) *General.* (1) Except as provided in §300.324(d)(2) (regarding children with disabilities in adult prisons), the State must have in effect policies and procedures to ensure that public agencies in the State meet the LRE requirements of this section and §§300.115 through 300.120.

(2) Each public agency must ensure that—

(i) 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 nondisabled; and

(ii) Special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only if the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

(b) *Additional requirement—State funding mechanism—*(1) *General.* (i) A State funding mechanism must not result in placements that violate the requirements of paragraph (a) of this section; and

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(ii) A State must not use a funding mechanism by which the State distributes funds on the basis of the type of setting in which a child is served that will result in the failure to provide a child with a disability FAPE according to the unique needs of the child, as described in the child's IEP.

(2) *Assurance.* If the State does not have policies and procedures to ensure compliance with paragraph (b)(1) of this section, the State must provide the Secretary an assurance that the State will revise the funding mechanism as soon as feasible to ensure that the mechanism does not result in placements that violate that paragraph.



§300.115 Continuum of alternative placements.

(a) Each public agency must ensure that a continuum of alternative placements is available to meet the needs of children with disabilities for special education and related services.

(b) The continuum required in paragraph (a) of this section must—

(1) Include the alternative placements listed in the definition of special education under §300.38 (instruction in regular classes, special classes, special schools, home instruction, and instruction in hospitals and institutions); and

(2) Make provision for supplementary services (such as resource room or itinerant instruction) to be provided in conjunction with regular class placement.

§300.116 Placements.

In determining the educational placement of a child with a disability, including a preschool child with a disability, each public agency must ensure that—

(a) The placement decision—

(1) Is made by a group of persons, including the parents, and other persons knowledgeable about the child, the meaning of the evaluation data, and the placement options; and

(2) Is made in conformity with the LRE provisions of this subpart, including §§300.114 through 300.118;

(b) The child's placement—

(1) Is determined at least annually;

(2) Is based on the child's IEP; and

(3) Is as close as possible to the child's home;


(c) Unless the IEP of a child with a disability requires some other arrangement, the child is educated in the school that he or she would attend if nondisabled;

(d) In selecting the LRE, consideration is given to any potential harmful effect on the child or on the quality of services that he or she needs; and

(e) A child with a disability is not removed from education in age-appropriate regular classrooms solely because of needed modifications in the general education curriculum.

§300.118 Children in public or private institutions.

Except as provided in §300.149(d) (regarding agency responsibility for general supervision for some individuals in adult prisons), an SEA must ensure that §300.114 is effectively implemented, including, if necessary, making arrangements with public and private institutions (such as a memorandum of agreement or special implementation procedures).

(continued on next page) 

§300.172 Access to instructional materials.

(a) *General.* The State must—

(1) Adopt the National Instructional Materials Accessibility Standard (NIMAS), published as appendix C to part 300, for the purposes of providing instructional materials to blind persons or other persons with print disabilities, in a timely manner after publication of the NIMAS in the Federal Register on July 19, 2006 (71 FR 41084); and

(2) Establish a State definition of “timely manner” for purposes of paragraphs (b)(2) and (b)(3) of this section if the State is not coordinating with the National Instructional Materials Access Center (NIMAC) or (b)(3) and (c)(2) of this section if the State is coordinating with the NIMAC.

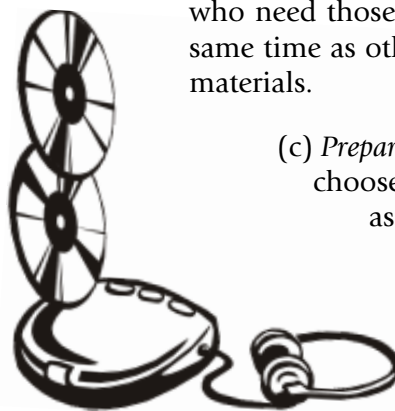
(b) *Rights and responsibilities of SEA.* (1) Nothing in this section shall be construed to require any SEA to coordinate with the NIMAC.

(2) If an SEA chooses not to coordinate with the NIMAC, the SEA must provide an assurance to the Secretary that it will provide instructional materials to blind persons or other persons with print disabilities in a timely manner.

(3) Nothing in this section relieves an SEA of its responsibility to ensure that children with disabilities who need instructional materials in accessible formats, but are not included under the definition of blind or other persons with print disabilities in §300.172(e)(1)(i) or who need materials that cannot be produced from NIMAS files, receive those instructional materials in a timely manner.

(4) In order to meet its responsibility under paragraphs (b)(2), (b)(3), and (c) of this section to ensure that children with disabilities who need

instructional materials in accessible formats are provided those materials in a timely manner, the SEA must ensure that all public agencies take all reasonable steps to provide instructional materials in accessible formats to children with disabilities who need those instructional materials at the same time as other children receive instructional materials.



(c) *Preparation and delivery of files.* If an SEA chooses to coordinate with the NIMAC, as of December 3, 2006, the SEA must—

(1) As part of any print instructional materials adoption process, procurement contract, or other practice or instrument used for purchase of print instructional materials, must enter into a written contract with the publisher of the print instructional materials to—

(i) Require the publisher to prepare and, on or before delivery of the print instructional materials, provide to NIMAC electronic files containing the contents of the print instructional materials using the NIMAS; or

(ii) Purchase instructional materials from the publisher that are produced in, or may be rendered in, specialized formats.

(2) Provide instructional materials to blind persons or other persons with print disabilities in a timely manner.

(d) *Assistive technology.* In carrying out this section, the SEA, to the maximum extent possible, must work collaboratively with the State agency responsible for assistive technology programs.

(e) *Definitions.* (1) In this section and §300.210—

(i) *Blind persons or other persons with print disabilities* means children served under this part who

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may qualify to receive books and other publications produced in specialized formats in accordance with the Act entitled "An Act to provide books for adult blind," approved March 3, 1931, 2 U.S.C 135a;

(ii) *National Instructional Materials Access Center or NIMAC* means the center established pursuant to section 674(e) of the Act;

(iii) *National Instructional Materials Accessibility Standard or NIMAS* has the meaning given the term in section 674(e)(3)(B) of the Act;

(iv) *Specialized formats* has the meaning given the term in section 674(e)(3)(D) of the Act.

(2) The definitions in paragraph (e)(1) of this section apply to each State and LEA, whether or not the State or LEA chooses to coordinate with the NIMAC.

(b) *Rights of LEA.* (1) Nothing in this section shall be construed to require an LEA to coordinate with the NIMAC.

(2) If an LEA chooses not to coordinate with the NIMAC, the LEA must provide an assurance to the SEA that the LEA will provide instructional materials to blind persons or other persons with print disabilities in a timely manner.

(3) Nothing in this section relieves an LEA of its responsibility to ensure that children with disabilities who need instructional materials in accessible formats but are not included under the definition of blind or other persons with print disabilities in §300.172(e)(1)(i) or who need materials that cannot be produced from NIMAS files, receive those instructional materials in a timely manner.



§300.210 Purchase of instructional materials.

(a) *General.* Not later than December 3, 2006, an LEA that chooses to coordinate with the National Instructional Materials Access Center (NIMAC), when purchasing print instructional materials, must acquire those instructional materials in the same manner, and subject to the same conditions as an SEA under §300.172.

What Am I?

Instructions: Below is a list of 12 items. Some are quotes from the final Part B regulation while some are services that may be necessary as part of providing an appropriate education to a child with a disability. Match each item with a term from the box at the right. The first one is done for you.



1. "...provided at public expense, under public supervision and direction, and without charge."

FAPE

2. "The term does not include a medical device that is surgically implanted, or the replacement of such device."
3. "...organized educational programs that are directly related to the preparation of individuals for paid or unpaid employment, or for additional preparation for a career not requiring a baccalaureate or advanced degree."
4. "...any item, piece of equipment, or product system...that is used to increase, maintain, or improve the functional capabilities of a child with a disability."
5. "...transportation and such developmental, corrective, and other supportive services as are required to assist a child with a disability to benefit from special education."
6. "...aids, services, and other supports that are provided in regular education classes, other education-related settings, and in extracurricular and nonacademic settings..."
7. "...English, reading or language arts, mathematics, science, foreign languages, civics and government, economics, arts, history, and geography."
8. "...specially designed instruction, at no cost to the parents, to meet the unique needs of a child with a disability..."

Assistive technology device

Assistive technology service

Core academic subject

FAPE

IEP

LRE

Nonacademic services

Nonacademic settings

Physical education

Related services

Special education

Supplementary aids and services

Transition services

Vocational education

What Am I?



9. "...a coordinated set of activities for a child with a disability that...is focused on improving the academic and functional achievement of the child with a disability to facilitate the child's movement from school to post-school activities..."

10. "... counseling services, athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by the public agency, referrals to agencies that provide assistance to individuals with disabilities, and employment of students..."

11. "Includes special physical education, adapted physical education, movement education, and motor development."

12. "The public agency must ensure that each child with a disability has the supplementary aids and services determined by the child's IEP Team to be appropriate and necessary for the child to participate in nonacademic settings."

IDEA 2004's Final Regulations for:

Contents of the IEP



Individualized Education Programs

§300.320 Definition of individualized education program.

(a) *General.* As used in this part, the term individualized education program or IEP means a written statement for each child with a disability that is developed, reviewed, and revised in a meeting in accordance with §§300.320 through 300.324, and that must include—

(1) A statement of the child's present levels of academic achievement and functional performance, including—

(i) How the child's disability affects the child's involvement and progress in the general education curriculum (i.e., the same curriculum as for nondisabled children); or

(ii) For preschool children, as appropriate, how the disability affects the child's participation in appropriate activities;

(2)(i) A statement of measurable annual goals, including academic and functional goals designed to—

(A) Meet the child's needs that result from the child's disability to enable the child to be involved in and make progress in the general education curriculum; and

(B) Meet each of the child's other educational needs that result from the child's disability;

(ii) For children with disabilities who take alternate assessments aligned to alternate achievement standards, a description of benchmarks or short-term objectives;

(3) A description of—

(i) How the child's progress toward meeting the annual goals described in paragraph (2) of this section will be measured; and

(ii) When periodic reports on the progress the child is making toward meeting the annual goals (such as through the use of quarterly or other periodic reports, concurrent with the issuance of report cards) will be provided;

(4) A statement of the special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided to enable the child—

(i) To advance appropriately toward attaining the annual goals;

(ii) To be involved in and make progress in the general education curriculum in accordance with paragraph (a)(1) of this section, and to participate in extracurricular and other nonacademic activities; and

(iii) To be educated and participate with other children with disabilities and nondisabled children in the activities described in this section;

(5) An explanation of the extent, if any, to which the child will not participate with nondisabled children in the regular class and in the activities described in paragraph (a)(4) of this section;

(6)(i) A statement of any individual appropriate accommodations that are necessary to measure the academic achievement and functional performance of the child on State and districtwide assessments consistent with §612(a)(16) of the Act; and

(ii) If the IEP Team determines that the child must take an alternate assessment instead of a particular regular State or districtwide assessment of student achievement, a statement of why—

(over)

Contents of the IEP

(A) The child cannot participate in the regular assessment; and

(B) The particular alternate assessment selected is appropriate for the child; and

(7) The projected date for the beginning of the services and modifications described in paragraph (a)(4) of this section, and the anticipated frequency, location, and duration of those services and modifications.

(b) *Transition services.* Beginning not later than the first IEP to be in effect when the child turns 16, or younger if determined appropriate by the IEP Team, and updated annually, thereafter, the IEP must include—

(1) Appropriate measurable postsecondary goals based upon age appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills; and

(2) The transition services (including courses of study) needed to assist the child in reaching those goals.

(c) *Transfer of rights at age of majority.* Beginning not later than one year before the child reaches the age of majority under State law, the IEP must include a statement that the child has been informed of the child's rights under Part B of the Act, if any, that will transfer to the child on reaching the age of majority under §300.520.

(d) *Construction.* Nothing in this section shall be construed to require—

(1) That additional information be included in a child's IEP beyond what is explicitly required in section 614 of the Act; or

(2) The IEP Team to include information under one component of a child's IEP that is already contained under another component of the child's IEP.

§300.520 Transfer of parental rights at age of majority.

(a) *General.* A State may provide that, when a child with a disability reaches the age of majority under State law that applies to all children (except for a child with a disability who has been determined to be incompetent under State law)—

(1)(i) The public agency must provide any notice required by this part to both the child and the parents; and

(ii) All rights accorded to parents under Part B of the Act transfer to the child;

(2) All rights accorded to parents under Part B of the Act transfer to children who are incarcerated in an adult or juvenile, State or local correctional institution; and

(3) Whenever a State provides for the transfer of rights under this part pursuant to paragraph (a)(1) or (a)(2) of this section, the agency must notify the child and the parents of the transfer of rights.

(b) *Special rule.* A State must establish procedures for appointing the parent of a child with a disability, or, if the parent is not available, another appropriate individual, to represent the educational interests of the child throughout the period of the child's eligibility under Part B of the Act if, under State law, a child who has reached the age of majority, but has not been determined to be incompetent, can be determined not to have the ability to provide informed consent with respect to the child's educational program.

The Department of Education's Model IEP Form

In IDEA 2004, the Congress required the U.S. Department of Education to publish and widely disseminate “model forms” to assist States and school districts. Consistent with the instructions from the Congress, the Department developed the Model IEP Form provided in this handout. Its contents are based upon the requirements set forth in the final Part B regulations. Although States must ensure that school districts include all of the content that Part B requires for each of the documents that they provide to parents, States are not required to use the format or specific language reflected in this form. States may choose to add additional content, so long as any additional content is not inconsistent with Part B requirements.

To make the Model IEP Form more user-friendly, the Secretary has:

- used “school district” or “district” in place of “public agency” and “local educational agency.”
- used “you” in place of “parent” (or the student, where parental rights have been transferred from the parent to the student at the age of majority).

Available online at:

<http://idea.ed.gov/static/modelForms>

Part B INDIVIDUALIZED EDUCATION PROGRAM

The Individualized Education Program (IEP) is a written document that is developed for each eligible child with a disability. The Part B regulations specify, at 34 CFR §§300.320-300.328, the procedures that school districts must follow to develop, review, and revise the IEP for each child. The document below sets out the IEP content that those regulations require.

A statement of the child’s present levels of academic achievement and functional performance including:

- How the child’s disability affects the child’s involvement and progress in the general education curriculum (i.e., the same curriculum as for nondisabled children) or for preschool children, as appropriate, how the disability affects the child’s participation in appropriate activities. [34 CFR §300.320(a)(1)]

(over) 

The Model IEP Form

A statement of measurable annual goals, including academic and functional goals designed to:

- Meet the child's needs that result from the child's disability to enable the child to be involved in and make progress in the general education curriculum. [34 CFR §300.320(a)(2)(i)(A)]
- Meet each of the child's other educational needs that result from the child's disability. [34 CFR §300.320(a)(2)(i)(B)]

For children with disabilities who take alternate assessments aligned to alternate achievement standards (in addition to the annual goals), a description of benchmarks or short-term objectives.

[34 CFR §300.320(a)(2)(ii)]

A description of:

- How the child's progress toward meeting the annual goals will be measured. [34 CFR §300.320(a)(3)(i)]
- When periodic reports on the progress the child is making toward meeting the annual goals will be provided such as through the use of quarterly or other periodic reports, concurrent with the issuance of report cards. [34 CFR §300.320(a)(3)(ii)]

A statement of the special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided to enable the child:

- To advance appropriately toward attaining the annual goals. [34 CFR §300.320(a)(4)(i)]
- To be involved in and make progress in the general education curriculum and to participate in extracurricular and other nonacademic activities. [34 CFR §300.320(a)(4)(ii)]
- To be educated and participate with other children with disabilities and nondisabled children in extracurricular and other nonacademic activities. [34 CFR §300.320(a)(4)(iii)]

The Model IEP Form

An explanation of the extent, if any, to which the child will not participate with nondisabled children in the regular classroom and in extracurricular and other nonacademic activities. [34 CFR §300.320(a)(5)]


A statement of any individual appropriate accommodations that are necessary to measure the academic achievement and functional performance of the child on State and districtwide assessments. [34 CFR §300.320(a)(6)(i)]

If the IEP Team determines that the child must take an alternate assessment instead of a particular regular State or districtwide assessment of student achievement, a statement of why:

- The child cannot participate in the regular assessment. [34 CFR §300.320(a)(6)(ii)(A)]
- The particular alternate assessment selected is appropriate for the child. [34 CFR §300.320(a)(6)(ii)(B)]

The projected date for the beginning of the services and modifications and the anticipated frequency, location, and duration of special education and related services and supplementary aids and services and modifications and supports. [34 CFR §300.320(a)(7)]

Service, Aid, or Modification	Frequency	Location	Beginning Date	Duration
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The Model IEP Form

TRANSITION SERVICES

Beginning not later than the first IEP to be in effect when the child turns 16, or younger if determined appropriate by the IEP Team, and updated annually thereafter, the IEP must include:

- Appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to training, education, employment, and where appropriate, independent living skills. [34 CFR §300.320(b)(1)]

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- The transition services (including courses of study) needed to assist the child in reaching those goals. [34 CFR §300.320(b)(2)]

Transition Services (Including Courses of Study)

RIGHTS THAT TRANSFER AT AGE OF MAJORITY

- Beginning not later than one year before the child reaches the age of majority under State law, the IEP must include a statement that the child has been informed of the child's rights under Part B of the IDEA, if any, that will, consistent with 34 CFR §300.520, transfer to the child on reaching the age of majority. [34 CFR §300.320(c)]

Available online at:

<http://idea.ed.gov/static/modelForms>

A "Starter Set" of Research Resources

Looking for research-based information on effective educational practices for children with disabilities? Here's a starter list of places to look online. These will surely lead you to more.



NICHCY's Research Resources

- The Research Center
<http://research.nichcy.org>
- The Research-to-Practice database
<http://research.nichcy.org/search.asp>
- Research News updates
<http://research.nichcy.org>
- Find your professional organization and see what they have to offer!
www.nichcy.org/search.asp
- Find disability-specific organizations and see what they have to offer!
www.nichcy.org/search.asp

Behavior

- www.pbis.org
- www.lehigh.edu/projectreach/
- challengingbehavior.fmhi.usf.edu/index.html

Disabilities

- www.nichcy.org/search.asp

Early intervention / Early childhood

- www.nectac.org
- www.researchtopractice.info
- www.ehsnrc.org
- www.ihdi.uky.edu/nectc
- www.naeyc.org
- www.zerotothree.org

Instruction

- www.centeroninstruction.org/index.cfm
- www.cec.sped.org
- www.ascd.org

Mental Health

- www.nichcy.org/enews/foundations/mentalhealth101.asp

Reading / Literacy

- www.readingrockets.org
- www.reading.org
- www.nifl.gov/partnershipforreading/
- www.nichcy.org/resources/literacy2.asp

Transition to Adulthood

- www.ncset.org
- www.dcdt.org/index.html
- www.nsttac.org/
- www.nichcy.org/resources/transition101.asp

Finding Research on Selected Topics

Accessing the General Curriculum

- www.k8accesscenter.org
- www.cast.org
- www.ascd.org
- www.specialconnections.ku.edu

Assessment

- education.umn.edu/nceo
- www.studentprogress.org/
- www.fpg.unc.edu/~eco/index.cfm

Assistive Technology

- www.fctd.info
- www.catea.org
- www.ataccess.org/
- www.cited.org/

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A “Starter Set” of Research Resources

What the “Heavy Hitters” Have to Say

National-level educational organizations such as the Council of Chief State School Officers and the Education Commission of the States make it a point to offer research-based guidance on hot educational issues.

Here’s a sampling of where to visit.

- www.ecs.org/
- www.ccsso.org
- www.nasdse.org
- www.nea.org
- www.aft.org
- www.nasbe.org/
- www.naesp.org/index.jsp
- www.principals.org

Finding Research in Education, Period

- <http://research.nichcy.org/researchtostart.asp>
- <http://ies.ed.gov/ncee/wwc/>
- www.ernweb.com/
- www.ers.org/
- www.rbs.org

Comprehensive Center Network

Educational research is continually being synthesized within the nationwide network of 16 regional technical assistance centers and 5 national content centers established by the U.S. Department of Education. See what the network has to offer, accessing it via:

- www.pacificcompcenter.org/ccnetwork.asp

OSEP’s TA&D Network

The Office of Special Education Programs (OSEP) at the U.S. Department of Education funds a network of projects that provide technical assistance and resources to the special education community. Find out who’s who, in what speciality area, and what each of them is up to, at:

- www.rfcnetwork.org/content/view/137/192/
- matrix2.rfcnetwork.org



1.800.695.0285 (V/TTY)
www.nichcy.org

Link No Longer Works? Need Something Else?

Please feel free to contact NICHCY, the National Dissemination Center for Children with Disabilities, for the latest information and connections in research and disabilities.



IDEA 2004's Final Regulations for:

Development, Review, & Revision of the IEP

Development of IEP

§300.324 Development, review, and revision of IEP.

(a) *Development of IEP*—

(1) *General.* In developing each child's IEP, the IEP Team must consider—

(i) The strengths of the child;

(ii) The concerns of the parents for enhancing the education of their child;

(iii) The results of the initial or most recent evaluation of the child; and

(iv) The academic, developmental, and functional needs of the child.

(2) *Consideration of special factors.* The IEP Team must—

(i) In the case of a child whose behavior impedes the child's learning or that of others, consider the use of positive behavioral interventions and supports, and other strategies, to address that behavior;

(ii) In the case of a child with limited English proficiency, consider the language needs of the child as those needs relate to the child's IEP;

(iii) In the case of a child who is blind or visually impaired, provide for instruction in Braille and the use of Braille unless the IEP Team determines, after an evaluation of the child's reading and writing skills,

needs, and appropriate reading and writing media (including an evaluation of the child's future needs for instruction in Braille or the use of Braille), that instruction in Braille or the use of Braille is not appropriate for the child;

(iv) Consider the communication needs of the child, and in the case of a child who is deaf or hard of hearing, consider the child's language and communication needs, opportunities for direct communications with peers and professional personnel in the child's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the child's language and communication mode; and

(v) Consider whether the child needs assistive technology devices and services.

(3) *Requirement with respect to regular education teacher.* A regular education teacher of a child with a disability, as a member of the IEP Team, must, to the extent appropriate, participate in the development of the IEP of the child, including the determination of—

(i) Appropriate positive behavioral interventions and supports and other strategies for the child; and

(ii) Supplementary aids and services, program modifications, and support for school personnel consistent with §300.320(a)(4).

(4) *Agreement.* (i) In making changes to a child's IEP after the annual IEP Team meeting for a school year, the parent of a child with a disability and the public agency may

Relevant Terms and Their Definitions

IDEA's provisions at §300.324 contain references to several terms that are defined elsewhere in the regulations: *assistive technology (AT) device*, *AT service*, and *supplementary aids and services*. We've included IDEA's definitions of these terms on page 3 of this handout.

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Development, Review, and Revision of the IEP

agree not to convene an IEP Team meeting for the purposes of making those changes, and instead may develop a written document to amend or modify the child's current IEP.

(ii) If changes are made to the child's IEP in accordance with paragraph (a)(4)(i) of this section, the public agency must ensure that the child's IEP Team is informed of those changes.

(5) *Consolidation of IEP Team meetings.* To the extent possible, the public agency must encourage the consolidation of reevaluation meetings for the child and other IEP Team meetings for the child.

(6) *Amendments.* Changes to the IEP may be made either by the entire IEP Team at an IEP Team meeting, or as provided in paragraph (a)(4) of this section, by amending the IEP rather than by redrafting the entire IEP. Upon request, a parent must be provided with a revised copy of the IEP with the amendments incorporated.

(b) *Review and revision of IEPs—(1) General.* Each public agency must ensure that, subject to paragraphs (b)(2) and (b)(3) of this section, the IEP Team—

(i) Reviews the child's IEP periodically, but not less than annually, to determine whether the annual goals for the child are being achieved; and

(ii) Revises the IEP, as appropriate, to address—

(A) Any lack of expected progress toward the annual goals described in §300.320(a)(2), and in the general education curriculum, if appropriate;

(B) The results of any reevaluation conducted under §300.303;



(C) Information about the child provided to, or by, the parents, as described under §300.305(a)(2);

(D) The child's anticipated needs; or

(E) Other matters.

(2) *Consideration of special factors.* In conducting a review of the child's IEP, the IEP Team must consider the special factors described in paragraph (a)(2) of this section.

(3) *Requirement with respect to regular education teacher.* A regular education teacher of the child, as a member of the IEP Team, must, consistent with paragraph (a)(3) of this section, participate in the review and revision of the IEP of the child.

(c) *Failure to meet transition objectives—(1) Participating agency failure.* If a participating agency, other than the public agency, fails to provide the transition services described in the IEP in accordance with §300.320(b), the public agency must reconvene the IEP Team to identify alternative strategies to meet the transition objectives for the child set out in the IEP.

(2) *Construction.* Nothing in this part relieves any participating agency, including a State vocational rehabilitation agency, of the responsibility to provide or pay for any transition service that the agency would otherwise provide to children with disabilities who meet the eligibility criteria of that agency.

(d) *Children with disabilities in adult prisons—(1) Requirements that do not apply.* The following requirements do not apply to children with disabilities who are convicted as adults under State law and incarcerated in adult prisons:

(continued on next page) 

Development, Review, and Revision of the IEP

(i) The requirements contained in section 612(a)(16) of the Act and §300.320(a)(6) (relating to participation of children with disabilities in general assessments).

(ii) The requirements in §300.320(b) (relating to transition planning and transition services) do not apply with respect to the children whose eligibility under Part B of the Act will end, because of their age, before they will be eligible to be released from prison based on consideration of their sentence and eligibility for early release.

(2) *Modifications of IEP or placement.* (i) Subject to paragraph (d)(2)(ii) of this section, the IEP Team of a child with a disability who is convicted as an adult under State law and incarcerated in an adult prison may modify the child's IEP or placement if the State has demonstrated a bona fide security or compelling penological interest that cannot otherwise be accommodated.

(ii) The requirements of §§300.320 (relating to IEPs), and 300.112 (relating to LRE), do not apply with respect to the modifications described in paragraph (d)(2)(i) of this section.

(Authority: 20 U.S.C. 1412(a)(1), 1412(a)(12)(A)(i), 1414(d)(3), (4)(B), and (7); and 1414(e))

Definitions of Key Terms

§300.5 Assistive technology device.

Assistive technology device means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve the functional capabilities of a child with a disability. The term does not include a medical device that is surgically implanted, or the replacement of such device. (Authority: 20 U.S.C. 1401(1))

§300.6 Assistive technology service.

Assistive technology service means any service that directly assists a child with a disability in the selection, acquisition, or use of an assistive technology device. The term includes—

(a) The evaluation of the needs of a child with a disability, including a functional evaluation of the child in the child's customary environment;

(b) Purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by children with disabilities;

(c) Selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing assistive technology devices;

(d) Coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;

(e) Training or technical assistance for a child with a disability or, if appropriate, that child's family; and

(f) Training or technical assistance for professionals (including individuals providing education or rehabilitation services), employers, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of that child. (Authority: 20 U.S.C. 1401(2))

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Development, Review, and Revision of the IEP



§300.42 Supplementary aids and services.

Supplementary aids and services means aids, services, and other supports that are provided in regular education classes, other education-related settings, and in extracurricular and nonacademic settings, to enable children with disabilities to be educated with nondisabled children to the maximum extent appropriate in accordance with §§300.114 through 300.116.

IDEA 2004's Final Regulations for:

When IEPs Must Be In Effect

§300.323 When IEPs must be in effect.

(a) *General.* At the beginning of each school year, each public agency must have in effect, for each child with a disability within its jurisdiction, an IEP, as defined in §300.320.

(b) *IEP or IFSP for children aged three through five.* (1) In the case of a child with a disability aged three through five (or, at the discretion of the SEA, a two year-old child with a disability who will turn age three during the school year), the IEP Team must consider an IFSP that contains the IFSP content (including the natural environments statement) described in section 636(d) of the Act and its implementing regulations (including an educational component that promotes school readiness and incorporates pre-literacy, language, and numeracy skills for children with IFSPs under this section who are at least three years of age), and that is developed in accordance with the IEP procedures under this part. The IFSP may serve as the IEP of the child, if using the IFSP as the IEP is—

- (i) Consistent with State policy; and
- (ii) Agreed to by the agency and the child's parents.

(2) In implementing the requirements of paragraph (b)(1) of this section, the public agency must—

- (i) Provide to the child's parents a detailed explanation of the differences between an IFSP and an IEP; and
- (ii) If the parents choose an IFSP, obtain written informed consent from the parents.

(c) *Initial IEPs; provision of services.* Each public agency must ensure that—

(1) A meeting to develop an IEP for a child is conducted within 30 days of a determination that the child needs special education and related services; and

(2) As soon as possible following development of the IEP, special education and related services are made available to the child in accordance with the child's IEP.

(d) *Accessibility of child's IEP to teachers and others.* Each public agency must ensure that—


(1) The child's IEP is accessible to each regular education teacher, special education teacher, related services provider, and any other service provider who is responsible for its implementation; and

(2) Each teacher and provider described in paragraph (d)(1) of this section is informed of—

(i) His or her specific responsibilities related to implementing the child's IEP; and

(ii) The specific accommodations, modifications, and supports that must be provided for the child in accordance with the IEP.

(e) *IEPs for children who transfer public agencies in the same State.* If a child with a disability (who had an IEP that was in effect in a previous public agency in the same State) transfers to a new public agency in the same State, and enrolls in a new school within the same school year, the new public agency (in consultation with the parents) must provide FAPE to the child (including services comparable to those described in the child's IEP from the previous public agency), until the new public agency either—

(over) 

When IEPs Must Be In Effect

(1) Adopts the child's IEP from the previous public agency; or

(2) Develops, adopts, and implements a new IEP that meets the applicable requirements in §§300.320 through 300.324.

(f) *IEPs for children who transfer from another State.* If a child with a disability (who had an IEP that was in effect in a previous public agency in another State) transfers to a public agency in a new State, and enrolls in a new school within the same school year, the new public agency (in consultation with the parents) must provide the child with FAPE (including services comparable to those described in the child's IEP from the previous public agency), until the new public agency—

(1) Conducts an evaluation pursuant to §§300.304 through 300.306 (if determined to be necessary by the new public agency); and

(2) Develops, adopts, and implements a new IEP, if appropriate, that meets the applicable requirements in §§300.320 through 300.324.

(g) *Transmittal of records.* To facilitate the transition for a child described in paragraphs (e) and (f) of this section—

(1) The new public agency in which the child enrolls must take reasonable steps to promptly obtain the child's records, including the IEP and supporting documents and any other records relating to the provision of special education or related services to the child, from the previous public agency in which the child was enrolled, pursuant to 34 CFR 99.31(a)(2); and

(2) The previous public agency in which the child was enrolled must take reasonable steps to promptly respond to the request from the new public agency.

(Authority: 20 U.S.C. 1414(d)(2)(A)–(C))

Handout D-15

IDEA 2004's Final Regulations for:

Private School Placements by Public Agencies

§300.325 Private school placements by public agencies.

(a) *Developing IEPs.* (1) Before a public agency places a child with a disability in, or refers a child to, a private school or facility, the agency must initiate and conduct a meeting to develop an IEP for the child in accordance with §§300.320 and 300.324.

(2) The agency must ensure that a representative of the private school or facility attends the meeting. If the representative cannot attend, the agency must use other methods to ensure participation by the private school or facility, including individual or conference telephone calls.

(b) *Reviewing and revising IEPs.* (1) After a child with a disability enters a private school or facility, any meetings to review and revise the child's IEP may be initiated and conducted by the private school or facility at the discretion of the public agency.

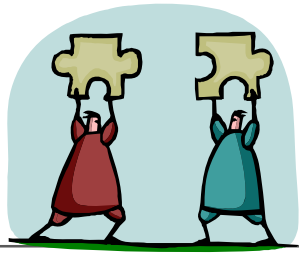
(2) If the private school or facility initiates and conducts these meetings, the public agency must ensure that the parents and an agency representative—

(i) Are involved in any decision about the child's IEP; and

(ii) Agree to any proposed changes in the IEP before those changes are implemented.

(c) *Responsibility.* Even if a private school or facility implements a child's IEP, responsibility for compliance with this part remains with the public agency and the SEA.

(Authority: 20 U.S.C. 1412(a)(10)(B))



Where's Handout D-16?

Handout D-16 is reserved for Module 15, LRE Decision Making, which hasn't yet been finalized. But it will be! So we're saving the space and its handout numbers.

The handouts included here now are those for Modules 12, 13, 14, and 16.

IDEA 2004's Final Regulations for:

Children with Disabilities Enrolled by Their Parents in Private Schools

§300.130 Definition of parentally-placed private school children with disabilities.

Parentally-placed private school children with disabilities means children with disabilities enrolled by their parents in private, including religious, schools or facilities that meet the definition of elementary school in §300.13 or secondary school in §300.36, other than children with disabilities covered under §§300.145 through 300.147.



evaluations, may not be considered in determining if an LEA has met its obligation under §300.133.

(e) *Completion period.* The child find process must be completed in a time period

comparable to that for students attending public schools in the LEA consistent with §300.301.

(f) *Out-of-State children.* Each LEA in which private, including religious, elementary schools and secondary schools are located must, in carrying out the child find requirements in this section, include parentally-placed private school children who reside in a State other than the State in which the private schools that they attend are located.

§300.131 Child find for parentally-placed private school children with disabilities.

(a) *General.* Each LEA must locate, identify, and evaluate all children with disabilities who are enrolled by their parents in private, including religious, elementary schools and secondary schools located in the school district served by the LEA, in accordance with paragraphs (b) through (e) of this section, and §§300.111 and 300.201.

(b) *Child find design.* The child find process must be designed to ensure—

(1) The equitable participation of parentally-placed private school children; and


(2) An accurate count of those children.

(c) *Activities.* In carrying out the requirements of this section, the LEA, or, if applicable, the SEA, must undertake activities similar to the activities undertaken for the agency's public school children.

(d) *Cost.* The cost of carrying out the child find requirements in this section, including individual

§300.132 Provision of services for parentally-placed private school children with disabilities-basic requirement.

(a) *General.* To the extent consistent with the number and location of children with disabilities who are enrolled by their parents in private, including religious, elementary schools and secondary schools located in the school district served by the LEA, provision is made for the participation of those children in the program assisted or carried out under Part B of the Act by providing them with special education and related services, including direct services determined in accordance with §300.137, unless the Secretary has arranged for services to those children under the by-pass provisions in §§300.190 through 300.198.

(over) 

Children with Disabilities Enrolled by Their Parents in Private Schools

(b) *Services plan for parentally-placed private school children with disabilities.* In accordance with paragraph (a) of this section and §§300.137 through 300.139, a services plan must be developed and implemented for each private school child with a disability who has been designated by the LEA in which the private school is located to receive special education and related services under this part.

(c) *Record keeping.* Each LEA must maintain in its records, and provide to the SEA, the following information related to parentally-placed private school children covered under §§300.130 through 300.144:

(1) The number of children evaluated;

(2) The number of children determined to be children with disabilities; and

(3) The number of children served.

§300.133 Expenditures.

(a) *Formula.* To meet the requirement of §300.132(a), each LEA must spend the following on providing special education and related services (including direct services) to parentally placed private school children with disabilities:

(1) For children aged 3 through 21, an amount that is the same proportion of the LEA's total subgrant under section 611(f) of the Act as the number of private school children with disabilities aged 3 through 21 who are enrolled by their parents in private, including religious, elementary schools and secondary schools located in the school district served by the LEA, is to the total number of children with disabilities in its jurisdiction aged 3 through 21.

(2)(i) For children aged three through five, an amount that is the same proportion of the LEA's total subgrant under section 619(g) of the Act as the number of parentally-placed private school children with disabilities aged three through five who are enrolled by their parents in a private, including religious, elementary school located in the school district served by the LEA, is to the total number of children with disabilities in its jurisdiction aged three through five.

(ii) As described in paragraph (a)(2)(i) of this section, children aged three through five are considered to be parentally-placed private school children with disabilities enrolled by their parents in private, including religious, elementary schools, if they are enrolled in a private school that meets the definition of elementary school in §300.13.

(3) If an LEA has not expended for equitable services all of the funds described in paragraphs (a)(1) and (a)(2) of this section by the end of the fiscal year for which Congress appropriated the funds, the LEA must obligate the remaining funds for special education and related services (including direct services) to parentally-placed private school children with disabilities during a carry-over period of one additional year.

(b) *Calculating proportionate amount.* In calculating the proportionate amount of Federal funds to be provided for parentally-placed private school children with disabilities, the LEA, after timely and meaningful consultation with representatives of private schools under §300.134, must conduct a thorough and complete child find process to determine the number of parentally-placed children with disabilities attending private schools located in the LEA. (See Appendix B for an example of how proportionate share is calculated).



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Children with Disabilities Enrolled by Their Parents in Private Schools

(c) *Annual count of the number of parentally-placed private school children with disabilities.* (1) Each LEA must—

(i) After timely and meaningful consultation with representatives of parentally-placed private school children with disabilities (consistent with §300.134), determine the number of parentally-placed private school children with disabilities attending private schools located in the LEA; and

(ii) Ensure that the count is conducted on any date between October 1 and December 1, inclusive, of each year.

(2) The count must be used to determine the amount that the LEA must spend on providing special education and related services to parentally-placed private school children with disabilities in the next subsequent fiscal year.

(d) *Supplement, not supplant.* State and local funds may supplement and in no case supplant the proportionate amount of Federal funds required to be expended for parentally-placed private school children with disabilities under this part.

§300.134 Consultation.

To ensure timely and meaningful consultation, an LEA, or, if appropriate, an SEA, must consult with private school representatives and representatives of parents of parentally-placed private school children with disabilities during the design and development of special education and related services for the children regarding the following:

(a) *Child find.* The child find process, including—

(1) How parentally-placed private school children suspected of having a disability can participate equitably; and

(2) How parents, teachers, and private school officials will be informed of the process.

(b) *Proportionate share of funds.* The determination of the proportionate share of Federal funds available to serve parentally-placed private school children with disabilities under §300.133(b), including the determination of how the proportionate share of those funds was calculated.

(c) *Consultation process.* The consultation process among the LEA, private school officials, and representatives of parents of parentally-placed private school children with disabilities, including how the process will operate throughout the school year to ensure that parentally-placed children with disabilities identified through the child find process can meaningfully participate in special education and related services.

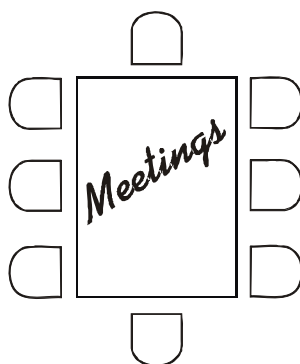
(d) *Provision of special education and related services.* How, where, and by whom special education and related services will be provided for parentally-placed private school children with disabilities, including a discussion of—

(1) The types of services, including direct services and alternate service delivery mechanisms; and

(2) How special education and related services will be apportioned if funds are insufficient to serve all parentally-placed private school children; and

(3) How and when those decisions will be made;

(e) *Written explanation by LEA regarding services.* How, if the LEA disagrees with the views of the private school officials on the provision of services or the types of services (whether provided directly or through a contract), the LEA will provide to the private school officials



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Children with Disabilities Enrolled by Their Parents in Private Schools

a written explanation of the reasons why the LEA chose not to provide services directly or through a contract.

§300.135 Written affirmation.

(a) When timely and meaningful consultation, as required by §300.134, has occurred, the LEA must obtain a written affirmation signed by the representatives of participating private schools.

(b) If the representatives do not provide the affirmation within a reasonable period of time, the LEA must forward the documentation of the consultation process to the SEA.

§300.136 Compliance.

(a) *General.* A private school official has the right to submit a complaint to the SEA that the LEA—

(1) Did not engage in consultation that was meaningful and timely; or

(2) Did not give due consideration to the views of the private school official.

(b) *Procedure.* (1) If the private school official wishes to submit a complaint, the official must provide to the SEA the basis of the noncompliance by the LEA with the applicable private school provisions in this part; and

(2) The LEA must forward the appropriate documentation to the SEA.

(3)(i) If the private school official is dissatisfied with the decision of the SEA, the official may submit a complaint to the Secretary by providing the information on noncompliance described in paragraph (b)(1) of this section; and

(ii) The SEA must forward the appropriate documentation to the Secretary.



§300.137 Equitable services determined.

(a) *No individual right to special education and related services.* No parentally-placed private school child with a disability has an individual right to receive some or all of the special education and related services that the child would receive if enrolled in a public school.


(b) *Decisions.* (1) Decisions about the services that will be provided to parentally-placed private school children with disabilities under §§300.130 through 300.144 must be made in accordance with paragraph (c) of this section and §300.134(c).

(2) The LEA must make the final decisions with respect to the services to be provided to eligible parentally-placed private school children with disabilities.

(c) *Services plan for each child served under §§300.130 through 300.144.* If a child with a disability is enrolled in a religious or other private school by the child's parents and will receive special education or related services from an LEA, the LEA must—

(1) Initiate and conduct meetings to develop, review, and revise a services plan for the child, in accordance with §300.138(b); and

(2) Ensure that a representative of the religious or other private school attends each meeting. If the representative cannot attend, the LEA shall use other methods to ensure participation by the religious or other private school, including individual or conference telephone calls.

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Children with Disabilities Enrolled by Their Parents in Private Schools

§300.138 Equitable services provided.

(a) *General.* (1) The services provided to parentally-placed private school children with disabilities must be provided by personnel meeting the same standards as personnel providing services in the public schools, except that private elementary school and secondary school teachers who are providing equitable services to parentally-placed private school children with disabilities do not have to meet the highly qualified special education teacher requirements of §300.18.

(2) Parentally-placed private school children with disabilities may receive a different amount of services than children with disabilities in public schools.

(b) *Services provided in accordance with a services plan.* (1) Each parentally-placed private school child with a disability who has been designated to receive services under §300.132 must have a services plan that describes the specific special education and related services that the LEA will provide to the child in light of the services that the LEA has determined, through the process described in §§300.134 and 300.137, it will make available to parentally-placed private school children with disabilities.

(2) The services plan must, to the extent appropriate—

(i) Meet the requirements of §300.320, or for a child ages three through five, meet the requirements of §300.323(b) with respect to the services provided; and

(ii) Be developed, reviewed, and revised consistent with §§300.321 through 300.324.

(c) *Provision of equitable services.* (1) The provision of services pursuant to this section and



§§300.139 through 300.143 must be provided:

(i) By employees of a public agency; or

(ii) Through contract by the public agency with an individual, association, agency, organization, or other entity.

(2) Special education and related services provided to parentally-placed private school children with disabilities, including materials and equipment, must be secular, neutral, and nonideological.

§300.139 Location of services and transportation.

(a) *Services on private school premises.* Services to parentally-placed private school children with disabilities may be provided on the premises of private, including religious, schools, to the extent consistent with law.

(b) *Transportation—*(1) *General.* (i) If necessary for the child to benefit from or participate in the services provided under this part, a parentally-placed private school child with a disability must be provided transportation—

(A) From the child's school or the child's home to a site other than the private school; and

(B) From the service site to the private school, or to the child's home, depending on the timing of the services.

(ii) LEAs are not required to provide transportation from the child's home to the private school.

(2) *Cost of transportation.* The cost of the transportation described in paragraph (b)(1)(i) of this section may be included in calculating whether the LEA has met the requirement of §300.133.

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§300.140 Due process complaints and State complaints.

(a) *Due process not applicable, except for child find.* (1) Except as provided in paragraph (b) of this section, the procedures in §§300.504 through 300.519 do not apply to complaints that an LEA has failed to meet the requirements of §§300.132 through 300.139, including the provision of services indicated on the child's services plan.

(b) *Child find complaints—to be filed with the LEA in which the private school is located.* (1) The procedures in §§300.504 through 300.519 apply to complaints that an LEA has failed to meet the child find requirements in §300.131, including the requirements in §§300.300 through 300.311.

(2) Any due process complaint regarding the child find requirements (as described in paragraph (b)(1) of this section) must be filed with the LEA in which the private school is located and a copy must be forwarded to the SEA.

(c) *State complaints.* (1) Any complaint that an SEA or LEA has failed to meet the requirements in §§300.132 through 300.135 and 300.137 through 300.144 must be filed in accordance with the procedures described in §§300.151 through 300.153.

(2) A complaint filed by a private school official under §300.136(a) must be filed with the SEA in accordance with the procedures in §300.136(b).

§300.141 Requirement that funds not benefit a private school.

(a) An LEA may not use funds provided under section 611 or 619 of the Act to finance the existing level of instruction in a private school or to otherwise benefit the private school.

(b) The LEA must use funds provided under Part B of the Act to meet the special education and related services needs of parentally-placed private school children with disabilities, but not for meeting—

(1) The needs of a private school; or

(2) The general needs of the students enrolled in the private school.

§300.142 Use of personnel.

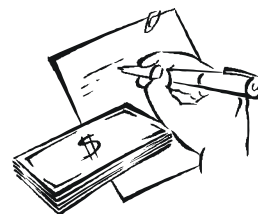
(a) *Use of public school personnel.* An LEA may use funds available under sections 611 and 619 of the Act to make public school personnel available in other than public facilities—

(1) To the extent necessary to provide services under §§300.130 through 300.144 for parentally-placed private school children with disabilities; and

(2) If those services are not normally provided by the private school.

(b) *Use of private school personnel.* An LEA may use funds available under sections 611 and 619 of the Act to pay for the services of an employee of a private school to provide services under §§300.130 through 300.144 if—

(1) The employee performs the services outside of his or her regular hours of duty; and



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(2) The employee performs the services under public supervision and control.

§300.143 Separate classes prohibited.

An LEA may not use funds available under section 611 or 619 of the Act for classes that are organized separately on the basis of school enrollment or religion of the children if—

(a) The classes are at the same site; and

(b) The classes include children enrolled in public schools and children enrolled in private schools.

§300.144 Property, equipment, and supplies.

(a) A public agency must control and administer the funds used to provide special education and related services under §§300.137 through 300.139, and hold title to and administer materials, equipment, and property purchased with those funds for the uses and purposes provided in the Act.



(b) The public agency may place equipment and supplies in a private school for the period of time needed for the Part B program.

(c) The public agency must ensure that the equipment and supplies placed in a private school—

(1) Are used only for Part B purposes; and

(2) Can be removed from the private school without remodeling the private school facility.

(d) The public agency must remove equipment and supplies from a private school if—

(1) The equipment and supplies are no longer needed for Part B purposes; or

(2) Removal is necessary to avoid unauthorized use of the equipment and supplies for other than Part B purposes.

(e) No funds under Part B of the Act may be used for repairs, minor remodeling, or construction of private school facilities.

Done.



The Bell's About to Ring...

Instructions: This is the closing activity in “Parentally-Placed Private School Children with Disabilities.” Time for a quick review. Work with a partner.

1. Define “equitable services.” Describe how they are determined. (*Consult your handouts on IDEA’s regulations at §§300.130 through 300.144, if necessary. Definitely check the regulations to make sure your definition is complete.*)
2. Representatives of *what 3 groups* must engage in “timely and meaningful consultation?”
3. Who is responsible for making decisions about, administering, and paying for equitable services to a parentally-placed child with disabilities when that child’s parents reside in another State or LEA—the LEA where the private school is located, or the LEA of the parents’ residence?
4. Name at least 3 things they must discuss. Can you name more? (*Check IDEA’s regulations at §300.134 to make sure you’ve been complete.*)
5. A parentally-placed private school child has been found to have a disability through the LEA’s child find system. That child is also a resident of an LEA on the other side of the State, not the LEA where the private school is located. Who is responsible for offering the child FAPE—the LEA of the child’s residence, or the LEA where the private school is located?
6. What’s a services plan?

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Bell's About to Ring...

- 7. May equitable services be provided on the premises of the private school? What provision within IDEA states this?
- 8. *True or false?* If equitable services are being provided by a private school teacher, that teacher doesn't have to meet IDEA's "highly qualified teacher" requirements.
- 9. Are home-schooled children with disabilities eligible to participate in the equitable services an LEA offers?
- 10. *Calculating the proportionate share.* Using the numbers below and the example from the slide today, calculate the proportionate share an LEA must spend on equitable services for parentally-placed private school children with disabilities.

Number of Eligible Children with Disabilities in the LEA

In public school: 475

In private school: 25

Federal flow-through dollars the LEA receives: \$225,000

Proportionate Share: _____

Example from the Slide

Number of Eligible Children with Disabilities in the LEA

In public school: 300

In private school: 20

Total 320

Federal Part B flow-through dollars the LEA receives: \$152,500

Calculating the Proportionate Share

\$152,500 divided by 320 = \$476.57

Multiplied by # of private school students w/disabilities x 20

\$9531.25

for proportionate share