




January 27, 2014

(X) ACTION REQUIRED
() INFORMATIONAL

TO: Local Educational Agencies
Public Agencies (providing educational services to children with disabilities)

CC: Public Charter School Board
Deputy Mayor of Education

FROM: Jesús Aguirre, Acting State Superintendent of Education 

RE: Individualized Education Program (IEP) Amendment Policy

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INTRODUCTION

The purpose of this Memorandum is to provide guidance and establish state-level parameters for utilizing the documented written agreement amendment modality to amend Individualized Education Programs (IEPs). It is the expectation of the Office of the State Superintendent of Education (OSSE) that all local educational agencies (LEAs) and public agencies serving students with disabilities adhere to this Policy when initiating, responding to, and documenting proposals for IEP amendments. This Policy is effective as of March 3, 2014.

MONITORING AND COMPLIANCE

The U.S. Department of Education's Office of Special Education Programs (OSEP) requires that every state education agency (SEA) monitor local educational agencies (LEAs) to ensure compliance with Part B of the Individuals with Disabilities Education Act (IDEA). A finding of LEA noncompliance by the Office of the State Superintendent of Education (OSSE) will result in corrective actions for each area of noncompliance and may result in the requirement to submit an improvement plan. OSSE may also recommend or require training and technical assistance for LEA staff when crafting corrective actions. All items of noncompliance shall, by federal law, be corrected within one year of the finding; sustained noncompliance by an LEA may result in sanctions that include potential withholding of Part B grant funding.¹ Consistent with the IDEA and its regulatory framework, all LEAs shall comply with monitoring requirements established annually by OSSE, which include the collection and submission of both quantitative and qualitative data that support monitoring for regulatory compliance and programmatic quality. Additionally, a subset of LEAs will be selected for OSSE's annual monitoring process. OSSE, in its role as SEA, ensures access to a free and appropriate public education (FAPE) by meeting with other public agencies providing education services to children with disabilities to review and discuss the delivery of special education services. If any noncompliance is identified during OSSE's review, the public agency will be asked to take corrective action, as appropriate.

¹ 34 C.F.R. §300.600(a)(3)



INDIVIDUALIZED EDUCATION PROGRAM (IEP) REVIEW AND REVISION

LEAs must ensure that the IEP Team reviews the student's IEP at least once annually,² to determine whether the annual goals for the student are being achieved. When appropriate, the IEP Team should review the IEP to address concerns related, but not limited to:

- Any lack of expected progress toward the annual goals,³ and in the general education curriculum, if appropriate;⁴
- The results of any reevaluation;⁵
- Information about the student provided to, or by, the parents;⁶ and
- The student's anticipated needs.⁷

IEP Teams must consider the following factors when developing, reviewing, and revising an IEP: the strengths of the student; the concerns of the parents related to enhancing the education of the student; the results of the initial or most recent evaluation of the student; and the academic, developmental, and functional needs of the student.⁸ When appropriate, the IEP Team must consider the following additional factors: the use of positive behavioral interventions, supports, and other strategies to address student behavior that impedes the student's learning or that of other students; the language needs of a student with limited English proficiency as those needs relate to the student's IEP; the appropriateness of instruction in Braille or the use of Braille for a student who is blind or visually impaired; the comprehensive language and communication needs of a student who is deaf or hard of hearing; and the use of assistive technology devices and services.⁹

IEP AMENDMENT PROCESS

A student's special education needs may change throughout the year. If it becomes necessary to make changes to a student's IEP after the annual IEP review occurs during the school year, changes to an IEP may be made by amending the relevant section of the IEP rather than by redrafting the entire IEP.¹⁰ Completion of an IEP amendment does not change, replace, or extend the current IEP annual review date. An IEP Team may amend an IEP by convening an IEP Team meeting to consider the proposed amendment. All IEP Team participation, documentation, and notice requirements apply when an LEA convenes an IEP Team meeting to consider a proposed amendment.¹¹ Alternatively, a parent of a child with a disability and the LEA 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 student's current IEP.¹² When a parent and LEA agree to proceed with an amendment through documented written agreement rather than convening an IEP Team meeting to consider the proposed amendment, the parent and LEA, per this Policy, must provide signature on the appropriate form indicating consent to proceed using the documented written agreement amendment modality.

² For information regarding IEP documentation requirements for compliance, please refer to the "IEP DOCUMENTATION REQUIREMENTS" section on pages 7 and 8 of the Individualized Education Program (IEP) Process Policy (August 30, 2011).

³ 34 C.F.R. §300.320(a)(2)

⁴ 34 C.F.R. §300.324(b)(1)(ii)(A)

⁵ 34 C.F.R. §300.303

⁶ 34 C.F.R. §300.305(a)(2)

⁷ 34 C.F.R. §300.324(b)(1)(ii)(D)

⁸ 34 C.F.R. §300.324(a)(1)

⁹ 34 C.F.R. §300.324(a)(2)

¹⁰ 34 C.F.R. §300.324(a)(6)

¹¹ 34 C.F.R. §300.321; OSSE Individualized Education Program (IEP) Process Policy (August 30, 2011)

¹² 34 C.F.R. §300.324(a)(4)(i)





AMENDMENT THROUGH DOCUMENTED WRITTEN AGREEMENT

The following parameters apply when a parent and LEA agree to amend an IEP through the documented written agreement modality (rather than convening an IEP Team meeting to consider the proposed amendment):

- I. LEAs may not revise a student's special education eligibility status through the documented written agreement amendment modality.
- II. LEAs may not revise a student's disability category through the documented written agreement amendment modality.
- III. LEAs may not revise a student's placement between a public and nonpublic setting or change location assignment through the documented written agreement amendment modality.
- IV. When proposing to revise types or amounts of specialized instruction or related services using the documented written agreement amendment modality, LEAs must provide the parent with written input from the appropriate related service provider or specialized instructor, utilizing the appropriate state-level form, regardless of which party initiates the proposed amendment. A parent who refuses or is nonresponsive to a request for signature indicating consent to the documented written agreement amendment modality is constructively requesting that the LEA convene an IEP Team meeting for the purposes of considering the proposed amendment. In such circumstances, the LEA must follow the same IEP Team participation, documentation, and notice procedures required for an annual IEP Team meeting.
- V. Amendments made through the documented written agreement amendment modality must include signatures from both the LEA representative and parent in order to be considered valid.
- VI. Finalized documentation must be uploaded in the Special Education Data System (SEDS) within five (5) business days of the completed written agreement.

DOCUMENTATION OF A PROPOSAL TO AMEND AN IEP

Either an LEA or a parent can propose to amend a student's IEP through an IEP Team meeting or the documented written agreement amendment modality. Regardless of which party proposes the amendment or what modality the amendment takes, the LEA must proceed by completing the following information in SEDS:

- Identification of the party initiating the amendment;
- A detailed description of the proposed amendment;
- Justification of why the amendment is appropriate;
- Written input from the related service provider or specialized instructor (when proposing to revise types or amounts of specialized instruction or related services using the documented written agreement amendment modality);
- Proposed modality of the amendment; and
- The response to and outcome of the proposal.

PROCEDURAL REQUIREMENTS

Regardless of the proposed amendment outcome, the LEA must provide prior written notice (PWN) to the parent every time the IEP Team decides to initiate a change or decides against making a change to the student's IEP.¹³ The PWN must be finalized in SEDS within five (5) business days of the amendment outcome. The parent

¹³ 34 C.F.R. §300.503(a)



must be provided with the PWN,¹⁴ a copy of the signed agreement, and a copy of the amended IEP with the amendments incorporated within a reasonable time before the LEA implements the change.

ADDITIONAL GUIDANCE

This memorandum supersedes all previous policy, memoranda, and guidance issued by the state educational agency (SEA) regarding this topic. Please direct any questions regarding the content of this document to OSSE, Division of Specialized Education at OSSE.DSEPolicy@dc.gov.

¹⁴ 34 C.F.R. §300.503(a)