



AUGUST 18, 2010

(X) ACTION REQUIRED
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TO: Chancellor, District of Columbia Public Schools (DCPS)
Public Charter School Board
Public Charter School Directors
Principals, DCPS

FROM: Kerri Briggs, Ph.D.
State Superintendent of Education

RE: Individualized Education Program (IEP) Process Policy

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INTRODUCTION

The purpose of this Memorandum is to assist local educational agencies (LEAs) with implementing the Part B requirements of the Individuals with Disabilities Education Act (IDEA) regarding individualized education programs (IEPs) for students with disabilities. It is the expectation of the Office of the State Superintendent of Education (OSSE) that all LEAs ensure that all appropriate IEP Team members participate in the IEP process to develop complete and valid IEPs.

IEP TEAM PROCESS AND FACTORS OF CONSIDERATION

The IEP process creates an opportunity for parents, teachers, LEA personnel, evaluators, and related services providers to pool their collective knowledge and expertise to ensure that students with disabilities are provided a free appropriate public education (FAPE) in the least restrictive environment (LRE). Together, IEP Team members design an effective educational program, enumerated in the IEP document, that results in the delivery of specialized instructional supports and related services to help a student with disabilities access the curriculum and make meaningful educational progress.

IEP Teams must consider the following factors when developing, reviewing, and revising an IEP: the strengths of the student; the concerns of the parents for 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.¹ When appropriate, the IEP Team must consider the following additional factors: the use of positive behavioral interventions, supports, and other strategies to address

¹ 34 C.F.R. §300.324(a)(1)

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.²

IEP TEAM COMPOSITION AND PARTICIPATION

For the purposes of this policy, the term *participation* is defined as an opportunity for an individual to attend an IEP Team meeting and provide input toward IEP Team consensus. The term *mandatory participant* refers to an individual who the LEA must ensure is included as a member of the IEP Team because he or she fulfills a team role explicitly identified by the IDEA.³ The term *additional participant* refers to an individual who does not fulfill a team role explicitly identified by the IDEA, but who may have relevant input based on knowledge or special expertise regarding the student to contribute toward IEP Team consensus.⁴ The term *input*, used in the context of an IEP Team meeting, refers to historical and current student data derived from familial, academic, or service-based interactions. In the context of IEP Team meetings, the opportunity to provide input is distinct from unilateral decision-making; decisions regarding eligibility or designation of special education and related services under Part B must be made through IEP Team consensus. The term *consensus*, used in the context of an IEP Team meeting, refers to broad agreement reached by a majority of IEP Team members.

Mandatory Participants

Parents of the student:⁵ Parents are important members of the IEP Team because, typically, they can offer unique insight regarding the student’s strengths and needs, interests, and learning style. Parents can also enhance the student’s overall learning experience by providing an educational structure within the family home that is consistent with and builds upon the skills and curriculum that the student is learning at school. To adequately facilitate parent participation, the LEA must notify parents of the meeting early enough to ensure that they will have an opportunity to attend and schedule the IEP Team meeting at a mutually agreed on time and place.⁶ If neither parent can attend an IEP Team meeting, the LEA must use other methods to ensure parent participation, including individual or conference telephone calls.⁷ A meeting may be conducted without parent participation if, after at least three attempts using multiple modalities, the LEA is unable to secure the parent’s agreement to attend.⁸

General education teacher of the student:⁹ The general education teacher is an important member of the IEP Team because he or she can serve as a primary resource for information regarding the general education curriculum, positive behavioral interventions and supports, strategies for annual goal attainment, and potential opportunities for

² 34 C.F.R. §300.324(a)(2)

³ 34 C.F.R. §300.321(a) and (b)

⁴ 34 C.F.R. §300.321(a)(7); 34 C.F.R. §300.321(c)

⁵ 34 C.F.R. §300.321(a)(1)

⁶ 34 C.F.R. §300.322(a)

⁷ 34 C.F.R. §300.328; 34 C.F.R. §300.322(c)

⁸ 34 C.F.R. §300.322(d); OSSE’s Part B Initial Evaluation/Reevaluation Policy (March 22, 2010)

⁹ The LEA must ensure that the IEP Team for each student with a disability includes not less than one regular education teacher of the student if the student is, or may be, participating in the regular education environment. 34 C.F.R. §300.321(a)(2)

inclusion both inside and outside of the classroom.¹⁰ A general education teacher's participation is especially important when the IEP Team is considering a change to the student's level of service.

Special education teacher of the student:¹¹ The special education teacher is an important member of the IEP Team because he or she can contribute both specific information regarding the individualized needs of the student, and more general information on how to educate students with disabilities based on past teaching experiences. The special education teacher may provide suggestions on how to modify the general curriculum, utilize supplementary aids and services, monitor student progress, and identify appropriate testing accommodations.

LEA representative: The LEA representative is an important member of the IEP Team because he or she is qualified to provide or supervise the provision of specially designed instruction to meet the unique needs of the student, is knowledgeable about the general education curriculum, and is knowledgeable about the availability of resources of the LEA.¹² The LEA representative is often the head administrator of the LEA's special education program or his or her designee. The LEA representative should have the authority to commit resources and ensure that the services designated in the IEP are provided. (Note: District Charters must invite a representative from DCPS to participate in the IEP Team meeting. DCPS must respond to the invitation by participating as the LEA representative or by designating an LEA representative at the District Charter to serve on its behalf.¹³)

Individual who can interpret the instructional implications of evaluation results:¹⁴ This individual is an important member of the IEP Team because he or she can accurately assess student's current level of performance, identify the student's areas of need, and make suggestions regarding appropriate strategies to address the needs. This individual's participation is especially important when the IEP Team is considering decisions regarding eligibility or a change to the student's educational program due to recent evaluation results.

Permitted Excusal of Mandatory Participants

Mandatory participants may be excused, in whole or in part, from the IEP Team meeting if the parent and the LEA agree, in writing, that the attendance of the participant is not necessary because the participant's area of the curriculum or related services is not being modified or discussed in the meeting.¹⁵ When the meeting involves a modification to or discussion of a mandatory participant's area of the curriculum or related services, the participant may be excused from attending the IEP Team

¹⁰ 34 C.F.R. §300.320(a)(4); 34 C.F.R. §300.324(a)(3)

¹¹ The LEA must ensure that the IEP Team for each student with a disability includes not less than one special education teacher of the student, or where appropriate, not less than one special education provider of the student. 34 C.F.R. §300.321(a)(3)

¹² 34 C.F.R. §300.321(a)(4)

¹³ District Charters are public charter schools that have elected the District of Columbia Public Schools (DCPS) as the LEA for special education purposes. DC ST §38-1802.02(19)

¹⁴ When appropriate, this participant role may be fulfilled by the general education teacher, special education teacher, LEA representative, a qualified evaluator, or related service provider. 34 C.F.R. §300.321(a)(5)

¹⁵ 34 C.F.R. §300.321(e)(1)

meeting, in whole or in part, only if the parent and the LEA consent to the excusal in writing and the participant submits written input into the development of the IEP prior to the IEP Team meeting.¹⁶ The LEA is responsible for ensuring that all written input is received prior to the IEP Team meeting, and that all the required documentation is included in the student's special education file in the Special Education Data System (SEDS).

Additional Participants

Additional participants are generally considered non-mandatory participants, but may become mandatory participants if the IEP Team meeting purpose includes specific topics such as: transition; discussion regarding a change to a specific special education service or related service; or discussion about services provided by a nonpublic school or specialized program outside the LEA. If any of these circumstances applies, the LEA must, with the consent of the parent when necessary, invite the following additional participants to the IEP Team meeting as appropriate.¹⁷

Student: Generally, a student should be invited to participate in the IEP Team meeting whenever he or she has input to provide, or whenever otherwise deemed appropriate by the IEP Team.¹⁸ The student becomes a mandatory participant if a purpose of the IEP Team meeting is to consider postsecondary goals for the student and the transition services needed to assist the student in reaching those goals.¹⁹ If the student does not attend the IEP Team meeting to discuss secondary transition, the LEA must take other steps to ensure that the student's preferences and interests are considered, such as allowing the student to submit written input to the IEP Team prior to the occurrence of the meeting.²⁰

Early childhood transition participant: In the case of a student 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.²¹

Secondary transition participant: If a purpose of the IEP Team meeting is to consider postsecondary goals for the student and the transition services needed to assist the student in reaching those goals, the LEA must, with the consent of the parents or a student who has reached the age of majority,²² invite a representative of Rehabilitation

¹⁶ 34 C.F.R. §300.321(e)(2)

¹⁷ The category of additional participants may also include individuals identified by the parent or the LEA as having knowledge or special expertise regarding the student who should be included as members of the IEP Team. 34 C.F.R. §300.321(c)

¹⁸ 34 C.F.R. § 300.321(a)(7)

¹⁹ IEP Team consideration of appropriate postsecondary goals and transition services for a student with a disability must begin no later than the first IEP to be in effect when the student turns 16 years old or sooner if determined appropriate by the IEP Team. 34 C.F.R. §300.320(b); 34 C.F.R. § 300.321(b)(1); 34 C.F.R. §300.322(b)(2)

²⁰ 34 C.F.R. § 300.321(b)(2)

²¹ 34 C.F.R. §300.321(f)

²² The age of majority in the District of Columbia is 18 years old. 5 DCMR 3023.1

Services Administration (RSA)²³ and any other participating agency that is likely to be responsible for providing or paying for postsecondary transition services.²⁴

Related service provider:²⁵ A related service provider's participation is important when the IEP Team is considering a change to the student's service hours. The LEA must invite the appropriate special education or related service provider to fulfill the mandatory role of the individual who can interpret the instructional implications of evaluation results if the proposed change to service hours is due to recent evaluation or assessment results in that specific service area.

LEA representative invited to nonpublic school IEP Team meeting: A nonpublic school, serving a District of Columbia student, must invite the LEA as a participant in the student's IEP Team meetings. At minimum, the LEA must participate in the first IEP Team meeting that occurs after the student transitions to the nonpublic school.²⁶ The LEA must participate in all subsequent IEP Team meetings to fulfill oversight and monitoring responsibilities associated with IDEA compliance,²⁷ or at minimum, designate an LEA representative at the nonpublic school or program to serve on its behalf.

PARTICIPATION THROUGH THE IEP AMENDMENT PROCESS

A student's special education needs may change throughout the year. If it becomes necessary to make changes to the IEP after the annual IEP Team meeting occurs during the school year, the IEP Team may decide to convene an IEP Team meeting to amend the IEP, or the parent and the LEA may agree to amend the student's current IEP through written agreement without an IEP Team meeting.²⁸

To amend the IEP through written agreement, the LEA and parent must complete the Standard IEP Amendment Form found in SEDS to indicate that both parties consent to amending the IEP without convening an IEP Team meeting.²⁹ A refusal of consent by either party, or parent non-responsiveness to an LEA's attempts to obtain parent agreement, constitutes a request that the IEP Team convene for the purposes of considering the proposed change. In such circumstances, the LEA must follow the same invitation and notice procedures required for an annual IEP Team meeting.

PROVISION OF APPROPRIATE NOTICE TO IEP TEAM MEMBERS

The LEA must provide prior written notice (PWN) to the parents every time the IEP Team decides to initiate a change or decides against making a change to the student's IEP.³⁰ The PWN must include.³¹

²³ OSSE's Secondary Transition Policy requires LEAs, with the consent of the parents or a student who has reached the age of majority, to invite a representative of Rehabilitation Services Administration (RSA) to an IEP Team meeting where secondary transition will be discussed. (January 5, 2010)

²⁴ 34 C.F.R. §300.321(b)(3)

²⁵ 34 C.F.R. §300.321(a)(3)

²⁶ DC ST §38-2561.06; 34 C.F.R. §300.325(a)

²⁷ 5 DCMR 3019.9

²⁸ 34 C.F.R. §300.324(a)(4)

²⁹ A parent may propose an IEP amendment by contacting the LEA. The LEA will respond to the parent's request by either consenting to the amendment through written agreement or by sending a letter of invitation to the parent to participate in an IEP Team meeting to discuss the proposed IEP amendment.

³⁰ 34 C.F.R. §300.503(a)

³¹ 34 C.F.R. §300.503(b)

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1. A description of the action proposed or refused by the LEA;³²
 2. An explanation of why the LEA proposes or refuses to take the action;
 3. A description of each evaluation procedure, assessment, record, or report the LEA used as a basis for the proposed or refused action;
 4. A statement that the parents of a student with a disability have protection under the Part B procedural safeguards;³³
 5. Resources for parents to contact to obtain assistance in understanding Part B of the IDEA;
 6. A description of other options that the IEP Team considered and the reasons why those options were rejected; and
 7. A description of other factors which are relevant to the LEA's proposal or refusal.

The PWN must be sent within a reasonable time³⁴ before the LEA implements the change.³⁵ The LEA must take whatever action is necessary to ensure that the parent understands the PWN, including arranging for translation.³⁶ LEAs must provide PWN to all IEP Team members, including the parent, following an amendment to an IEP.³⁷

IEP TEAM MEMBER DEMONSTRATION OF PARTICIPATION

IEP Team members demonstrate their participation in the IEP Team meeting by signing the IEP Meeting Participants Section of the IEP document. The signature of any participant, including the parents, does not constitute agreement or disagreement, in whole or in part, with the content of the resulting IEP document. Individual participant disagreement with the IEP Team consensus on any single issue does not prevent the IEP Team from proceeding with the IEP process as a whole or completing the IEP document.

IEP PROCESS COMPLETION AND DOCUMENTATION REQUIREMENTS

The IEP meeting type determines the scope and content that the IEP Team must review to complete the IEP process. For initial IEP Team meetings involving eligibility determinations, an IEP Team that makes a determination of eligibility must review all required sections of the IEP document (present levels of performance and annual goals by area of concern; special education and related services; least restrictive environment (LRE); classroom accommodations and state assessment participation; extended school year; and transition and behavior as appropriate). For annual IEP Team meetings, the IEP Team must review all current and new data to update and complete all required sections of the IEP and address any other concerns raised by the parent or other IEP Team members. For IEP Team meetings held to discuss changes to the IEP proposed after the annual IEP Team meeting occurs during the school year,³⁸ the IEP Team must review, at minimum, all items identified in the Standard IEP Amendment Form and/or any corresponding letter of invitation.

³² The proposal considered may be a change the identification, evaluation, or educational placement of the student or the provision of FAPE to the student.

³³ If the PWN is not an initial referral for evaluation, the notice must also include the means by which a copy of a description of the procedural safeguards can be obtained.

³⁴ The determination of what constitutes a reasonable amount of time is made on a case by case basis. The term "reasonable" generally means without undue delay and within a timeframe that does not interfere with a student's rights to receive FAPE.

³⁵ 34 C.F.R. §300.503(a)

³⁶ 34 C.F.R. §300.503(c)

³⁷ 34 C.F.R. §300.324(a)(4)(ii)

³⁸ An IEP Team meeting to discuss proposed changes to the IEP, after the annual IEP Team meeting occurs during the school year, is held when either the parent or the LEA does not agree to amending the IEP through

Once the IEP Team has reviewed and come to a consensus on all required items according to meeting type, the IEP Team must complete each required section (including the documentation of all eligibility and service decisions). The resulting finalized draft of the IEP and all corresponding documentation must be captured in or uploaded to SEDS within 5 business days of the IEP Team meeting (or completion of the IEP Amendment Process as appropriate). All LEAs are required to update student files in SEDS regularly throughout the school year; all new information must be captured or uploaded to SEDS within 5 business days of receipt.³⁹ Upon receiving a new student, an LEA must verify that the student's entire record is complete in SEDS; if the student's record is incomplete, the LEA must take all appropriate steps to obtain any missing documentation and upload the documentation to SEDS within 5 business days of the student's enrollment.

The IEP document is considered complete and valid once all of the following requirements have been met: the LEA invited all mandatory and appropriate additional IEP members to participate in the IEP Team meeting; the IEP Team reviewed and completed all required sections of the IEP; the LEA finalized the IEP draft and fulfilled all notice requirements; and the LEA uploaded all IEP documentation to SEDS within the appropriate timeframe.

The terms set forth in an IEP are not invalidated, in whole or in part, by disagreement from any participant, including the parent. A parent who disagrees with an IEP Team decision regarding the student's eligibility, evaluation, placement, or terms of service may challenge the decision by exercising the rights afforded to all parents under the procedural safeguards. A parent may refuse to provide consent for the initial provision of services, or revoke previously provided consent at any time if disagreement about services arises after the initial provision of services.⁴⁰ A parent who revokes consent for Part B services does so fully for all special education and related services listed on the student's IEP.

ADDITIONAL GUIDANCE

This memorandum supersedes all previous policy, memorandum, and/or guidance promulgated by the State Educational Agency (SEA). Please direct any questions regarding the content of this document to **Grace Chien, LEA Policy and Charter Implementation Specialist, at (202) 741-5098 or by email at Grace.Chien@dc.gov.**

the IEP Amendment Process, or when the IEP Team meeting purpose involves discussion of placement into a nonpublic school or program.

³⁹ LEAs must regularly update documentation in SEDS to ensure timely transfer of student records. 34 C.F.R. §300.323(g)

⁴⁰ 34 C.F.R. §300.9(c)(1); 34 C.F.R. §300.300(b)(4)