

Division of Special Education/Early Intervention Services

Individualized Educational Program (IEP) Process

The reauthorized Individuals with Disabilities Education Act (IDEA) was signed into law on December 3, 2004, by President George W. Bush. The provisions of the Act are effective July 1, 2005 with the exception of some elements of the definition of “highly qualified teacher” that took effect upon the signing of the Act. This is one in a series of documents, prepared by the Division of Special Education/Early Intervention Services, Maryland State Department of Education (MSDE) that cover a variety of high-interest topics to support local school systems, local Infants and toddlers Programs, and other public agencies in preparing to implement the new requirements. This document only addresses the changes in the provisions regarding the Individualized Educational Program (IEP) process and document that take effect on July 1, 2005. It does not address any changes that may be made in the final federal regulations or potential changes to State statutes or regulations.

IEP Team Members

1. How has IEP Team membership changed with the reauthorization of IDEA 2004?

The membership of an IEP Team is essentially the same except for two changes. IDEA 1997 stated:

- At least one general education teacher (if the child is, or may be participating in the general education environment); and
- “At least one special education teacher or when appropriate, at least one special education provider.”

IDEA 2004 now states:

- Not less than one general education teacher (if the child is, or may be participating in the general education environment); and

- Not less than one special education teacher or when appropriate, not less than one special education provider.

In addition, the definition of parent has been expanded. In Sec. 602(23) of the new statute defines a parent as:

(A) a natural, adoptive, or foster parent of a child (unless a foster parent is prohibited by State law from serving as a parent);

(B) a guardian (but not the State if the child is a ward of the State);

(C) an individual acting in the place of a natural or adoptive parent (including a grandparent, stepparent, or other relative) with whom the child lives, or an individual who is legally responsible for the child's welfare; or

(D) except as used in sections 615(b)(2) and 639(a)(5), an individual assigned under either of those sections to be a surrogate parent.

[Sec. 602(23); Sec. 614(d)(1)(B)]

2. When may an IEP team member not attend an IEP team meeting?

A member of the IEP Team 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 local school system agree that attendance is not necessary because the member's area of curriculum or related services is NOT [emphasis added] being modified or discussed. The agreement of the parent and the local school system shall be in writing.

[Sec. 614(d)(1)(C)(i) and (iii)]

3. When may an IEP Team member be excused from an IEP Team meeting?

A member of the IEP Team 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 service, if:

- The parent and the local school system consent to the excusal of the IEP team member; and
- The member submits, in writing to the parents and the team, his/her input into the development of the IEP prior to the meeting.

The consent of the parent and local school system excuse an IEP team member

shall be in writing.

[Sec. 614(d)(1)(C)(ii) and (iii)]

4. What is included in IDEA 2004 provisions regarding alternative means of meeting participation?

When conducting IEP team meetings and placement meetings, the parent of a child with a disability and a local educational agency may agree to use alternative means of meeting participation, such as video conferences and conference calls.

[Sec. 614(f)]

IEP Development

5. What must the IEP team consider when developing an IEP for a student with a disability?

In developing each child's IEP, the IEP team, shall consider the:

- Strengths of the child;
- Concerns of the parents for enhancing the education of their child;
- Results of the initial evaluation or most recent evaluation of the child; and
- Academic, developmental, and functional needs of the child.

The IEP Team shall consider the following special factors:

- 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;
- In the case of a child with limited English proficiency, consider the language needs of the child as such needs relate to the child's IEP;
- 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;
- 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

- Consider whether the child needs assistive technology devices and services.

[Sec. 614(d)(3)(A) and (B)]

6. Is an IEP team required to meet each time the parent and/or the local school system wants to make a change in the IEP?

The IDEA 2004 states that when 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 local school system may agree **not** to convene an IEP team meeting for the purposes of making such changes, and instead may develop a written document to amend or modify the child's current IEP.

Changes to the IEP may be made either by the entire IEP team or by amending the IEP rather than redrafting the entire IEP. Upon request, a parent shall be provided with a revised copy of the IEP with the amendments incorporated.

[614(d)(3)(D) and (F)]

7. How should a local school system implement the changes relative to IEP team meetings and membership participation as a result of the reauthorization of IDEA?

As a result of the above changes, the following questions need to be considered by the LEA when developing local policies and procedures.

- When can an IEP be amended outside of a formal IEP Team Meeting?
- Who in the LEA is authorized to commit the resources of the LEA to implement any amendments to the IEP that are made outside of a formal IEP Team meeting?
- What internal process will be used when amendments are made to the IEP outside of a formal IEP Team meeting?
- What process will be established for informing all individuals working with the child regarding IEP amendments made outside of a formal IEP Team meeting?
- What information is necessary and required to document parental consent for

the amendments and that local processes were followed?

- What is the impact on parental rights when amending/modifying the IEP outside of a formal IEP Team meeting?

IEP Content

8. What must a student's IEP include with regard to present levels of academic and functional performance?

A student's IEP shall include 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;
- for preschool children, as appropriate, how the disability affects the child's participation in appropriate activities; and
- for children with disabilities who take alternate assessments aligned to alternate achievement standards, a description of benchmarks or short-term objectives.

[Sec. 614(d)(1)(A)(i)(I)]

9. What must a student's IEP include with regard to measurable annual goals, including academic and functional goals?

A student's IEP shall include 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; and
- meet each of the child's other educational needs that result from the child's disability.

While IDEA 2004 states that short-term objectives are not required for students who do not take alternate assessments, in Maryland, local education agencies must continue to include long-term goals and short-term objectives for all students with disabilities under IDEA.

[Sec. 614(d)(1)(A)(i)(II); COMAR 13A.05.01.09A(1)(b)]

10. What must a student's IEP include with regard to reporting to his/her parents?

The IEP shall include a description of how the child's progress toward meeting the annual goals will be measured and 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.

[Sec. 614(d)(1)(A)(i)(III)]

11. What must a student's IEP include with regards to special education, related services and supplementary aids and services?

The IEP shall include a statement of the special education, 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 for the child--

- to advance appropriately toward attaining the annual goals;
- to be involved in and make progress in the general education curriculum and to participate in extracurricular and other nonacademic activities; and
- to be educated and participate with other children with disabilities and nondisabled children in the activities described in this subparagraph.

These special education, related services, and supplementary aids and services must also include the projected date for the beginning of the services and modifications and the anticipated frequency, location, and duration of those services and modifications.

[Sec. 614(d)((1)(A)(i)(IV) and (VII)]

12. What must be included in a student's IEP regarding participation with nondisabled peers in general education?

The IEP shall include an explanation of the extent, if any, to which the child will not participate with nondisabled children in the regular class and will not be educated with and participate with other students with disabilities and nondisabled students.

[Sec. 614(d)((1)(A)(i)(V)]

13. Does the IEP continue to require a statement of the individual accommodations required to be provided in order for a student to participate in State or districtwide assessments?

The IEP shall include 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. If the IEP Team determines that the child shall take an alternate assessment on a particular State or districtwide assessment of student achievement, a statement of why:

- The student cannot participate in the regular assessment; and
- The particular alternate assessment selected is appropriate for the child;

[Sec. 614(d)((1)(A)(i)(VI)]

14. When will Transition Planning begin for a student with disabilities?

Transition Planning will continue to begin at age 14 for a student with a disability in compliance with COMAR 13A.05.01.09A (3). Not later than the first IEP to be in effect when the student is 16, the IEP shall include appropriate measurable postsecondary goals based upon age appropriate transition assessments related to:

- Training;
- Education;
- Employment;
- Independent living skills, where appropriate; and
- The transition services (including courses of study) needed to assist the student in reaching those goals.

[Sec. 614(d)(1)(A)(i)(VIII); COMAR 13A.05.01.09A(3)]

IEP PROCESS

15. What added responsibilities does the IEP Team have for convening the initial IEP team meeting to determine Part B eligibility and develop the initial IEP?

IDEA 2004 requires that in the case of a child previously served under Part C, an invitation to the initial IEP meeting shall, 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. IDEA 2004 also requires that In developing the initial IEP, the IEP Team shall consider the IFSP. In addition, IDEA 2004

indicates that the IFSP may serve as the IEP of the child if using that plan as the IEP is consistent with State policy, and is agreed to by the local school system and the child's parents.

Current Maryland policies and procedures for transition from Part C to Part B and other community-based services require that for children eligible for Part B, the IEP is in effect by the child's third birthday and, therefore, do not permit the child's IFSP to serve as the IEP. Local policies and procedures for transition from Part C to Part B must be revised to reflect these changed requirements.

[Sec. 614(d)(1)(D); Sec. 614(d)(2)(B); Sec. 636]

16. What is the process for IEP implementation and record transmittal for children who transfer from a school district?

Transfer within the same state

In the case of a child with a disability who transfers school districts within the same academic year, who enrolls in a new school with an IEP that was in effect in the same state, the local education agency shall:

- provide the child with a free appropriate public education that includes services comparable to those described in the previously held IEP, in consultation with the parents until the local education agency adopts the previously held IEP; or
- develops, adopts, and implements a new IEP that is consistent with federal and state law.

To facilitate the transition for a child who transfers within the same state, the new school in which the student enrolls shall take reasonable steps to promptly obtain the student's records from the previous school including:

- The IEP and supporting documents; and
- Any other records relating to the provision of special education or related services to the child

Transfer outside the state:

In the case of child with a disability who transfers school districts within the same academic year, who enrolls in a new school with an IEP that was in effect in another state, the local education agency shall:

- provide the children with a free appropriate public education that includes services comparable to those described in the previously held IEP, in consultation with the parents until the local education agency (LEA) conducts an evaluation pursuant to subsection (a)(1), if determined necessary by the

- LEA; and
- develops a new IEP if appropriate, that is consistent with federal and state law.

To facilitate the transition for a child who transfers outside the state, the previous school in which the child was enrolled shall take reasonable steps to promptly respond to such requests from the new school.

[614(d)(2)(C)]

17. What is the Multi-Year IEP Demonstration and will MSDE be submitting a proposal to participate in the pilot program?

The Secretary of Education can grant up to 15 states the option to offer comprehensive multi-year IEPs of not more than three years in length. States must submit proposals to participate. Participation in the multi-year IEP demonstration is optional for parents. Other statutory requirements for the multi-year IEPs include certain required elements and an annual review procedure. Two years after the enactment of the IDEA, the secretary submits annual reports to Congress regarding the effectiveness of the program, including the reduction of paperwork and non instructional time for teachers, and improving positive outcomes for children with disabilities. MSDE plans to submit a proposal to participate in this pilot program.

[Sec. 614(d)(5)]

18. Does IDEA 2004 address whether any additional information is required to be included within the IEP or repeated within the IEP?

The statute states that nothing shall be construed to require an IEP team to include:

- additional information in a student's IEP beyond what is explicitly required; and
- information under one component of a student's IEP that is already contained under another component.

[Sec. 614(d)(1)(A)(ii)]

For more information, call 410-767-0858

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