

## **Division of Special Education/Early Intervention Services**

# **Native Language**

**1. How does the Individual with Disabilities Education Act (IDEA) and the Code of Maryland Regulations (COMAR) define “native language?”**

When used with respect to an individual who is limited English proficient, “native language” means the following:

- The language normally used by that individual, or, in the case of a child, the language normally used by the parents of the child.
- In all direct contact with a child (including evaluation of the child), the language normally used by the child in the home or learning environment.
- For an individual with deafness or blindness, or for an individual with no written language, the mode of communication is that normally used by the individual (such as sign language, Braille, or oral communication).

The definition of native language ensures that the full range of needs of children with disabilities whose native language is other than English is appropriately addressed. The definition clarifies that in all direct contact with the child (including an evaluation of the child), native language means the language normally used by the child and not that of the parents, if there is a difference between the two. The definition also clarifies that for individuals with deafness or blindness, or for individuals with no written language, the native language is the mode of communication that is normally used by the individual (such as sign language, Braille, or oral communication).

[20 U.S.C. §1401(20); 34 C.F.R. §300.29; COMAR 13A.05.01.03B(45)]

## **2. Has the U. S. Department of Education provided additional guidance on this issue?**

On September 4, 2007 OSEP issued a letter in response to an inquiry from school system administrator regarding whether or not a written translation of a student's IEP was required under IDEA. In the response OSEP stated, "There is no requirement in IDEA or in its accompanying regulations that all IEP documents must be translated. The statute and its accompanying regulations, however, do contain a number of provisions relevant to the IEP process and translations. Under IDEA, consent means the parent has been fully informed of all information relevant to the activity for which consent is sought, in his or her native language, or other mode of communication. See 34 CFR §300.9. The parent must understand, and agree in writing, to the carrying out of the activity for which his or her consent is sought; and the written consent form must describe the activity and list any records that may be released and to whom. The parent also must understand that consent is voluntary and may be revoked at any time. Revocation, however, is not retroactive."

OSEP also stated that, "A 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 who read in their native language, providing the parents with written translations of the IEP documents may be one way for a school district to demonstrate that the parent has been fully informed of their child's educational program. If, however, the parents are unable to read in their native language, written translations may not show that the parent was fully informed. In those instances, the school district should ensure that there is another mechanism in place to make certain that these parents are fully informed of all relevant information about the activity to which they are consenting."

[OSEP Letter to Boswell, September 4, 2007]

## **3. What documents or documentation are required to be provided in an individual's native language?**

The IDEA and COMAR require that each public agency ensure that the following are provided to an individual in his or her native language or other mode of communication, unless it is clearly not feasible to do so:

- Parental consent for evaluation;
- Parental consent for initiation of special education services;
- Parental consent to excuse an Individualized Education Program (IEP) team member from an IEP team meeting when the member's area is being modified or discussed;
- Prior written notice whenever a public agency proposes or refuses to initiate or change the identification, evaluation, or educational placement of the student, or the provision of FAPE

to the student;

- Notice that fully informs parents of the requirements regarding the confidentiality of personally identifiable information;
- Notice of Procedural Safeguards; and
- Assessment or other evaluations of a child.

A public agency shall maintain written documentation that these requirements have been met. Consistent with § 300.503(c) and § 300.504(d), the prior written notice and the procedural safeguards notice, respectively, must be written in language understandable to the general public and be provided in the native language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so.

Section 300.304(c)(1)(ii), requires that assessments and other evaluation materials used to assess a child be provided and administered in the child's native language or other mode of communication and in the form most likely to yield accurate information on what the child knows and can do, unless it is clearly not feasible to so provide or administer.

[20 U.S.C. §§1414(b)(3)(A)(ii); 1414(d)(1)(C)(ii); 34 C.F.R. §§ 300.9; 300.29; 300.321(e)(2); 300.503(c); 300.504 (d); 300.612(a)(1);

**4. Are public agencies required to provide a child's IEP in the parents' native language or other mode of communication?**

Public agencies are required to take whatever action is necessary to ensure that the parent understands the proceedings at a meeting, including arranging for an interpreter for a parent with deafness or whose native language is other than English. IDEA and COMAR do not require that the IEP be written in an individual's native language.

[OSEP Letter to Boswell, September 4, 2007]

**5. What are the national practices regarding the translation of a child's IEP into the parent's native language?**

The determination as to whether or not to translate a child's IEP into the parent's native language is left to the discretion of each state or local school system.

- The California education code requires local school systems to provide a copy of a child's completed IEP in the native language of the parent, upon request.
- The Los Angeles Unified School District is under a consent decree that specifies a timeframe within which the translation of student IEPs are provided to parents following their request for a translated IEP.

- In speaking with a coordinator of special education for the Los Angeles Unified School District (LAUSD) on December 10, 2008, the LAUSD consent decree outcome #15 requires the timely completion of future translations. The coordinator shared the following:
  - Last year LAUSD spent over \$500,000 for translations;
  - The LAUSD’s vendor-based IEPs are electronically translated into Spanish on their IEP program;
  - All other languages need to be translated;
  - For each translation LAUSD is charged by the word;
  - The average cost for the translation of other languages is \$2500 per IEP;
  - If a parent cannot read, then an interpreter is also required to attend the meeting as well as translating the IEP. This is an additional cost for the district since these services are contracted out.
  
- New Mexico provides a Spanish version of a blank IEP template to local school systems.
  
- The New York City Department of Education (NYDE), Chancellor Regulation A-663 requires each NYDE school and office to provide translation and interpretation services to parents who require assistance. Specifically, schools are to provide parents with a “translation of any document that contains individual, student- specific information regarding, but not limited to, a student’s: health; safety; legal or disciplinary matters; and entitlement to public education or placement in any special education, English language learner or non-standard academic program.”
  
- The NYDE Translation and Interpretation Unit provides written translation services for all internal offices, including the Office for Special Education. The documents that are processed through the Unit are generic in nature (e.g., brochures, manuals, flyers, letters) and are directed to all parents. Student-specific documents, such as an IEP, are translated within the resources available at the schools or the local Special Education offices, not the Translation and Interpretation Unit.
  
- Texas state law requires local school systems to provide to a non-English speaking parent an audio or written translation of their child’s IEP.
  
- In Utah, local school districts and charter schools are required to provide interpreter and translation services for parents at registration, IEP meetings, parent-teacher conferences, and student disciplinary meetings.

**6. Do local school systems collect data on the language spoken in a student’s home?**

As part of the Student Records Manual, Personal Data, each local school system is to report the language spoken in the student’s home on Student Record Card 1 (SR1).

**7. What are current practices within local school systems relative to how interpreters are used to communicate with parents/guardians, and the procedures used to ensure parents are fully informed, in their native language about the content of their child's IEP?**

The Division of Special Education/Early Intervention Services surveyed local directors of special education, local infant and toddler program directors, local preschool coordinators and Maryland nonpublic special education schools to identify current policies and practices for translating student IEPs. See attached survey results.

**8. What options are available to meet the need to ensure parents understand their child's IEP and the proceedings of IEP team meetings?**

On June 20, 2007 the State Board of Public Works approved contracts to provide foreign language interpretation services. These services are available to state and local agencies. The services include:

- Onsite interpretation (Lionbridge Global Solutions II, Inc.) 1-800-42306756 x4046;
- Written document translation (Schreiber Translations, Inc.) 1-301-424-7737x131; and
- Telephone interpretation services (CTS LanguageLink) 1-877-963-7466.

These services are available 24-hours per day, 7 days per week, and 365 days per year in 14 identified core language. Services are also available in other languages. The 14 core languages are:

- Amharic
- Arabic
- Chinese
- French
- Gujarati
- Haitian
- Hindi
- Korean
- Portuguese
- Russian
- Spanish
- Tagalog
- Urdu
- Vietnamese

If a vendor is on a state contract and is ready to take on the expanded role, the agency is to provide details of the role in writing to the vendor with a request for a price quote. If the price quoted is consistent with the rates established in the state contract, the agency may issue a requisition to encumber funds to pay for the services.

**9. What will the Division of Special Education/Early Intervention Services do to assist parents who speak a native language other than English?**

The t the request of the State Board of Education, the Division of Special Education/Early Intervention Services will:

- Translate the Statewide IEP form into 15 languages;
  - Translate the Individualized Family Service Plan (IFSP) form into 15 languages;
  - Provide public agencies blank consent forms in 15 languages;
  - Provide public agencies the Prior Written Notice form in 15 languages; and
  - Revise the Special Services Information System (SSIS) to annually collect data on the native language or mode of communication used by parents of students with disabilities.
- The 15 languages include Polish and the 14 core languages listed in question #8.

For more information, call 410-767-0242

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