

OSEP Leadership Conference



Building the Legacy: IDEA 2004



August 28-30, 2006

Washington, D.C.

Individualized Education Programs Evaluations and Reevaluations



U.S. Department of
Education
Office of Special
Education Programs

Building the Legacy: *IDEA* 2004



Introduction

- Topics for breakout sessions were selected by OSEP because each highlights critical implementation issues under the IDEA 2004 Statute and Regulations
- Presentation will track the Topic Briefs (TB page-paragraph)

Introduction

Referenced Topic Briefs are:

- A. Individualized Education Program (IEP) Team Meetings and Changes to the IEP
- B. IEP
- C. Changes in Initial Evaluation and Reevaluation

Key Issues

- IEP Team meeting attendance
- Contents of IEP
- Students who transfer
- Parental consent
- Timelines for evaluations

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

NPRM

IEP Team Attendance

IEP Team member's curriculum area or related service not being modified or discussed: member not required to attend, in whole or in part, if parent and public agency agree, in writing, that attendance is not necessary

34 CFR 300.321(e)(1);
Section 614(d)(1)(C)(i)

NPRM

IEP Team Attendance (*cont.*)

IEP Team member's curriculum area or related service being modified or discussed, member may be excused, in whole or in part, if:

- Parent, in writing, and the public agency consent to excusal; ***and***
- Member submits, in writing to parent and IEP Team, input into development of IEP prior to the meeting

34 CFR 300.321(e)(2);
Section 614(d)(1)(C)(ii)

Public Comments

IEP Team Attendance

Commenters requested clarification of the IEP Team members to whom the provisions of 34 CFR 300.321(e)(1) and (2) apply

Final Regulation

IEP Team Attendance

(TBA 2-2)

Change: Clarify that they apply to members of the IEP Team described in 34 CFR 300.321(a)(2) through (a)(5) (special education teacher or provider, regular education teacher, public agency representative, individual who interprets instructional implications of evaluation)

34 CFR 300.321(e)(1) and (2)

NPRM

Changes after annual meeting

- In making changes after annual IEP meeting for a school year, parent and public agency may agree NOT to convene an IEP meeting to make those changes, and instead may develop a written document to amend or modify the IEP

Public Comments

Changes after annual meeting

- Commenters indicated that if the IEP was changed without an IEP meeting, it was important that personnel responsible for implementing the IEP be informed

Final Regulation

Changes after annual meeting (TBA 4-11)

Change: Requires that if changes are made to an IEP without an IEP meeting, the public agency must ensure that the child's IEP Team is informed of the changes

34 CFR 300.324(a)(4)

Individualized Educational Program (IEP)

Final Regulation

Content of IEPs

(TBB 1-1)

Present levels now require “A statement of the child’s present levels of *academic achievement and functional performance...*”

34 CFR 300.320(a)(1);
Section 614(d)(1)(A)(i)(I)

Final Regulation

Content of IEPs

(TBB 1-1)

Benchmarks or short-term objectives are required *only for children with disabilities who take alternate assessments aligned to alternate achievement standards*

34 CFR 300.320(a)(2)(ii);
Section 614(d)(1)(A)(i)(I)(cc)

Final Regulation

Content of IEPs

(TBB 2-1)

A statement of any individual *appropriate* accommodations necessary to *measure the academic achievement and functional performance* of the child on State and districtwide assessments...

34 CFR 300.320(a)(6);
Section 614(d)(1)(A)(i)(VI)(aa)

Final Regulation

Content of IEPs

(TBB 2-1)

If IEP Team determines the child must take an alternate assessment, 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)(6);
Section 614(d)(1)(A)(i)(VI)(bb)

Final Regulation

Secondary Transition

(TBB 2-2)

- Must include transition-related goals and services no later than first IEP in effect when student turns 16, or younger if appropriate
- Requirement for statement of secondary transition service needs beginning at age 14, or younger, **was deleted** from the Act and regulations

34 CFR 300.320(b)(1);
Section 614(d)(1)(A)(i)(VIII)

Final Regulation

Secondary Transition (*cont*)

(TBB 2-2)

- IEP Transition Content:
 - Appropriate measurable postsecondary goals, based upon age-appropriate transition assessments; and
 - Transition services—including courses of study—needed to assist the student in reaching those goals.

34 CFR 300.320(b)(1);

Section 614(d)(1)(A)(i)(VIII)(aa) and (bb)

Final Regulation

Transfer Between Public Agencies (TBB 3-5)

- IEP implementation and FAPE for children with disabilities who transfer from one public agency to another:
 - In the same State;
 - From another State
- Transmittal of records for transfers

34 CFR 300.323(e)-(g);
Section 614(d)(2)(C)

Changes in Initial Evaluation and Reevaluation

NPRM

Consent for Initial Evaluation

Proposed regulation 34 CFR 300.300(a)(3): if consent for initial evaluation is not provided, the public agency may, but is not required to, pursue initial evaluation by utilizing Part B's procedural safeguards (hearing and/or mediation)

Public Comments

Consent for Initial Evaluation

One commenter recommended prohibiting public agencies from pursuing initial evaluation without parent consent; another recommended requiring public agencies to take such action

Final Regulation

Consent for Initial Evaluation

Proposed provision retained

New: Adds a provision that the public agency does not violate obligations to locate, identify and evaluate the child (under 34 CFR 300.111 and 300.301 through 300.311) if it does not pursue initial evaluation in those circumstances

34 CFR 300.300(a)(3)(i) and (ii);
Section 614(a)(1)(D)(ii)(I).

Final Regulation

Consent for Initial Evaluation

If child is a ward of state, not residing with parent, the public agency not required to obtain informed parental consent for initial evaluation if--

- Despite reasonable efforts, the public agency cannot discover parent's whereabouts; or

34 CFR 300.300(a)(2);
Section 614(a)(1)(D)(iii)

Final Regulation

Consent for Initial Evaluation

- Parent's rights are terminated under State law; or
- Judge subrogates parent's rights to make educational decisions and consent for initial evaluation is given by an individual appointed by judge to represent the child

34 CFR 300.300(a)(2);
Section 614(a)(1)(D)(iii)

NPRM

Children Home Schooled or Parentally Placed in Private School

Proposed regulations silent on authority and responsibility of public agency if the parent of a child home schooled or a child placed and funded by parents in a private school do not consent to an initial evaluation

Public Comments

Children Home Schooled or Parentally Placed in Private School

Many commenters recommended clarifying that a public agency may not override lack of parent consent for initial evaluation for child who is home schooled or placed in a private school by the parents at their own expense

Final Regulation

Children Home Schooled or Parentally Placed in Private School

New: If parents of a child who is home schooled or placed and funded in a private school by the parents, does not consent to an initial evaluation, the public agency:

- May not use procedural safeguards to override lack of consent; and

34 CFR 300.300(d)(4)

Final Regulation

Children Home Schooled or Parentally Placed in Private School

- Not required to consider child eligible for services under Part B provisions regarding parentally-placed children in private schools

34 CFR 300.300(d)(4)

Public Comments

Consent for Reevaluation

Several commenters recommended allowing public agencies to use due process procedures to override parent's refusal to consent to reevaluation

Final Regulation

Consent for Reevaluation

New: If parent refuses to consent to reevaluation, the public agency--

- May, but not required to, pursue reevaluation by using procedural safeguards (hearing or mediation); and

34 CFR 300.300(c)(1)(ii)

Final Regulation

Consent for Reevaluation

Does not violate obligations under child find and evaluation and reevaluation provisions if it declines to pursue the reevaluation

34 CFR 300.300(c)(1)(iii)

Final Regulation

Timeline

(TBC 1-2)

Initial evaluation must be conducted within:

- 60 days of receiving parental consent for the evaluation; or
- The timeframe established by the State, if the State has established such a timeframe

34 CFR 300.301(c);
Section 614(a)(1)(C)(i)

Final Regulation

Timeline (*cont.*)

(TBC 1/2-2)

Evaluation timeframe does not apply if:

- Parent repeatedly fails or refuses to produce child for evaluation; or
- Child enrolls in another public agency after timeframe has begun, and prior to determination of eligibility by child's previous public agency

34 CFR 300.301(d);
Section 614(a)(1)(C)(ii)

Final Regulation

Timeline (*cont*)

(TBC 2-2)

Exception to timeframe applies only if subsequent public agency is making progress to ensure prompt completion of evaluation, and parent and subsequent public agency agree to specific time when evaluation will be completed

34 CFR 300.301(e);
Section 614(a)(1)(C)(ii)

Web Resources

- National Secondary Transition Technical Assistance Center
<http://www.nsttac.org>
- For information regarding facilitated IEP meetings:
<http://www.directionservice.org/CADRE/facilitatediep.cfm>

Regional Implementation Planning Meetings

What implementation issues and challenges on this topic should be addressed at the *IDEA* Regional Implementation Planning Meetings?

- January 30 and 31, 2007
 - *Washington, D.C.*
- February 12 and 13, 2007
 - *Los Angeles, California*
- February 15 and 16, 2007
 - *Kansas City, Missouri*

For More Information

Please go to
<http://idea.ed.gov>

for resources on *IDEA*
2004 Final Regulations



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IEPs, IEP Team and Changes to the IEP, Changes to Initial Evaluations and Reevaluations

Implementation Challenges?