

IDEA REGULATIONS

INDIVIDUALIZED EDUCATION PROGRAM (IEP)

(See also Individualized Education Program (IEP) Team Meetings and Changes to the IEP, Statewide and Districtwide Assessments and Secondary Transition)

The reauthorized *Individuals with Disabilities Education Act (IDEA)* was signed into law on Dec. 3, 2004, by President George W. Bush. The provisions of the act became effective on July 1, 2005, with the exception of some of the elements pertaining to the definition of a “highly qualified teacher” that took effect upon the signing of the act. The final regulations were published on Aug. 14, 2006. This is one in a series of documents, prepared by the Office of Special Education and Rehabilitative Services (OSERS) in the U.S. Department of Education that covers a variety of high-interest topics and brings together the regulatory requirements related to those topics to support constituents in preparing to implement the new regulations.¹ This document addresses significant changes from preexisting regulations to the final regulatory requirements regarding IEPs.

IDEA Regulations

1. Revise general requirements for the content of IEPs.

As used in Part 300, the term individualized education program or IEP means a written statement for each child with a disability that is developed, reviewed, and revised in a meeting in accordance with 34 CFR 300.320 through 300.324, and that must include:

- A statement of the child's present levels of academic achievement and functional performance...
- A statement of measurable annual goals, including academic and functional goals designed to:
 - o 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
 - o Meet each of the child's other educational needs that result from the child's disability;
- For children with disabilities who take alternate assessments aligned to alternate achievement standards, a description of benchmarks or short-term objectives;

¹ Topics in this series include: Alignment With the *No Child Left Behind (NCLB) Act*; Changes in Initial Evaluation and Reevaluation; Children Enrolled by Their Parents in Private Schools; Discipline; Disproportionality and Overidentification; Early Intervening Services; Highly Qualified Teachers; Identification of Specific Learning Disabilities; Individualized Education Program (IEP) Team Meetings and Changes to the IEP; Individualized Education Program (IEP); Local Funding; Monitoring, Technical Assistance and Enforcement; *National Instructional Materials Accessibility Standard (NIMAS)*; Part C Amendments in *IDEA 2004*; Part C Option: Age 3 to Kindergarten Age; Procedural Safeguards: Surrogates, Notice and Consent; Procedural Safeguards: Mediation; Procedural Safeguards: Resolution Meetings and Due Process Hearings; Secondary Transition; State Complaint Procedures; State Funding; and Statewide and Districtwide Assessments. Documents are available on the *IDEA* Web site at: <http://IDEA.ed.gov>.

- A description of:
 - o How the child's progress toward meeting the annual goals described in 34 CFR 300.320(a)(2) will be measured; and
 - o 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;
- A statement of the special education and 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...
- 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 consistent with section 612(a)(16) of the Act; and if the IEP Team determines that the child must take an alternate assessment instead of a particular regular State or districtwide assessment of student achievement, 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)] [20 U.S.C. 1414(d)(1)(A)(i)]

2. Revise requirements for the content of IEPs relating to transition services.

Beginning not later than the first IEP to be in effect when the child turns 16, or younger if determined appropriate by the IEP Team, and updated annually thereafter, the IEP must include:

- Appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills; and
- The transition services (including courses of study) needed to assist the child in reaching those goals.

[34 CFR 300.320(b)] [20 U.S.C. 1414(d)(1)(A)(i)(VIII)(aa) and (bb)]

3. Clarify requirements regarding transfer of rights.

Beginning not later than one year before the child reaches the age of majority under State law, the IEP must include a statement that the child has been informed of the child's rights under Part B of the Act, if any, that will transfer to the child on reaching the age of majority under 34 CFR 300.520.

[34 CFR 300.320(c)] [20 U.S.C. 1414(d)(1)(A)(i)(VIII)(cc)]

4. Include a rule of construction regarding the content of IEPs.

Nothing in 34 CFR 300.320 shall be construed to require:

- That additional information be included in a child's IEP beyond what is explicitly required in section 614 of the Act; or
- The IEP Team to include information under one component of a child's IEP that is already contained under another component of the child's IEP.

[34 CFR 300.320(d)] [20 U.S.C. 1414(d)(1)(A)(ii)]

5. Set forth requirements for IEPs when children with disabilities transfer from one public agency to another.

If a child with a disability (who had an IEP that was in effect in a previous public agency in the same State) transfers to a new public agency in the same State, and enrolls in a new school within the same school year, the new public agency (in consultation with the parents) must provide a free appropriate public education (FAPE) to the child (including services comparable to those described in the child's IEP from the previous public agency), until the new public agency either:

- Adopts the child's IEP from the previous public agency; or
- Develops, adopts, and implements a new IEP that meets the applicable requirements in 34 CFR 300.320 through 300.324.

[34 CFR 300.323(e)] [20 U.S.C. 1414(d)(2)(C)(i)(I)]

If a child with a disability (who had an IEP that was in effect in a previous public agency in another State) transfers to a public agency in a new State, and enrolls in a new school within the same school year, the new public agency (in consultation with the parents) must provide the child with FAPE (including services comparable to those described in the child's IEP from the previous public agency), until the new public agency:

- Conducts an evaluation pursuant to 34 CFR 300.304 through 300.306 (if determined to be necessary by the new public agency); and
- Develops, adopts, and implements a new IEP, if appropriate, that meets the applicable requirements in 34 CFR 300.320 through 300.324.

[34 CFR 300.323(f)] [20 U.S.C. 1414(d)(2)(C)(i)(II)]

To facilitate the transition for a child described in 34 CFR 300.323(e) and (f):

- The new public agency in which the child enrolls must take reasonable steps to promptly obtain the child's records, including the IEP and supporting documents and any other records relating to the provision of special education or related services to the child, from the previous public agency in which the child was enrolled, pursuant to 34 CFR 99.31(a)(2) [Family Educational Rights and Privacy Act regulations regarding conditions under which prior consent is not required to disclose information]; and

- The previous public agency in which the child was enrolled must take reasonable steps to promptly respond to the request from the new public agency.

[34 CFR 300.323(g)] [20 U.S.C. 1414(d)(2)(C)(ii)]