Setting Goals . . . Achieving Results

Nebraska IEP Technical Assistance Guide

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Julia Allen	Cindy Brunken	Sheri Cherney	Jeremy Christiansen
Glenda Davis	Linda Douglas	Mary Ells	Rhonda Fleischer
Rhonda Gdowski	Rita Hammitt	Frank Hebenstreit	Tanya Hilligoss
Kathy Huff	Don Loseke	Carol McClain	Stacy McDaniel
Jeremy Murphy	Teri Ourada	Kathy Peterson	Mary Phillips
Kris Reckewey	Susan Safarik	Gary Sherman	Ellen Stokebrand
John Street	Jill Weatherly	Beth Wierda	

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Preface

This guidebook was written to assist teachers, parents, and other professionals involved in the IEP process. The development and implementation of an IEP for a student can be a daunting task and this document is intended to make that task easier. It provides practical information as well as information about best practices. It guides individuals through the IEP process by reviewing the requirements of the law, determining why those requirements are important and deciding how each requirement can best be implemented.

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SETTING GOALS…ACHIEVING RESULTS

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BACKGROUND INFORMATION

The Individuals with Disabilities Education Improvement Act of 2004 (IDEA), reauthorized on December 3, 2004, is federal legislation that was initially passed in 1975 as the Education for All Handicapped Children Act (Public Law 94-142) to ensure all children with disabilities receive a free appropriate public education (FAPE) that meets their unique needs. This legislation is also supported by the Nebraska Special Education Act and its implementing regulations (Title 92, Nebraska Administrative Codes, also known as Rule 51).

An important tool in achieving the mission and goals of the Nebraska Department of Education, Office of Special Education is the Individualized Education Program (IEP) written for each child or youth with a disability. Once a child is identified as a child with a disability who needs special education services, a meeting must be held to develop an initial IEP, as the child must have a current IEP to receive special education services.

The Individualized Education Program (IEP) is defined as a written statement for each child or youth with a disability that describes their educational program and is developed, reviewed, revised, and implemented in accordance with special education laws and regulations. Each IEP is a vital document, for it spells out, among other things, the special education and related services each child or youth will receive.
The IEP model is based on the following:

FOUNDATION 1

The IEP is a process and a product that documents that the child is receiving a Free Appropriate Public Education (FAPE) consistent with all State and Federal requirements.

The IEP is the document that describes the services a child needs in order to receive educational benefit. The IEP is a working document that must meet legal requirements and provide guidance for the day to day instruction. It serves as a concise summary of the child's needs, goals, supports and services. The IEP team must ensure that all components of the specially designed program are linked and implemented as described.

FOUNDATION 2

The IEP reflects the child and family's vision for the future.

Each child's IEP is based on the hopes, dreams, insights and expectations of the child and family with input from educators. A vision helps the IEP team focus on the whole child and his or her strengths and needs. It provides common ground for dialogue to occur among the child, family, and educators. It guides the child's program and the standards used to prioritize needs. The IEP is also used to design a program that meets the

unique needs of the child and prepares him or her for the future and adult life.

FOUNDATION 3

To the maximum extent appropriate, children with disabilities are educated with children who do not have disabilities.

Schools are responsible for providing an appropriate educational environment for each child. For a child with disabilities, the determination of the appropriate education environment is based on the individual needs of the child and must address the legal requirements described as the "least restrictive environment (LRE)". Planning educational services for each child with a disability begins with the assumption that the general education environment is the appropriate place to educate all children. The general education environment also includes the locations where all children participate in nonacademic and extracurricular activities. For preschool children, the general education environment or natural environment includes locations in the home and community where young children of similar age, without disabilities, participate in activities.

FOUNDATION 4

Development of the IEP is a collaborative process.

The development of the IEP is a collaborative process. Collaboration among IEP team members is essential to ensure that each child's educational experience is a success. All members of the IEP team are equal partners. The opinions of all team members are valued and encouraged. Participants offer suggestions, listen carefully, encourage others, and ask questions. Equality and respect are extended to all team members. Because of their long-term perspective and unique relationship with the child, parents and other family members bring a valuable understanding of the child to the table. Children also know themselves well and often can express their own needs, strengths, and interests better than anyone else. With this in mind, educators must continue to recognize their responsibility to maintain and enhance partnerships throughout the school year with parents and children in order to create a collaborative and supportive environment at the IEP meeting.

FOUNDATION 5

The IEP team develops a child's IEP with high expectations based on the child's capabilities, strengths, needs and interests, including involvement and progress in the general education curriculum.

Children have greater success when they have access to the general education curriculum, when they are provided the assistance necessary to progress in the general education curriculum, and when educators hold high expectations for them. IEP teams must hold high expectations for all children and must ensure access to the general education curriculum to the maximum extent appropriate. To accomplish this, the IEP team must identify the special education and related services,

supplementary aids and services, assistive technology, modifications, and assistance for educators that are needed to ensure the child's involvement and progress in the general education curriculum.

FOUNDATION 6

The IEP process involves on-going progress monitoring and decision making. Decision making is solution focused, based on the child's needs, and used to improve results for the child.

The IEP represents a plan for specially designed instruction and services to meet the unique needs of the child. This instruction is most effective when guided by feedback that involves continuous progress monitoring. Progress monitoring is needed to provide objective information and to make instructional decisions. The decision making process is focused on improved results for the child and relates to progress in the general education curriculum. Decisions should be based upon the ongoing collection of data, analysis of the child's performance over time, and in response to the results of educational interventions. The data collected from progress monitoring should serve as a communication tool for all members of the IEP team.

PREPARING FOR THE IEP

IEP Team Membership

Training Module website:

http://www.nichcy.org/Laws/IDEA/Pages/module12.aspx

The Parents

The parents of a child or youth with a disability must be members of the IEP team. The parents are equal participants along with school personnel in developing, reviewing, and revising the IEP for their child. Parents provide critical information about their child's abilities, interests, preferences, and history. They are involved in the decision-making process throughout the development of the IEP. Parents participate in the discussion about their child's need for special education, related services and supplementary aids and services. Parents join with the other IEP team participants to decide how their child or youth will be involved and progress in the general education curriculum. Parents discuss with other IEP team participants how their child will participate in state and district-wide assessments.

In order to achieve better results for children with disabilities, it is critical to strengthen the role of parents, and to provide a means for parents and school staff to work together in a cooperative manner. Parents' concerns, the information they provide, and their vision for the future of their child must be considered in developing and reviewing their child or youth's IEP.

For more information regarding ways parents can prepare for their child's IEP, contact Parent Training and

information for families of Children with Disabilities (PTI)
website address: www.pti-nebraska.org.
e-mail: info@pti-nebraska.org

The Child or Youth

Generally, a child or youth with a disability should attend his/her IEP meeting, particularly if the parent decides it is appropriate for the child to attend. If possible, the school district and parents should discuss the appropriateness of the child or youth's participation before a decision is made. This discussion should help the parents determine whether or not the student's attendance will be helpful in developing the IEP and if the student's attendance will be beneficial.

Prior to the IEP meeting, the student is provided with instruction regarding what an IEP is and how to participate in a meaningful way in the IEP development. The student for whom the IEP is being developed should be a part of the planning for his/her own education.

The student must be invited to attend his/her own IEP meeting beginning at age 16, or younger, if a purpose of the meeting is consideration of the student's postsecondary goals and the transition services needed to assist the student in reaching those goals. If the student elects not to participate, the IEP team must take other steps to ensure that the student's preferences and interests are considered in developing the IEP.

Federal law permits but does not require states to transfer parental rights to a youth with disabilities who has reached the age of majority. (The age of majority in Nebraska is nineteen.) Nebraska has not implemented this provision. Therefore, regardless of the youth's age, a parent (or person meeting the definition of "parent") must be included in the IEP meeting.

The Special Education Teacher(s) or Provider(s)

Not less than one of the child/youth's special education teachers/providers is required to participate in the IEP meeting; however, it may be appropriate for more than one to attend. The special education teacher/provider participating in a child's IEP meeting is the person who likely will be responsible for implementing the IEP. The special education teacher/provider can be either (1) a teacher qualified to provide special education in the child's area of disability, or (2) another special education provider such as a speech-language pathologist, physical or occupational therapist. For a child verified with a hearing impairment, an educator endorsed to teach a child with hearing impairments must be an IEP team participant (NAC 92 NAC 51.007.03A11). For a child verified in the category of visual impairments, an educator endorsed to teach a child with visual impairments must be an IEP team participant (92 NAC 51.007.03A12).

Sometimes more than one meeting is necessary to finalize a student's IEP. In this process, if the special education teacher who will work with the student is identified, it is useful to have that particular teacher participate in the meeting with the parents and other members of the IEP team in finalizing the IEP. If this is not possible, the school district should ensure the teacher

is given a copy of the student's IEP as soon as possible after the IEP is finalized and before the teacher begins working with the child.

The General Education Teacher(s)

Not less than one general education teacher or provider is required to participate in the IEP meeting, if the student is, or may be, participating in the general education environment. This must be a teacher or provider who is or may be working with the student to ensure success in the general education curriculum and implement portions of the IEP. The general education teacher or provider is knowledgeable about the curriculum, appropriate activities of typically developing peers, and how the student's disability affects the student's participation (involvement and progress) in the general education curriculum or those appropriate activities.

If the student has several general education teachers, at least one must attend the IEP meeting. However, it may be appropriate for more than one to attend. The school may designate which teacher or teachers will serve as IEP team member(s), taking into account the best interests of the student. The general education teacher, as a member of the IEP team, shall, to the extent appropriate, participate in the development, review and revision of the IEP of the child or youth. This includes assisting in the determination of appropriate positive behavior interventions and supports, and other strategies, and the determination of supplementary aids and services, program modifications, and support for school personnel to enable the student to participate in the general education curriculum. The student's IEP must be accessible to each general education teacher who is responsible for its implementation. Due to the emphasis on involvement and progress in the general education curriculum, general education teachers have an increasingly critical role in implementing, together with special education and related services personnel, a free appropriate public education (FAPE) for children with disabilities. (92 NAC 51 007.03A2a)

The General Education Teacher for Early Childhood

The involvement of the general education teacher is also important in considering the review and development of an IEP for children ages 3 through 5 receiving early childhood special education services:

- If a school district provides early education programs or services to typically-developing children, or if a

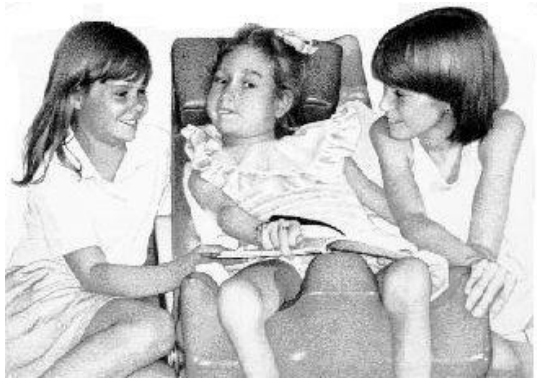
preschool child with disabilities is enrolled in an early childhood program for typically developing children operated by the school district, the early childhood teacher has the same requirement to attend the IEP meeting as for school age children.

- If a school district does not provide early education programs or services to typically developing children, the school district must designate a teacher to attend the IEP meeting who, under NDE Rule 11, is qualified to serve typically-developing children of the same age.

- If the child is enrolled in an early childhood program for typically developing children that is not operated by the school district, the school is required to invite the preschool teacher, but has no authority to require his/her attendance.

- For children 3-5 served in a homebase setting with a primary service provider model, the general education teacher may be a teacher of typically developing children or a childcare provider.

- If a school district makes kindergarten available to typically developing children, a kindergarten teacher could appropriately be the general education teacher who would participate in an IEP meeting for a kindergarten-aged child who is, or may be, participating in the general education environment.



The Representative of the School District

The representative of the school district must be a member of the IEP team. There are three requirements of the representative. The school district representative or designee:

- is qualified to provide or supervise provision of special education services;
- has knowledge of the general education curriculum; and
- is knowledgeable about the availability of the school's resources.

Each school district determines the specific staff member to serve as the school district representative in a particular IEP meeting, so long as the individual meets these requirements. The representative must have the authority to commit district resources and be able to ensure that whatever services are described in an IEP will actually be provided.

A Person Who Can Interpret Instructional Implications of Evaluation Results

A person who can interpret instruction implications of any new evaluation or assessment results must also be a member of the IEP team. This may include individuals who participated on the Multidisciplinary Evaluation Team. Certainly a school psychologist, a special education teacher/provider, general education teacher, speech/language pathologist, or other related service provider might need to interpret evaluation results and provide instructional implications.

Other Persons Invited at the Discretion of Parents or School District

The child or youth's parents and the school district may invite other persons who have knowledge or special expertise regarding the child or youth. The determination of who has knowledge or special expertise regarding the child is made by the party (parents or school) who invited the individual to be a member of the IEP team. Therefore, the other party may not bring into question the expertise of an individual invited to be a member of the IEP team and may not exclude another team member's expertise based on the amount or quality of their expertise. Although parents are not required to do so, the school may ask the parent to inform them of the individuals they are bringing. The person who contacts the parents may wish to ask them if they intend to bring other people to be sure that the room is adequate for the number of participants.

Although other individuals may be invited to the IEP meeting, this does not mean attendance at the IEP meeting is open to the public. There is no provision for denying the participation of individuals such as representatives of teacher organizations or attorneys at IEP meetings but they must have knowledge or special expertise about the child or youth. The interests of the child or youth should be the central focus of the meeting, not the interests of the school or a specific teacher. The presence of a representative of a teachers' organization on behalf of a teacher would be inappropriate. Attorneys are not barred from IEP meetings, but they must possess knowledge and expertise regarding the child or youth to warrant their participation. The participation of attorneys at IEP meetings is discouraged if their participation could create an adversarial atmosphere, which would not be in the best interest of the child or youth.

Other Agency Representatives for Transition Planning

For a youth age 16 or older with a disability, the IEP team will consider the transition services of the youth. The IEP team must determine, to the extent appropriate, any other public agency that must be invited to the IEP meeting because they are likely to be responsible for providing or paying for transition services. Individual youth needs, strengths, interests, and preferences determine the need and appropriateness of representation of outside agencies.

Consent from the parent is required when inviting outside agencies to ensure the protection of confidentiality of any personally identifiable data, information and records

collected or maintained by the school. Although the school has the responsibility to invite (after receiving parent consent) individuals from other agencies, the school district does not have the authority to require the other agency representatives to attend the IEP meeting. Input should be received prior to the meeting if the agency representative cannot attend.

Representative of Part C Services

When conducting an initial IEP team meeting for a child who is transitioning from an IFSP to an IEP, a school, at the request of the parent, shall send an invitation to the local Part C services coordinator. The services coordinator is present to assist with the smooth transition of early childhood services.

Multiple Roles

Individuals may represent more than one of the membership roles on the IEP team if s/he meets the individual qualifications for each role at the IEP team meeting. Individuals assuming more than one role at an IEP team meeting should document their roles on the signature page of the IEP. Although there is no legal minimum number of participants in IEP team meetings, the number of participants should be reasonable and appropriate to address the needs of the child or youth and to carry out the intent of the law.

IEP Attendance and Excusals

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 school agree, in writing, that the attendance of the IEP team member is not necessary because the member's area of the curriculum or related services is not being modified or discussed in the meeting.

A required 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 services, if:

- The parent, in writing, and the school district consent to the excusal; and
- The IEP team member submits, in writing to the parent and other team members, input into the development of the IEP prior to the meeting

Informed parental consent means that the school must provide the parent with appropriate and sufficient information to ensure that the parent fully understands that they are consenting to excuse a required IEP team member from attending an IEP team meeting in which the member's area of the curriculum or related services is

being changed or discussed. If the parent does not consent to the excusal, the IEP team meeting must be held with that IEP team member in attendance.

Excusals through written agreement or consent apply only to required IEP team members. If an individual who is not a required IEP team member is invited to attend a meeting, it is not required for the parent and school to consent and/or provide written agreement to excuse that individual.

Based on the individual needs of the child or youth and the issues that need to be addressed at the IEP team meeting, schools are encouraged to carefully consider whether it makes sense to hold the IEP team meeting without a particular IEP team member in attendance. In some cases it may be better to reschedule the meeting so that each person could attend and participate in the discussion. Each school district should consider developing a policy indicating who will be designated as the local representative who has the authority to consent to the excusal of an IEP member.

Notice of the IEP Meeting

A meeting to develop an IEP for a child or youth must be held within thirty (30) calendar days of a determination that the child qualifies for special education and related services. The school must take steps to ensure that one or both parents are present at each IEP meeting or are otherwise afforded the opportunity to participate in the IEP meeting. The meeting must be scheduled at a mutually agreed upon time and place. The school must provide written notice of an IEP meeting to the parents for the initial IEP meeting and any subsequent IEP meetings.

If parents are divorced, regardless of which parent has primary custody, the school must notify both parents unless a court order precludes this from happening. This applies to all special education notice requirements including notice of an IEP meeting. If the school is only aware of one parent's address, the school must make reasonable efforts to locate the other parent in order to provide notice.

Beginning at age 16, or younger, the student must be invited to attend and participate in the IEP team meeting if a purpose of the meeting is consideration of the student's postsecondary goals or transition services. The school is required to invite the student to the IEP meeting even if the student's parents do not want their youth to attend. However, because parents have authority to make educational decisions for their youth, the parents make the final determination of whether their student will attend the meeting. (92 NAC 51 007.03A10)

Content of Notice of IEP Meeting

The written notice must indicate:

a. The purpose of the meeting;
b. The date of the meeting;
c. The time of the meeting;
d. The location of the meeting;

e. The titles or positions of the persons who will attend on behalf of the school (The school must notify the parents about who will be in attendance at an IEP team meeting, however, individuals may be indicated by position only).
f. Inform the parents of their right to invite to the IEP meeting individuals who the parents believe to have knowledge or special expertise about their child or youth; and
g. Inform the parent that if their child was previously served in the infant and toddler program (Part C) they may request that the local Part C coordinator or other representative be invited to participate in the initial IEP meeting to ensure a smooth transition of services.

In addition, beginning not later than the first IEP to be in effect when the student turns 16, or younger, if determined appropriate by the IEP team;

h. Indicate that the purpose of the meeting is the consideration of the postsecondary goals and transition services;
i. Indicate that the school will invite the child or youth; and
j. Identify any other agency that will be invited, with parent consent, to send a representative.

Methods to Ensure Parent Participation

IEP team meetings are to be scheduled at a mutually agreed upon time and place. The school should work with the parent to reach an amicable agreement about when the meeting should be scheduled.

The school must take whatever action is necessary to ensure that the parents understand the proceedings at the IEP team meeting, including arranging for an interpreter for parents who are deaf or whose native language is other than English.

If neither parent is able to physically attend the IEP team meeting, the parent and the school may agree to use alternative means of participation, such as videoconferences and individual or conference telephone calls.

If the parents are unable to meet prior to the annual review date of the IEP and request that the current IEP be extended for a short period of time, the school may honor their request and document why the IEP has not been reviewed and when the IEP will be reviewed and revised. This situation should not be a common practice. To avoid this issue, it is best to schedule IEP meetings far enough in advance of the annual review date to allow for rescheduling, if necessary.

Each parent must be provided a final copy of the IEP at no cost.

Conducting the IEP Meeting Without the Parent

A school may conduct an IEP team meeting without the parent(s) in attendance if the school, despite repeated attempts, has been unable to contact the parents to arrange for a mutually agreed upon time or to convince the parents that they should participate. The school must keep a record of attempts to arrange a mutually agreed on time and place to secure the parents' participation. The record shall include at least one of the following:

- Detailed records of telephone calls made or attempted, including the date, time, person making the calls, and the results of those calls;
- Detailed records of visits made to the parents' home or place of employment, including the date, time, person making the visit, and the results of the visits;
- Copies of correspondence sent to the parents and any responses received; and
- Detailed records of any other method attempted to contact the parents and the results of each attempt.

Districts are encouraged to use their judgment about what constitutes a good-faith effort in making repeated attempts to involve each family in the IEP process. At minimum, school districts should make multiple attempts, using various methods, to involve the parents in the IEP team meeting.

The IEP Meeting

Training Module website:

http://www.nichcy.org/Laws/IDEA/Pages/module14.aspx

The IEP meeting is the mechanism used by the IEP team to discuss and make decisions regarding specially designed instruction and related services for children or youth with disabilities. The meeting to develop an IEP must be held within thirty calendar days of a determination that the child or youth needs special education and related services. The product of the IEP meeting is the IEP document which is a written record that reflects the discussion and decisions of the IEP team. The IEP document includes measurable annual goals, including academic and functional goals that are based on the child or youth's unique needs and should support the student's progress in the general curriculum. An IEP meeting must be convened at least annually to review and revise the student's goals based on progress made towards attainment of the goals.

Every effort should be made to begin the IEP meeting on time. The conference room should be arranged to facilitate parent participation and effective communication among IEP team members.

It is a good idea to prepare and distribute an IEP meeting agenda (in the order topics will be discussed) in advance to organize the proceedings, to encourage participation, and to ensure that all required topics are discussed. An agenda will help maximize the use of available time and enable the IEP team to keep the discussion focused. A copy of the most recent eligibility report or IEP, progress reports, and assessment results for the Present Level of Academic and Functional Performance (PLAAFP) should be available for review at the IEP meeting.

Sample IEP Meeting Agenda

1. Introduce IEP team participants; and document their participation
2. Provide procedural safeguards and discuss parents rights and responsibilities
3. Explain purpose of meeting
4. PLAAFP
5. Discussion of special factors
6. Transition needs
7. Develop measureable annual goals, including academic and functional goals
8. Determine needed accommodations and modifications
9. Determine special education and related services and supplementary aids and support for school personnel
10. Determine placement in Least Restrictive Environment

Concluding the IEP Meeting

In concluding the IEP meeting the IEP team should:

- Identify the activities that are to be completed before the next IEP meeting;
- Summarize the goals with the participating child or youth, when appropriate, to explain his/her responsibilities in the process;
- Anticipate the date and purpose of the next conference or meeting, and
- Identify strategies for ongoing communication among participants.

The person chairing the meeting should:

- Copy and distribute the IEP documents as appropriate so that the persons responsible for implementing the IEP and the parents receive a full copy of the IEP. The copies should be distributed either at the conclusion of the conference or as soon as possible following the conclusion of the meeting. Parents who speak a language other than English may receive a complete copy of the IEP in their native language.

  A person should be appointed to explain the contents of the IEP to those persons responsible for implementing the IEP but who were absent from the IEP meeting.

- If a functional behavioral assessment was conducted and a behavioral intervention plan was developed, this plan should be provided to all staff members who have interactions with the student. This includes staff members responsible for discipline and security.

Annual Review of the IEP

The IEP is to be reviewed at least once every 12 months, to determine whether the annual goals for the child or youth are being achieved and to revise the IEP as appropriate. The review and revision of the IEP is to address:

- Any lack of expected progress toward the annual goals and in the general education curriculum, where appropriate;
- The results of any reevaluation conducted;
- Information provided by the parent regarding the child or youth;
- The student's anticipated needs; or other matters.

Amending the IEP

At an annual IEP team meeting, changes to the IEP are to be made by the entire IEP team. However, between annual IEP reviews, if the parent and school representative agree, changes can be made without an IEP team meeting by amending the IEP rather than by rewriting the entire IEP. School districts are encouraged to develop and implement a policy indicating who has the authority to amend the IEP without a meeting.

In amending a child or youth's IEP, the parents and the school representative may agree not to convene an IEP team meeting for the purpose of making those changes, and instead may develop a written document to amend or modify the current IEP. There are no restrictions on the types of changes that may be made as long as the parent and the school representative agree to make the changes without an IEP team meeting. If changes are made to the IEP without a meeting, the school must ensure that the IEP team is informed of those changes. The parent must be provided with a revised copy of the IEP with the amendments incorporated.

Specific day-to-day adjustments in instructional methods and approaches that are made by either a general or special education teacher/provider to assist a student with a disability to achieve his/her annual goals do not require action by the IEP team.

Request by Parent or School Staff for IEP Meeting

Although the school is responsible for determining when it is necessary to conduct an IEP meeting, the parents of a child or youth with a disability have the right to request an IEP meeting at any time. The district should grant reasonable requests for IEP meetings.

The student's teacher or other school staff may also propose an IEP meeting if they feel the IEP has become inappropriate for the student and revision should be considered.

When Must the IEP be in Effect?

An IEP must be developed within 30 calendar days of a determination that the child needs special education and related services. As soon as possible following development of the IEP, special education and related services must be made available to the child in accordance with the IEP.

The school is required to ensure that an IEP is in effect at the beginning of each school year for each child or youth with a disability.

For a child who is transitioning from Part C (birth to age 3) services to Part B 619 (ages 3-5) services, the school is required to ensure that:

- The child continues to be eligible to receive special education and related services and
- An IEP is in effect by the child's 3rd birthday or by August 31st of the year the child turns three if the parents of a child elect to remain on an IFSP.

In the case of a child with a disability age three through five, an IFSP may serve as the IEP for the child if using that plan is agreed to by the school district or approved cooperative and the child's parents. The school district or approved cooperative shall:

- Provide the child 's parents a detailed explanation of the differences between an IFSP and an IEP, and
- If the parents choose an IFSP, obtain written informed consent from the parents.

The school district continues to be responsible for services to infants and toddlers until August 31 following their 3rd birthday.

A representative of the district should participate in early childhood transition planning conferences arranged by the Part C program.

TRANSFER WITHIN THE STATE AND FROM OUT-OF-STATE

Transmittal of Records

When a child or youth moves into a new school district, the school district must take reasonable steps to promptly obtain the records from the previous school district in which the child or youth was enrolled. This includes the IEP, supporting documents and any other records

relating to the provision of special education or related services to the child or youth. The previous school district in which the child was enrolled must take reasonable steps to promptly respond to the request from the new school district. (34 C.F.R. 300.323 (e) (f) (g) Since this is a transfer of educational records from the youth's old district to the new district no consent for release of documents is required.

Within Nebraska

When a child or youth with a disability with a current IEP in the previous school district in Nebraska transfers to a new school district in Nebraska, and enrolls within the same school year, the new school district (in consultation with the parents) must provide FAPE to the child or youth. This includes services comparable to those described in the student's IEP from the previous school district until:

The new school district either

- adopts the IEP from the previous school district; or
- develops and implements a new IEP that meets applicable requirements.

Out-of-State

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

- Conducts an evaluation pursuant to Section 006 and
- Develops and implements a new IEP, if appropriate, that meets the requirements of 92 NAC 51-007

If there is a dispute between the parent and the school district regarding what constitutes comparable services, the dispute could be resolved through mediation procedures, or as appropriate, the due process hearing procedures.

DEVELOPING THE IEP: PUTTING THE PIECES TOGETHER

Contents of the IEP

Training Module website:

http://www.nichcy.org/Laws/IDEA/Pages/module13.aspx

State and federal law require that the IEP contain specific components. These components include:

- A statement of the student's present level of academic achievement and functional performance;
- A statement of measurable annual goals, including academic and functional goals;
- A description of how the student's progress toward meeting the annual goals will be measured and when periodic reports on the progress the student is making toward meeting the annual goals will be provided to the parents;

- A statement of the special education and related services and supplementary aids and services which will be provided to the student;
- An explanation of the extent, if any, to which the student will not participate with nondisabled children or youth in the regular class;
- A statement of the individual accommodations that are necessary to measure the academic achievement and functional performance of the student on state and district-wide assessments (and if the IEP team determines that the student will take an alternate assessment, a statement of why the student cannot participate in the regular assessment.)

All of these pieces fit together like a puzzle. If any one piece is missing, the IEP team will have an incomplete picture of a student's educational program. When all of the pieces are put together, the complete picture will assist the child or youth to progress in the general education curriculum and will meet his or her individual needs.

Special Factors for the IEP Team to Consider

An IEP that promotes challenging expectations and ensures participation and progress in the general education curriculum is one that focuses on local and state academic standards and related assessments. Thus, statements of present levels of academic achievement and functional performance (PLAAFPs), measurable annual goals, special education and related services, and ongoing monitoring and evaluation of IEPs, should relate to state and local standards.

It is also important that the IEP address each of the student's other educational needs identified in the PLAAFP that result directly from the student's disability. For example, measurable annual goals for instruction in Braille may be appropriate for students who are blind, even though Braille is not included in the general education curriculum. Likewise, measurable annual goals for instruction in sign language may be appropriate for students who are deaf, even though sign language may not be part of the general education curriculum. Annual goals in academic content areas will be drawn from the general education curriculum. Other annual goals may be based on standards that are appropriate to meet the student's unique needs that result from the disability and that allow the student to participate and progress in the general education curriculum.

In order to assure that the IEP team addresses all of the special education and related service needs of the student; there are several special factors that the IEP team must consider in the development of the IEP. These considerations must be documented as a part of the IEP, including:

The Strengths of the Child or Youth

The IEP team should be aware of the strengths of the child or youth, and utilize those strengths during the development of the IEP to assist in addressing the needs where possible. If the student is present, he or she must be given the opportunity to list his/her strengths. The strengths should be included in the present levels of academic achievement and functional performance of the child, as identified through the evaluation.

The Concerns of the Parent

Parents should have the opportunity to express their vision and concerns for enhancing the education of their child or youth during the IEP meeting. This provides the parents an opportunity to share with the IEP team what they see as most important in meeting the needs of their child. The IEP team must consider the wishes and concerns of the parents when completing the IEP.

Results of the Initial or Most Recent Evaluation

In developing each student's IEP, the IEP team must consider the results of the initial (if most recent) or most recent reevaluation of the child or youth. This must include a review of valid evaluation data and the observed needs of the child resulting from the evaluation process and any existing data, including data from current classroom-based, local and state assessments.

Academic, Developmental and Functional Needs of the Child or Youth

In developing each IEP, the IEP team is required to consider the academic, developmental, and functional needs of the child or youth. A child or youth's performance on state or district assessments logically would be included in the IEP team's consideration of the student's academic needs. In addition, as part of an initial evaluation or reevaluation, the IEP team must review existing evaluation data, including data from current classroom based, local and state assessments. The consideration of state and district-wide assessment data is consistent with the emphasis on the importance of ensuring that children or youth with disabilities participate in the general education curriculum and are expected to meet high achievement standards. Effective IEP development is central to helping students with disabilities meet these high standards.

Behavioral Concerns

A student may demonstrate inappropriate behavior to a point that it interferes with his or her learning or the learning of others. The IEP team needs to make specific considerations regarding behavioral issues for students. They must design appropriate interventions and designate needed supports for a student whose behavior impedes his or her learning or the learning of others.

In the case of a student whose behavior impedes the student's learning or that of others, the IEP team must consider the use of positive behavioral interventions and supports, and other strategies, to address the behavior.

The focus of behavioral interventions and supports in the IEP is prevention of the behavior, not just provision for consequences subsequent to the behavior. This means that the team will need to attempt to identify the function or purpose of the behavior usually through a Functional Behavioral Assessment (FBA), and develop strategies to prevent the behavior from occurring again in the future. The positive behavioral interventions and supports could be implemented through the IEP annual goals, program modifications, or a Behavioral Intervention Plan (BIP).

See "Essential Elements of a Functional Behavior Assessment", Appendix Page 57

See "Essential Elements of a Behavioral Intervention Plan", Appendix Page 59

Limited English Proficiency

Children and youth who have Limited English Proficiency (LEP) are those whose primary language is other than English. The IEP team must consider the language needs of the student who has limited English proficiency as those needs relate to the IEP, including the impact of how service providers communicate with the child and how progress will be measured.

Home language, or social language, may be functional for communication at home or in social situations, but is different than the language demands needed to succeed in the academic or school setting.

Students with limited English proficiency, those with limited proficiency in first language, and/or those with interrupted formal schooling, may struggle with academic language and concepts. Academic difficulties are compounded even more with the structure of classroom expectations. For example, academic information changes hourly with each subject and regularly for instructional units.

Students with a lack of opportunity to learn in relation to their language background, education, and poverty will lack common learning experiences, demonstrate limited vocabulary, content, ideas, and will have overall descriptive language difficulties.

Each school district is required to provide all children or youth with Limited English Proficiency (LEP) with alternative primary language services to enable them: (1) to acquire proficiency in English, and (2) to provide meaningful access to the content of the general education curriculum. The student with LEP and a disability may require aspects of both the general education program addressing acquisition of English proficiency as well as special education and related services.

Vision Concerns

For a child or youth who is blind or visually impaired, the IEP team shall provide for instruction in Braille. The use of Braille should be provided unless the IEP team determines that instruction in Braille or the use of Braille is not appropriate. This is based on an evaluation of the student's reading and writing skills, needs, and appropriate reading and writing media (including an evaluation of the student's future needs for instruction in Braille or the use of Braille). If Braille is to be taught as a method of accessing printed material, it is to be indicated in the IEP (92 NAC 51-007.07B5).

See Blind and Visual Impairments checklist, Appendix Page 61

Communication Needs

The communication needs of all children with disabilities must be considered on each IEP, regardless of the disability. The consideration must include the unique communication needs in order to help them achieve their educational goals. For a child or youth who is deaf or hard of hearing or deaf-blind, the IEP team must consider their language and communication needs, including the opportunities for direct communications with peers and professional personnel in the child or youth's language and communication mode. A full range of needs, including opportunities for direct academic instruction in the student's language and communication mode, must be considered. Communication decisions are based on the unique needs of each child and the school must provide the communication services that best meet those needs. (92 NAC 51-007.07B6)

Assistive Technology

Assistive technology enables children or youth with disabilities to participate more fully in all aspects of life (home, school, and community) and helps them access their right to a free appropriate public education in the least restrictive environment.

The IEP team must determine whether an individual student needs an assistive technology device or service, and if so, the nature and extent to be provided. It is possible that an assistive technology evaluation will be required to determine if the child or youth would need an assistive technology service and/or assistive technology device. Any needs identified should be reflected in the content of the IEP, including the instructional program and services provided.

Assistive technology increases a student's opportunities for education, social interactions, and potential for meaningful employment. It also supports a student's participation in learning experiences in the least restrictive environment. Assistive technology is a tool to help the student benefit from the general education curriculum, and access extracurricular activities in home, school, and work environments.

In addition:

- A child or youth's need for assistive technology must be determined on a case-by-case basis and can be considered as a part of special education, related services or supplementary aids and services for students with disabilities who are educated in general education classes.
- A district must provide a device for use at home if necessary for FAPE. Decisions regarding the use of the assistive technology device or service in other settings outside school must be made on an individual basis.
- A school may access alternative funding sources to defray costs of assistive technology devices and services. Schools may not compel parents to file an insurance claim and may not condition provision of equipment or services on filing or approval of a claim.

See Assistive Technology Questions/Answers, Appendix Page 65

See Assistive Technology Devices, Appendix Page 72

Physical Education Needs

92 NAC 51-007.07C2 requires that physical education services, specially designed if necessary, must be made available to every student with a verified disability receiving a free appropriate public education. An exception is if the school district does not provide physical education to students without disabilities in the same grades. Each student with a verified disability must be afforded the opportunity to participate in the regular physical education program available to nondisabled students unless: a) the student is enrolled full time in a separate facility; or b) the student needs specially designed physical education as prescribed in their individualized education program.

If specially designed physical education is prescribed in the student's individualized education program, the school district or approved cooperative responsible for the education of that student shall provide the services directly or make arrangements for it to be provided through other public or nonpublic programs.
The school district responsible for the education of a student with a verified disability who is enrolled in a separate facility shall ensure that the student receives appropriate physical education services.

Extended School Year Services

For students with a disability, the IEP team must consider each individual student's need for extended school year (ESY) services during time periods when other students, both with disabilities and without disabilities, normally would not be served. If ESY is determined to be necessary to enable the student to benefit from his or her education, the type and amount of special education services to be provided, including frequency, location, and duration are documented in the IEP. Schools must not limit the availability of ESY service to students in particular categories of disabilities or limit the type, amount, or duration of these necessary services (92 NAC 51 007.07C5).

See ESY technical manual on the NDE Special Education website (http://www.education.ne.gov/sped/technicalassist/extendedschoolyr.pdf)

Present Levels of Academic Achievement and Functional Performance

The present level of academic achievement and functional performance (PLAAFP) is a summary describing the child or youth's current achievement in the areas of need as determined by an evaluation. It specifically addresses their strengths, effective teaching approaches, and interventions to enable their success. The PLAAFP contains current specific, measurable, objective baseline information for each area of need affected by the disability. In addition, it links the evaluation results, the expectations of the general education curriculum and the goals for the child or youth. The PLAAFP summarizes the child's current performance and provides the foundation upon which all other decisions in the IEP will be made.
The statement of the present level of academic achievement and functional performance is important because:

- it enables families, children and educators to monitor the child's progress in the general education curriculum.
- it summarizes and translates evaluation results into clear, understandable language.
- it identifies and prioritizes the specific needs of the child or youth.

Every goal must relate to a need identified in the PLAAFP. The evaluation of the student's progress toward those goals must be linked to intervention planning. The PLAAFP additionally guides the modification and delivery of curriculum on an individual basis. Developing the PLAAFP collaboratively assures the involvement of the family, child or youth, and educators in planning for their education.

The PLAAFP should:

- Be stated in terms that are specific, measurable, and objective;
- Describe current performance, not past performance;
- Describe the child or youth's performance in general education curriculum;
- Prioritize and identify needs that will be written as goals; and
- Provide baseline information for each need.

For a PLAAFP to be complete, it needs to include information about:

- *Current Academic Achievement and Functional Performance*:

  This is the broadest type of information that is included in the present level statement. It helps the team to begin to sort through information and data to determine how well the child or youth is performing and to make note of additional issues outside of academic and functional behavior that have a direct impact upon how well the child or youth performs in school. This communicates a more global understanding of the child or youth. This might include information such as standardized assessments, learning rate, social issues, vocational interests, independent living skills, and other interests, strengths, and weaknesses.

- *Impact of Disability upon ability to access and progress in the general education curriculum:*
  In addition to describing the child's current performance (academics and functional areas), the PLAAFP must describe how the disability affects their involvement and progress in the general education curriculum and for preschool children, as appropriate, how the disability affects the child's participation in appropriate activities. The present level statement must also include more specific information that clearly describes how the child or youth's disability impacts their access to the general education curriculum or how the disability might prevent the child from appropriately progressing in the general education curriculum. By completing this statement it will make it clear to the team what the child or youth's needs are and which ones are of highest priority to be addressed.

- *Baseline:*
  Baseline data provides the starting point for each measurable annual goal, so there must be one baseline data point for every measurable annual goal on the child or youth's IEP. Baseline data in the PLAAFP are derived from locally developed or adopted assessments that align with the general education curriculum. Examples of baseline data include percent of correct responses, words read correctly, and the number of times behavior occurs. Other issues important in collecting baseline data are the understanding that any goal written will have the same measurement method as was used in collecting its baseline data. Also, when selecting baseline data, it needs to be:
  - (a) specific—to the skill/behavior that is being measured,
  - (b) objective—so that others will be able to measure it and get the same results,
  - (c) measurable—it must be something that can be observed, counted, or operationally defined, and
  - (d) collected on a frequent basis—when progress reports are sent out, the progress of the child or youth toward the goal will have to be reported using the same measurement method as used to collect the baseline data.

In the IEP there is no one single place these components must be documented and the law explicitly states that information included in one part of the IEP does not have to be duplicated in another part. So when looking at local forms you may find baseline data in the main section of the present levels or in boxes alongside the measurable annual goals. Both are acceptable and legal as long as the data they contain is correct.

For preschool children, the PLAAFP describes how the disability affects the child's participation in appropriate activities. The term "appropriate activities" includes activities that children of that chronological age engage in as part of a preschool program or informal activities. Examples of appropriate activities include social/communication activities, pre-reading and math activities, sharing-time, and independent play. Preschool programs for children with disabilities should have an educational component that promotes school readiness and incorporates pre-literacy, language, and numeracy skills. Teachers should become familiar with the curriculum standards for kindergarten to know what is expected at that age and to give direction for learning activities.

Beginning at age 16 (or younger if appropriate), the PLAAFP also describes the student's transition needs in

the areas of educational/training, employment, and where appropriate, independent living skills.

The IEP team should consider the following questions when writing the PLAAFP:

- In areas of concern, what is the student's present level of performance in relationship to district standards and benchmarks in the general education?
- In areas of concern, what is the student's present level of performance in relationship to level of performance that will be required to achieve the postsecondary goals?
- Are there functional areas of concern related to the disability not reflected in the general education curriculum (e.g., self-care skills, social skills, classroom survival, etc.)?
- What is the degree of match between the skills of the student and the instructional environment?
- What strengths of the student are relevant to address the identified concerns?

Measurable Annual Goals

Measurable annual goals set the general direction for instruction and assist in determining specific classes, experiences, and skills a child or youth will need to reach his or her vision. There is a direct relationship between the measurable annual goal and the needs identified in the PLAAFP.

Measurable annual goals are descriptions of what a student can reasonably be expected to accomplish within a 12-month period with the provision of special education (specially designed instruction) and related services. When selecting areas of need to address through annual goals, the IEP team's focus should be on selecting goals from the most highly prioritized needs from the PLAAFP. For curricula needs, the IEP team should consider identifying goals from the standards and benchmarks of the local district or from the Nebraska Department of Education. To accomplish this, it is necessary that the student's performance be measured against the district or state standards, benchmarks, and indicators. As districts develop assessments to measure their standards, all students need to be included in assessments to measure standards.

Measurable annual goals must be related to meeting the student's needs that result from the disability and to enable the student to be involved and progress in the general education curriculum. Annual goals are not required for areas of the general education curriculum in which the student's disability does not affect their ability to be involved and progress in the general education

curriculum. The annual goals included in each student's IEP should be individually selected to meet their unique needs. The goals should not be determined based on the category of the disability or on commonly exhibited traits of children or youth in a disability category.

There are four critical characteristics of a well-written goal: *It is meaningful, measurable, able to be monitored, and useful in making decisions.*

When a goal is written it must be stated so it is meaningful. The "meaningful determination" is made by considering a number of factors such as:

- Whether the skill the goal represents is necessary for success in current and future environments;
- Whether the family believes the accomplishment of the goal is important; and
- Whether the goal specified a level of performance and an expectation that is reasonable.

Goals must be measurable. They must reflect behavior that can be counted, observed, and operationally-defined.

Goals must be able to be monitored. There are multiple increments in performance between the present level of academic achievement and functional performance and the criteria stated in the measurable annual goal. The goal should be written so it can be monitored frequently and repeatedly to determine whether the child or youth is progressing. Monitoring the goal involves the collection of data which can be used to determine the effectiveness of the individualized education program.

Finally, goals are useful in making decisions regarding a child or youth's education. Appropriate changes may be made to the IEP in order to help him or her achieve optimum success.

The four critical components of a well-written goal are:

- *Timeframe* is usually specified in the number of weeks or a certain date for completion. A year is the maximum allowed length for the timeframe.
  - ❖ In 36 instructional weeks…
  - ❖ By November 19, 2008….
  - ❖ By the end of 2008-09 school year…
- *Conditions* specify the circumstances that prompt the child's performance of an observable behavior. Conditions are dependent on the behavior being measured and involve the application of skills or knowledge.
  - ❖ When presented with 2nd grade level text…
  - ❖ Given a mixed 4th grade level math calculation probe….
  - ❖ Given a story prompt and 30 minutes to write…
- Conditions may also integrate a related service:
  - ❖ Given appropriate equipment……..
  - ❖ Given assistive technology……..
  - ❖ Given a pencil grip…….
- *Behavior* clearly identifies the performance that is being monitored, usually reflects an action or can be directly observed, and is measurable.
  - ❖ Sarah will read…
  - ❖ Claude will write the correct solutions…
  - ❖ Mary will score…

- ❖ Jane will indicate her wants and needs…..
- ❖ Chris will write……

- *Criterion* identifies how much, how often, or to what standards the behavior must occur in order to demonstrate that the goal has been reached. The goal criterion specifies the amount of growth the child or youth is expected to make by the end of the annual goal period.
  - ❖ 96 words per minute with 5 or fewer errors.
  - ❖ 85% or more correct for all problems presented.
  - ❖ Earning 4 or better when graded according to the 6-trait writing rubric.

Well-written measurable annual goals will pass the "Stranger Test". This test involves evaluating the goal to determine if it is written so that a teacher who does not know the child or youth could use it to develop appropriate instructional plans and assess the child or youth's progress.

The number of goals addressed in the IEP depends on the child or youth's needs. Prerequisite skills, immediate needs and general applicability are all factors to consider when establishing priorities. Parents, teachers, and students are essential sources of information when setting priorities.

If the child or youth needs accommodations or modifications in order to progress in an area of the general education curriculum, the IEP does not need to include goals for that area; however, the IEP would need to specify the needed modification and accommodations.

See sample PLAAFP statements and goals, Appendix Page 75
See website: http://www.education.ne.gov/ECH/ECH.html, for examples of IEP/IFSP goals in the following documents:

- Characteristics of Functional Participation-based IFSP/IEP Outcomes/Goals
- Functional Participation-based IFSP/IEP Outcomes/Goals
- Functional Participation-based IFSP/IEP Meetings

Incorporating State Academic Standards into IEPs

There are benefits to incorporating State Academic Standards into IEPs:

- The IEP team may refer to grade-level standards when determining learning expectations
- The IEP team may use standards to determine the gap between grade-level expectations and the student's current skills/knowledge
- The partnership between general and special educators is strengthened and student learning becomes a joint responsibility

The Nebraska Department of Education is in the process of developing technical assistance to support districts in writing effective and measureable IEPS, while incorporating State Academic Standards.

Benchmarks or Short-Term Objectives

Benchmarks or Short-Term Objectives are only required in the IEP of a student with a disability who takes an alternate assessment. This means that only students who have the most significant cognitive disabilities and take an alternate assessment would be required to have short-term objectives or benchmarks on their IEPs. However, this requirement would not prohibit the use of benchmarks or short-term objectives to measure progress toward the goal for any child or youth with a disability.

Benchmarks

Benchmarks are major milestones that describe content to be learned or skills to be performed in sequential order. They establish expected performance levels that coincide with progress reporting periods for the purpose of gauging whether a student's progress is sufficient to achieve the annual goal. In the context of IEPs, benchmarks measure intermediate progress toward the measurable annual goals.

- Benchmarks are measurable;
- Benchmarks are general statements that represent milestones to a goal;
- Benchmarks represent progress toward the goal.

Short-Term Objectives

Short-term objectives are measurable, intermediate steps between a child or youth's baseline data in the present level and the annual goal, with the conditions under which the skill is to be performed. They include the behavior to be observed, and the criteria for success. A short-term objective follows the same pattern of the goals, with a shorter timeframe and intermediate criteria to be attained. The goal and short-term objectives establish how child or youth outcomes will be measured. Diagnostic assessment provides the information needed to develop an instructional plan for achieving the goals and objectives.

- Short-term objectives are measurable;
- Short-term objectives are specific statements with conditions, behavior and criteria for success stated and
- Short-term objectives represent progress toward the goal.

Both Benchmarks and Short-term Objectives:

- Guide the development and modification, as necessary, of strategies that will be most effective in realizing the goals;
- Are developed based on a logical breakdown of the measurable annual goal;
- Represent components of the goal (i.e., "Writing in complete sentences " may be a component of a goal to "write a paragraph");
- May be points on a line between the PLAAFP and measurable annual goal (if assignment completion is 50% and the goal is 90%; then 60%, 70%, and 80% are progress indicators);
- Serve as "milestones" between the PLAAFP and the measurable annual goal; and
- Are measurable.

Measuring and Reporting Progress on Annual Goals

Once the IEP team has developed measurable annual goals for a child or youth, the team must include a description of how the child or youth's progress toward meeting the annual goals will be measured. This measure of progress will enable parents, students, and educators to monitor progress during the year, and, if appropriate, to revise the IEP to be consistent with the student's instructional needs. The idea is to use progress-monitoring information in a formative way to help with decision-making about instructional changes that may be needed. If a measurable annual goal is written correctly with the four components (behavior, criteria, condition and timeframe) the requirement of how progress toward the goal is measured is contained within the goal and no additional information is required.

Progress Reports to Parents

The IEP must include a description of when parents will be provided periodic reports about their child or youth's progress toward meeting the annual goals. An example might be through the use of quarterly or other periodic reports concurrent with the issuance of district report cards. The reporting may be carried out in writing or through a meeting with the parents (including documentation of information shared at the meeting); whichever would be a more effective means of communication. Whatever the method chosen, student progress toward the goals must be monitored in the method indicated on the IEP and progress reports should include a description of the student's progress toward his/her measurable annual goals.

Progress Monitoring

IEP teams need to consider the indicator used to determine the baseline performance and the goal criterion. The indicator that was used for the goal criterion will determine the monitoring strategy. For example, if the goal criterion is fluency, the monitoring strategy would be to measure reading fluency. If the indicator for the goal was accomplishing a series of steps, then the progress monitoring system should measure the attainment of the individual steps. The decisions the IEP team needs to address and document are:

1. Who will be responsible for data collection;
2. The setting where data will be collected;
3. The method of data collection;
4. The measurement conditions;
5. The monitoring schedule for data collection;
6. A decision-making strategy to determine under what conditions a student's performance is sufficiently delayed to warrant an instructional change;
7. How often the parent will receive communication about the child or youth's progress toward the goal (as often as peers who are nondisabled); and
8. The method for informing the parents of the progress.

Participation in State Assessment and District-Wide Assessment

All students must participate in the Nebraska State Accountability assessments (NeSA). The IEP team must make a decision regarding how the student with a disability will participate in state assessments and district-wide assessments.

See IEP Team Decision-Making Flow Chart , website: http://www.education.ne.gov/sped/assessment.html

There are three assessment options available to students with disabilities in Nebraska. The IEP team must determine which assessment is appropriate for each grade level content area being assessed. These options include:

1. Nebraska State Assessment without accommodations
2. Nebraska State Assessment with accommodations and
3. Nebraska Alternate Assessment

If the IEP team determines an alternate assessment is most appropriate instead of the state assessment, the IEP must include a statement of why:

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

In the case of district-wide assessments, a list of appropriate accommodations must be included in the student's IEP.

Approved statewide accommodations are enumerated in the document titled "The Nebraska State Accountability (NeSA) Approved Accommodations", website: http://www.education.ne.gov/assessment/documents/NeSA_Accommodations.pdf

If the student's IEP contains an accommodation regularly used in instruction, but it is not included in the "Accommodations Document", the Statewide Assessment Office can be contacted and other accommodations will be reviewed by an NDE panel.

For district-wide assessments, any accommodation written in the student's IEP and used in instruction may be used. All accommodations must be documented on the IEP.

Statement of Special Education and Related Services

Each IEP for a child or youth with a disability must include a statement of:

- The special education services,
- Related services,
- Supplementary aids and services (including accommodations needed to access grade –level academic content and demonstrate learning)
- A statement of the program modifications, and
- Supports for school personnel that will be provided.

The services included on the IEP must be sufficient to allow the child or youth to:

- Advance appropriately toward attaining the annual goals;
- Be involved in and make progress in the general education curriculum, and participate in extracurricular and other nonacademic activities; and
- Be educated and participate with other children or youth with disabilities and non-disabled peers in these activities.

Each of these areas must be addressed on the IEP even if the child or youth does not need the service. All services, special education and related services, supplementary aids and services, program modification, and supports for school personnel, as outlined in the IEP (including transition services) must indicate the projected date for the beginning of the services and the anticipated frequency, location, and duration of those services.
The amount of services to be provided must be stated in the IEP so that the level of the school's commitment of resources will be clear to parents and other IEP team members. The amount of time to be committed to each of the various services to be provided must be appropriate to the specific service, and stated in the IEP in a manner that is clear to all who are involved in both the development and implementation of the IEP.

Participation with Non-Disabled Peers

Services in the Least Restrictive Environment (LRE)

Training Module website:

http://www.nichcy.org/Laws/IDEA/Pages/module15.aspx

Least restrictive environment (LRE) means, to the maximum extent appropriate, children or youth with disabilities are educated with children or youth who do not have disabilities, and that special classes, separate schooling, or other removal of children with disabilities from general educational environment occurs only when the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily (NAC 51.008.01A). The IEP must contain an explanation of the extent, if any, to which the child or youth will not participate with children or youth without disabilities in the general education class, and in extracurricular and nonacademic activities.

The LRE decision is made only after all the goals, modifications and accommodations have been developed and identified in the IEP, and is based on the child or youth's unique needs. The LRE may be very different for each child or youth, but the determining factor remains that it is based on the child or youth's individual needs. In determining the location for special education and related services, the IEP team must consider the continuum of educational placements necessary to implement the IEP. The continuum must include instruction in regular classes, special classes, special schools, home instruction and instruction in hospitals and institutions and make provision for supplementary services (such as resource or itinerant instruction) to be provided in conjunction with regular class placement. The school must ensure that the parents of the child or youth are members of any group that makes decisions on the educational placement of the child. The placement decision must be made in conformity with the requirement of providing services in least restrictive environment. The educational placement is to be:

- Determined at least annually;
- Based upon the child or youth's IEP; and
- Located as close as possible to the child or youth's home, consistent the requirements of the IEP.

Each year when the IEP is developed, the IEP team discusses the least restrictive environment (LRE) for the child or youth. The LRE discussion for every child or youth's disability, including preschool children, must consider placement in the general education classroom with necessary supplementary aids and services as the first placement option. The IEP team should identify the child or youth's strengths, and build upon those strengths when determining how the student will benefit educationally from receiving special education services in the general education classroom. Non-academic considerations such as the social/emotional benefits of interaction with nondisabled peers, social development and self-help goals are equally important when discussing general education classroom placement. The areas of need that have been identified in the IEP and addressed with goals should also be reviewed individually to determine if those services can be delivered in the general education classroom.

When determining the LRE for a child or youth with a disability, the IEP team should consider these questions to ensure that the child or youth will be educated with nondisabled peers to the maximum extent appropriate:

1. Is it possible for the student to receive his/her individually determined services in a general education classroom? If not, why not?
2. Can the student achieve his or her IEP goals in the general education classroom with the use of supplementary aids and services?
3. Does the IEP provide all necessary supplementary aids and services?
4. What nonacademic benefits are available to the child or youth from interacting with nondisabled peers?
5. Is it possible for the student to access the general education curriculum and meet annual goals in the general education class for all or some of the school day? If not, why not?
6. Would the student require so much of the general education teacher's time that the teacher cannot give adequate attention to the needs of other students in the classroom?
7. Is the student so disruptive in the general education classroom that the education of the student or other students is significantly impaired?
8. Does the student require the curriculum to be modified so significantly that it bears little relation to the instruction in the classroom?
9. What are the potential effects both positive and negative, of the placement options being considered?

A student with disabilities does not have to fail in a less restrictive setting before the IEP team recommends a more restrictive setting. Also, it is not required that a student demonstrate achievement at a specific performance level as a prerequisite for placement in a general education class.

A child or youth with a disability should not be removed from an age-appropriate general education classroom solely because of needed modifications to the general educational curriculum.

A child or youth with disabilities is never to be placed in a particular educational setting based solely upon the disability category or on the staff, space and/or services currently available at a school.

No one factor outweighs any other. The IEP team should look at the individual needs of the child or youth and determine the setting in which he/she would benefit educationally. Remember, even if the IEP team determines that a student with a disability should be removed to a separate class for a specific curricular area(s), the student must still be included with nondisabled peers for other activities, as appropriate, and have access to the general education curriculum.

If the IEP team determines that a student with a disability must be removed from the general education classroom because the student will not benefit educationally, even with the provision of supplementary aids and services, the IEP must document an educational justification for this removal.

Accommodations and Modifications

Accommodations are practices and procedures in the areas of presentation, response, and setting/timing/scheduling. Accommodations are intended to reduce or even eliminate the effects of a child or youth's disability; they do not reduce learning expectations. Typically, accommodation use does not begin and end in school. Children or youth who use accommodations will generally also need them at home, in the community, and as they get older, in postsecondary education and at work. Accommodations are commonly categorized in three ways:

- Content Presentation Accommodations – Allow students to access information in ways that do not require them to visually read standard print. These alternate modes of access are auditory, multi-sensory, tactile, and visual.
- Response Accommodations – Allow students to complete activities, assignments, and assessment in different ways or to solve or organize problems using some type of assistive device or organizer.
- Setting/Timing/Scheduling Accommodations – Change the location in which a test or assignment is given or conditions of the instruction and setting. The allowable length of time to complete an assignment is increased and the way the time is organized may be changed.

See Determining Appropriate Accommodations Checklist (for IEP teams). Appendix Page 79.

For more specific information, refer to Accommodation Guidelines for the Instruction of Children and Youth with Disabilities, web address: http://www.nde.state.ne.us/sped/assessment/Accommodations%20Guidelines

Modifications

Modifications refer to practices that change or reduce learning expectations and content. Modifications may increase the gap between the achievement of student with disabilities and expectations for proficiency at a particular grade level. Providing modifications to students during classroom instruction reduces their opportunity to learn critical content. Students may be denied access to instruction of grade level academic standards. All modifications should be carefully considered by the IEP team before implementing.

Secondary Transition

IDEA charges schools to use the IEP as the vehicle for planning for anticipated individual student needs beyond the completion of secondary education. Beginning at age 16, or younger if deemed appropriate by the IEP team, the IEP must contain:

1. Appropriate measurable postsecondary goals based upon age appropriate transition assessments related to training, education, employment and where appropriate, independent living skills; and

2. The transition services, (including courses of study) needed to assist the student in reaching the stated postsecondary goals.

Transition Assessment

The school district must conduct an age-appropriate transition assessment in the areas of education, training, employment, and, where appropriate, independent living. The purpose of a transition assessment is to provide information to develop and write practical achievable measurable post-secondary goals and assist in the identification of transition services necessary to helping the students reach those goals. A transition assessment must be conducted prior to the student reaching age 16 and prior to the development of the measurable post secondary goals and transition services in the student's IEP. For each postsecondary goal there must be evidence that at least one age-appropriate transition assessment was used to provide information on the student's needs, strengths, preferences and interests.

Assessments serve to identify the skills the student possesses, as well as identify the skills the student needs to acquire. These assessments should seek to answer questions such as:

a. What does the student want to do beyond school (e.g., further education or training, employment, military, etc.)?
b. Where and how does the student want to live (e.g., dorm, apartment, family home, group home, supported or independent)?
c. How does the student want to participate in the community (e.g., transportation, recreation, community activities, etc.)?

See technical assistance manual, "Implementing the Transition Assessment Process", web address: http://sites.esu9.org:8000/Frontier/NDEtransition/TransAssessTADoc.pdf

Measurable Postsecondary Goals

Each IEP for a student with a disability, who will be 16 or older during the time period of the IEP, must have a measurable postsecondary goal that addresses the areas

of training, education, employment, and when appropriate, independent living.

Measurable postsecondary goals are different from measurable annual goals in that they measure an outcome that occurs after a student leaves high school. A measurable annual goal measures annual progress of the student while in school. However, it is important to note that for each postsecondary goal, there must be an annual goal included in the IEP that will help the student make progress towards the stated postsecondary goal. When developing annual goals, the team should ask, "What postsecondary goal does this annual goal support?" Due to this difference, how measurability is included in the goals is different. The requirements for measurable postsecondary goals are specific to the areas of training, education, employment, and where appropriate, independent living, in a single goal or as two/three separate goals.

Measurable postsecondary goals must be stated in a way that can be measured as "yes" or "no" it was achieved. The goal needs to indicate what the student "will" do after graduating or completing their secondary program.

See, Measureable Post Secondary Goals from "Transition Topics" Technical Manual, Appendix Page 81.

Courses of Study

Each IEP for a student with a disability age 16 or older must also contain a description of the courses of study needed to assist the student in reaching the postsecondary goals. The courses of study must focus on improving the academic and functional achievement of the student to facilitate transition from school to post school by describing the courses and/or educational experiences that are related to the student's postsecondary goals. The decisions regarding the courses of study should relate directly to where the student is currently performing and what he or she wants to do after graduation. The connection between the student's postsecondary goals and courses of study should be obvious. To address the course of study, the team should ask:

a. Do the transition courses of study focus on improving the academic and functional achievement of the student to facilitate their transition from school to post-school?
b. Do the courses of study and other educational experiences align with the student's postsecondary goals?

Interagency Transition Services

Beginning at age 16 or younger, if determined appropriate by the IEP team, the student's IEP must also contain, when appropriate, a statement of the interagency responsibilities.

The IEP team must determine, to the extent appropriate, any other public agency that must be invited to the IEP meeting because they are likely to be responsible for providing or paying for transition services. The district must receive written parental consent prior to inviting any

outside agency to the IEP meeting. Written consent from the parent is required when inviting outside agencies to ensure the protection of confidentiality of child or youth information.

If a transition service provider fails to provide the transition service it had agreed to provide, the school must reconvene the IEP team to identify alternative strategies to meet the transition objectives for the student that are set out in the IEP. Alternative strategies might include the identification of another funding source, referral to another agency, the public agency's identification of other district-wide or community resources that it can use to meet the student's identified needs appropriately or a combination of these strategies. The school, or any participating agency including the State vocational rehabilitation agency, is responsible to provide or pay for any transition service that the agency would otherwise provide to students with disabilities that meet the eligibility criteria of that agency. This is to be done without delay.

The requirements relating to transition planning and transition services do not apply to students incarcerated in an adult correctional facility whose eligibility for special education services will end because they will turn 21 years of age before they will be eligible to be released from prison. The development of measurable postsecondary goals, identification of the needed transition services, and implementation of the transition plan all must come together to ultimately prepare the student for a successful life after high school.

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APPENDICES

PARENTAL RIGHTS IN SPECIAL EDUCATION (Revised May 2009)

As a parent of a child with a disability, you have certain rights which are guaranteed by state (Rule 51) and federal (Individuals with Disabilities Education Act {IDEA}) laws. Those procedural safeguards, or rights, are contained in this document.

If you would like further information or have any questions regarding your rights, you may wish to contact your school district's superintendent or special education director. You may also contact:

Nebraska Department of Education
Office of Special Education
301 Centennial Mall
P.O. Box 94987
Lincoln, NE 68509

A copy of the procedural Safeguards Notice must be provided to parents one (1) time a school year.
A copy must also be provided:
a. Upon request by the parent;
b. Upon initial referral or parental request for evaluation;
c. Upon the first occurrence of the filing of a state complaint and the first occurrence of filing a special education due process complaint; and
d. In accordance with discipline procedures
A parent may choose to receive notices via e-mail if the school district makes that option available.
A school district may place a copy of the procedural safeguards notice on a website.

Prior Written Notice

Parents have the right to receive **a written notice** within a reasonable amount of time: **before** the school district **proposes** or **refuses** to initiate or change the **identification**, **evaluation**, or **educational placement** of a child or the **provision of a free appropriate public education** (FAPE). If parents **revoke consent**, for special education and related services, parents will receive **written notice** regarding the changes in their child's **educational placement** and **services.**

This notice must include:
a. A description of the action proposed or refused by the school district;
b. An explanation for why the school district is proposing or refusing to take the action;
c. A description of each evaluation procedure, assessment, record, or report the school district used as a basis for the proposed or refused action;
d. A description of other options considered by the IEP team and the reasons why those options were rejected;
e. A description of any other factors that are relevant to the school district's proposal or refusal;
f. A statement that the parents of a child with a disability have protection under the procedural safeguards set forth in state and federal laws, and, if the notice is not an initial referral for an evaluation, the way in which a copy of a description of the procedural safeguards can be obtained; and
g. Sources for parents to contact to receive help in understanding their rights as parents of a child with a disability.

The prior written notice must be written in an easily understandable manner, and provided in the parent's native language or other mode of communication unless it is clearly not possible to do so. If the parents' native language or other method of communication is not a written language, they have the right to be notified by any other appropriate means in order for them to understand the contents of the notice.

A parent may choose to receive prior written notices via e-mail if the school district makes that option available.

Parental Consent

Consent means that:

a. The parent has been fully informed of all information relevant to the activity for which consent is being asked, in his or her native language, or other mode of communication;
b. The parent understands and agrees **in writing** to the proposed activity;
c. The consent describes the proposed activity and lists the records (if any) that will be released and to whom; and
d. The consent is voluntary and may be revoked at any time.

If a parent revokes, or takes back, their consent, that revocation is not retroactive, which means it does not stop an action that has occurred after consent was given and before the consent was revoked.

Parental consent must be given before a school district:

a. Conducts an initial multidisciplinary evaluation;
b. Conducts a reevaluation; and
c. Places a child with disabilities **for the first time** in a program providing special education and related services or early intervention services to infant and toddlers.

If a **parent refuses to provide consent for an initial evaluation or reevaluation**, the school district has the option of initiating a mediation procedure or a due process complaint hearing to determine if a child can be evaluated or reevaluated without parental consent. A due process hearing officer may order that an initial evaluation or reevaluation be conducted, and a parent may appeal the hearing officer's decision through the court system.

If the parents of a **child who is home schooled or placed in a nonpublic school by the parents** at their own expense **do not provide consent** for the initial evaluation or the reevaluation, the school district may not file a due process hearing, or use the mediation process. The school district will not be required to consider that child a child with a disability.

For a child who is a **ward of the State**, school districts do not need to obtain parental consent for initial evaluations if:

a. Despite reasonable efforts, the school cannot discover the whereabouts of the parents;
b. The rights of the parents of the child have terminated in accordance with State law; or
c. The rights of the parents to make educational decisions have been subrogated, or substituted, and the person appointed by the judge to represent the child has given consent.

If the district can demonstrate that it has taken reasonable steps to obtain consent to conduct a reevaluation, **and the parent did not respond**, informed parental **consent is not required** before a school district conducts the **reevaluation**.

Informed parental **consent is not required** before:
a. **Reviewing existing data** as part of an evaluation or reevaluation; or
b. Administering a test or other evaluations that are **given to all children unless consent is required of parents of all children**.

A school district **may not initiate** a due process complaint hearing or mediation if a parent refuses to provide consent for initial placement into special education and related services.

If a parent refuses to consent to the provision of special education and related services, or if the parent fails to respond to a request to provide consent:
a. The school district will not be considered to be in violation of the requirement to make available a free appropriate public education (FAPE) to the child; and
b. The school district will not be required to develop an individualized education plan (IEP), or convene an IEP meeting.

A parent's consent for an evaluation **does not mean** that their child can be evaluated **and** placed in a special education program. If a parent provides consent to conduct an evaluation, they must also provide written consent if the school district wishes to place their child in a special education program.

A school district may not use a parent's refusal to consent to one service or activity to deny the parent or child any other service, benefit, or activity, for which the parent has provided their consent.

Parental Revocation of Consent
If a parent is revoking consent for their child to receive special education and related services, the parent **must provide this request to the district in writing.**

Access to Educational Records
Parents have the right to inspect and review any educational records which are collected, maintained, or used by the school district with respect to the identification, evaluation, and educational placement of their children and the provision of a free appropriate public education (FAPE).

The school district must:
a. Comply with the request without unnecessary delay;
b. Before any meeting regarding an individualized education program (IEP) or hearing related to the identification, evaluation, or placement of the child; or
c. **In no case, more than forty-five (45) days after the request has been made**.

If any education record contains **information on more than one child**, the parents of those children have the right to inspect and review only the information relating to their child or to be informed of that information.

The right to inspect and review educational records includes:

a. The right to a response from the school district regarding reasonable requests for explanations and interpretations of the records;
b. The right to request that the school district provide copies of the records if not providing those copies would prevent the parent from inspecting or reviewing them;
c. The right to provide or withhold consent to disclose the records;
d. The right to review records unless the school district has other information that denies the parent authority under state law (guardianship, divorce, etc.)
e. The right to inspect only the information relating to their child if the record contains information about more than one child;
f. The right to have a representative of the parent inspect and review the records;
g. The requirement of the school district to keep a record of persons obtaining access to the child's education records (except access by the parent and authorized employees of the school district), which includes the name of the party, the date access was given, and the purpose for which the party is authorized to use the records.
h. The requirement of the school district to assume that the parent has the authority to review records relating to their child unless it has other information that denies the parent authority under state law (guardianship, divorce, etc.);
i. The right to request a list of the types and locations of education records collected, maintained, or used by the school district; and
j. The right to request that the school district amend the information in the record if the parent believes the information is inaccurate or misleading or violates the privacy or other rights of the child.

A parent has the right to request a hearing if the school district refuses, upon request by the parent, to amend, or change, the educational record of a child.

The school district must conduct the hearing to decide whether or not to amend the information at the request of the parent within a reasonable period of time upon receipt of the request.

If, as a result of the hearing, the school district decides that the information contained in the record is inaccurate, misleading, or a violation of the child's privacy, the district must amend the record and inform the parent in writing of the amendment.

If, as a result of the hearing, the school district decides that the information contained in the record is accurate, not misleading, and does not violate the privacy of the child, they must inform the parent of their right to place in the record maintained on the child a statement regarding the reasons the parent disagrees with the school district's decision.

Parental consent must be obtained before personally identifiable information is disclosed to anyone other than officials of the school district collecting or using the information unless specifically not required in the Family Education Rights and Privacy Act (FERPA).

If a child with a disability is, or going to be, **enrolled in a nonpublic school** that is not located in the same district where the child resides, **parental consent must be given** before any personally identifiable information about the child is shared between the district where the nonpublic school is located and the school district where the child resides.

A school district may charge a fee for copies of records which are made for parents if the fee does not prevent the parents from exercising their right to inspect and review those records.

A school district **may not charge a fee to search for or retrieve** information.

The school district must **retain special education records for five (5) years** after the completion of the activities for which special education funds were used.
The school district must inform parents when personally identifiable information collected, maintained, or used by the district is no longer needed to provide educational services to the child. The information must be destroyed at the request of the parents. However, a permanent record including the child's name, address and phone number, grades, attendance record, classes attended, and grade level and year completed may be kept by the school district without time limitations.

Evaluations
Evaluations means procedures used to assist in the determination of whether a child has a disability and the nature and extent of the special education and related services that the child needs.

Independent Educational Evaluations
An independent educational evaluation (IEE) is an evaluation conducted by a qualified examiner who **is not employed by the public school that is responsible for the child's education**.

Parents have the right to request an IEE at public expense **if they disagree with the results of the evaluation conducted by the school district**.

Parents are entitled to only **one IEE of their child** each time the school district conducts an evaluation with which the parents do not agree.

Public expense means that the school district either:
a. Pays for the full cost of the evaluation; or
b. Ensures that the evaluation is otherwise provided at not cost to the parent.

When a parent requests an IEE, the school district **must**:
a. Insure that an IEE is provided at public expense; **or**
b. Initiate a due process hearing to show that its evaluation is appropriate.

A school district **must** provide parents with information on how and where to obtain an IEE.

If a parent requests an IEE, the school district may ask the reason why the parents object to the district's evaluation. However, a parent does not have to give a reason, and the district cannot unreasonably delay either providing the IEE or initiating a due process to show that its evaluation is appropriate.

If an IEE is at public expense, the criteria under which the evaluation is obtained, including the location of the evaluation and the qualifications of the examiner must be the same as the criteria that the school district uses when it conducts an evaluation to the extent that those criteria are consistent with the parent's right to an IEE.

If a school district initiates a due process hearing and the hearing officer requests an IEE as part of the hearing, the cost of the evaluation is at public expense.

If the final decision in the hearing is that the school district's evaluation is appropriate, parents still have the right to an IEE, **but not at public expense**.

If an IEE is obtained at the expense of the parent or at public expense:
a. The **school district must consider the results** of the IEE in any decision it makes about the child's educational program, and
b. The IEE may be presented as evidence at a due process hearing regarding the child.

Mediation

Mediation:
a. Is a process in which a qualified, impartial mediator, who is trained in effective mediation techniques and is knowledgeable about laws relating to special education and related services, meets with the parents, school district personnel, and others involved in a disagreement about any part of the special education process;
b. Is voluntary for all parties;
c. Must be scheduled in a timely manner;
d. Must be held in a location that is convenient to the parties involved in the dispute;
e. Is free to school districts and parents;
f. May be requested by either the school or the parents; and
g. May not be used to deny or delay a parent's rights to a due process hearing.

Discussions which occur during the mediation process must remain confidential, and may not to be used as evidence in any due process hearings or civil proceedings.

In the case that a resolution is reached to resolve the complaint through the mediation process, the parties shall execute a legally binding agreement that sets forth the resolution and that:
a. States that all discussion that occurred during the mediation process shall be confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding:
b. Is signed by both the parent and a representative of the school district who has the authority to bind such agency; and
c. Is enforceable in any State court of competent jurisdiction or in a district court of the United States.

The Nebraska Department of Education maintains a list of qualified mediators in the state.

Mediators:
a. May not be an employee of the Nebraska Department of Education or the school district that is involved in the education of the child who is the subject of the mediation process; and
b. Must not have a personal or professional interest in which conflicts with mediator's objectivity.

Due Process Hearings

The parents of a child with a disability have the right to file a due process if they **do not agree with school district's identification, evaluation, or proposed placement of their child**.

In order to request a due process hearing, the parent must **file a petition with the Nebraska Department of Education (NDE)**. A sample petition is contained in 92 NAC 55, and a copy of that information may be obtained by contacting the Department.

The petition must contain the following information:

a. The name and address of the petitioner and must be signed by the party filing the petition (or, when represented by an attorney, the signature of the attorney);
b. The name and address of the school district or educational agency against whom the complaint is made;
c. The name of the child whose special education is the subject of the petition, the address of the residence of the child, and the name of the school the child is attending;
d. A description of the nature of the problem of the child relating to the proposed or refused initiation of, or change in, the identification, evaluation or educational placement of the child, or the provision of a free appropriate public education to the child including facts relating to the problem; and
e. A proposed resolution of the problem to the extent known and available to the party at the time.

A parent must **request a due process hearing within 2 years** of the date they knew or should have known about the issues in the due process petition. This **timeline will not apply** to a parent if they were prevented from requesting a hearing due to:

a. Specific misinformation by the school district that it had resolved the issues contained in the due process petition; or
b. The school district withheld information from the parent that was required to be provided to the parent.

A hearing officer appointed by the Nebraska Department of Education (NDE) will conduct the due process hearing. A list, including qualifications, of persons who serve Nebraska as hearing officers is maintained by NDE.

A hearing officer:

a. Must not be an employee of the Department of Education or the school district involved in the education of the child;
b. Must not have a personal or professional interest that conflict with their objectivity in the hearing process;
c. Must possess knowledge of the special education process and laws;
d. Must posses the knowledge and ability to conduct hearings in accordance with appropriate, standard legal practice; and
e. Must possess the knowledge and ability to render and write decisions in accordance with appropriate, standard legal practice.

Regarding the due process hearing, parents have the right to:

a. Be informed of any free, low-cost legal or their relevant services if requested or if the school district initiates the due process;
b. Prohibit the introduction of any evidence at the hearing that **has not been shared at least five business days before** the hearing is conducted;

c. Be accompanied and advised by legal counsel and other individuals with special knowledge or training with respect to children with disabilities;
d. Present evidence and question witnesses;
e. Receive a written or electronic record of the hearing;
f. Open the hearing to the public, if desired;
g. Have the child present during the hearing; and
h. Receive written or electronic findings of fact and a decision **no later than 45 days after the request of the hearing** unless a waiver of timelines is granted by the hearing officer at the request of the parent or school district.

Resolution Session

After a due process is filed and **before** a due process hearing is conducted, the school district has the opportunity to convene a meeting with the parents and other relevant members of the IEP team who have specific knowledge of the facts identified in the due process petition.

The resolution session:
a. Must be **convened within 15 days** of receiving notice of the parent's due process filing;
b. Must include a representative of the school district;
c. May not include the school district's attorney unless the parent is accompanied by an attorney;
d. Offers an opportunity for the parents to discuss the issues in the due process; and
e. Offers the school district the opportunity to resolve the due process issues, unless the parents and the school district agree **in writing** to waive the session, or agree to use the mediation process.

If the school district **has not resolved** the due process issues to the satisfaction of the parent **within 30 days** of the receipt of the due process, the due process hearing will proceed.

The timeline for issuing a final decision begins at the end of this 30-day period.

The failure of a parent filing a due process complaint to participate in the resolution meeting will delay the timelines for the resolution process and due process hearing until the resolution meeting is held.

If the issues in the due process **are resolved during the resolution session**, the school district and parents must execute a legally binding agreement that is:
a. Signed by both the parent and the school district; and
b. Enforceable in any State or District court

If the school district and parents execute such an agreement, either party may **void, or back out of, the agreement within 3 business days** of the agreement's execution.

Maintenance of Current Education Placement

With the exception of disciplinary issues, during the pendency of any due process proceedings, the child will remain in their current educational placement, unless the State, school district, and parent agree otherwise. If the child is applying for admission into a school district, with the consent of the parent, the child will be placed in the school district program until all due process proceedings have been completed.

Civil Action

If either the school district or the parent does not agree with the findings and decisions made by the hearing officer, they have the right to file a court action. The action may be brought in state court or in federal district court. The party bringing the court action will have **90 days from the date of the decision** of the hearing officer to bring such an action.

In any civil action, the court:
a. Will receive the records of the administrative proceedings;
b. Will hear additional evidence at the request of either party; and
c. Grant relieve as the court determines is appropriate, based on the evidence.

Attorney Fees

The court, in its discretion, may award reasonable attorneys' fees as part of the costs to a prevailing party, and will be based on rates prevailing in the community in which the hearing arose for the kind and quality of services furnished. No bonus or multiplier may be used in calculating the fees awarded.

School districts can recover attorney fees from the parent's attorney who files a due process that is frivolous, unreasonable, or without foundation, or against the attorney of the parent who continues to litigate after the litigation clearly became frivolous, unreasonable, or without foundation.

School districts can recover attorney fees from the parent's attorney or parent, if the parent's due process was presented for any improper purpose, such as to harass, to cause unnecessary delay, or to needlessly increase the costs of the litigation.

Attorneys' fees may not be awarded and related costs may not be reimbursed in any action or proceeding for services performed subsequent to the time of a written offer of settlement to the parent if:

a. The offer is made within the time prescribed by Rule 68 of the Federal Rules of Civil Procedure or, in the case of an administrative proceeding, at any more than 10 days before the proceeding begins;
b. The offer is not accepted within 10 days; and
c. The court or administrative hearing officer finds that the relief finally obtained by the parents is not more favorable to the parents than the offer of settlement.

Attorneys' fees may not be awarded relating to any meeting of the IEP team unless such meeting is convened as a result of an administrative proceeding or judicial action, at the discretion of the State, or mediation that is conducted prior to the filing of a request for a due process hearing. A resolution session will not be considered a meeting convened as a result of an administrative hearing or judicial action.

An award of attorneys' fees may be made to a parent who is the prevailing party and who was substantially justified in rejecting the settlement offer.
The court will reduce, accordingly, the amount of attorneys' fees awarded whenever the court finds:

a. The parent, or the parent's attorney, during the course of the action or proceeding, unreasonable delayed the final resolution of the controversy;
b. The amount of the attorneys' fees otherwise authorized to be awarded unreasonably exceeds the hourly rate prevailing in the community for similar services by attorneys of reasonably comparable skill, reputation, and experience;
c. The time spent and legal services furnished were excessive considering the nature of the case; or
d. The attorney representing the parent did not provide to the school district the appropriate information regarding the prior notice requirement informing the school district of the intent of the parent to file a due process petition.

A reduction in attorneys' fees shall not apply in any action or proceeding if the court finds that the State or school district unreasonably delayed the final resolution of the action or proceeding or if there was a violation of Section 615 (Procedural Safeguards) of IDEA.

State Complaint Procedures

A parent has the right to file a complaint with the Nebraska Department of Education (NDE) regarding the special education and related services of their child if they believe the school district is not complying with state or federal regulations.

The complaint must:

a. Include a statement that the school district has violated a requirement of 92 NAC 51 (Rule 51);
b. Include the facts on which the statement is based;
c. Contain the signature and contact information of the individual filing the complaint;
d. Include the name, address, and school of the child;
e. Include a description of the nature of the problem of the child; and
f. A proposed resolution of the problem to the extent known and available to the party at the time the complaint was filed.

The complaint must allege a violation that **occurred not more than one year prior** to the date that the complaint is received.

The party filing the complaint **must forward a copy of the complaint to the school district** serving the child at the same time the party files the complaint with the Department. This is to ensure that the school district has knowledge of the complaint issues raised and; therefore, an opportunity to resolve them directly with the parent.

Disciplinary Removal of Students with Disabilities

Authority of School Personnel:

1. School personnel may consider any unique circumstances on a case-by-case basis when determining whether to order a change of placement for a child with a disability who violates a code of student conduct.
2. School personnel may remove a child with disability who violates a code of student conduct from their current placement to an appropriate **interim alternative educational setting (IAES)**, another setting, or suspension for not more than 10 school days (to the extent such alternatives are applied to children without disabilities).
3. If school personnel order a change of placement that would exceed 10 school days and the behavior is determined not to be a manifestation of child's disability **(See Manifestation Determination below)**, the same disciplinary procedures which apply to children without disabilities may be applied in the same manner and for the same duration, except services would have to be provided, although they may be provided in another setting.

4. Services do not need to be provided to a student who has been removed from their placement for 10 school days or less.

Special Circumstances

5. School personnel may remove a student to an IAES for **not more than 45 school days whether or not the behavior is determined to be a manifestation of the child's disability** if the child:
   a. Carries or possesses a weapon to or at school on premises or at a school function under the jurisdiction of a State or local education agency;
   b. Knowingly possesses or uses illegal drugs, or sells or solicits the sale of a controlled substance, while at school, on school premises, or at a school function under the jurisdiction of a State or local educational agency; or
   c. Has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function under the jurisdiction of a State or local education agency.
6. The interim alternative educational setting (IAES) will be determined by the IEP team.

On the date it makes a decision to make a removal because of a violation of a code of student conduct, that is a change of placement and the school district must notify the parents of the decision and of all procedural safeguards.

Manifestation Determination

Within 10 school days of any decision to change the placement of a student with a disability because of disciplinary issues, the school district, parents, and relevant members of the IEP team must review all information to determine:

a. If the behavior in question was caused by, or had a direct and substantial relationship to, the child's disability; or
b. If the behavior in question was the direct result of the school district's failure to implement the child's IEP.

If it is decided that either of those conditions was met, then behavior must be determined to be a manifestation of the child's disability.

If the behavior was a manifestation of the student's disability, the IEP team must either:

a. Conduct a functional behavior assessment, if one was not already done, and implement a behavioral intervention plan (BIP); or
b. If a BIP had already been developed, review the plan, and modify, if necessary.

If the behavior was a result of the district's failure to implement the IEP, the school must take immediate action to correct those deficiencies.

When a due process regarding placement or the manifest determination has been requested by the parent or school district, **the child will remain in the interim alternative educational setting (IAES) pending the decision of the hearing officer** or until the expiration of time period of the IAES, whichever occurs first, unless the school district and parent agree otherwise.

Children with Disabilities Attending Non-Public Schools

School districts who refer or place a child with a disability in a nonpublic school or facility in order to receive a **free appropriate public education (FAPE)** must provide all special education and related services to the child at no cost to the parents. That child will have all the rights of a child with a disability who is served by the school.

If a **parent places a child in a nonpublic school or facility** to receive special education and related services, and the school district made FAPE available to the student, the **school is not required to pay** for the cost of education, including special education and related services. If a parent does not agree with the special education provided to their child, that disagreement is subject to a due process hearing.

If the parent of a child with a disability, who previously received FAPE under the authority of the school district, enrolls the student in a nonpublic school or facility as a means of obtaining special education and related services without consent or referral by the school district, **a hearing officer may require the school district to reimburse the parent for the cost of that enrollment if the hearing officer finds that the school district did not make FAPE available to the child in a timely manner** before the child was enrolled, and that the private placement is appropriate.

The reimbursement may be reduced or denied if:
a. At the most recent IEP meeting that the parent attended before they removed the child from public school, the parent did not inform the IEP team they were rejecting the placement proposed by the school;

b. At least 10 business days before the removal of the child from public school, the parent did not give written notice to the school about the removal;
c. Before the removal the child from public school, the school district provided prior written notice to the parent of its intent to evaluate the child, but the parent did not make the child available for the evaluation; or
d. The court found the actions of the parent unreasonable.

IEP MEETINGS – Parent Participation

Examples of Ground Rules for IEP Meetings

- Don't interrupt when another participant "has the floor"
- Don't criticize the ideas of others
- Build on the ideas shared by others
- Remain open-minded and non-judgmental
- Start and end the meeting on time
- Everyone participates, no-one dominates
- Complaints are okay when they come packaged with a solution
- Make compromises when necessary
- The facilitator is empowered to enforce ground rules
- Stick to the agenda and time frame

Chang & Kehoe

Steps to Building Consensus

- Consensus is an agreement in which each side makes compromises. It may be difficult to reach consensus, but it is well worth the effort. Partnerships are formed in this way. It is also a procedure in which others provide information you may not have.
- First identify the most important issue of disagreement. Define/describe the problem. Sometimes we flounder in general disagreement or confusion about a decision until someone "sharpens" the conflict by pointing out where the most basic point of contention lies. Focusing on the issue is a necessary step to understanding and dealing with disagreement.
- Listen to others, they may have information you do not.
- Determine which areas you can compromise or "give up" on, and don't get stuck defending them to the death because you hate to give in. On the other hand, don't offer to compromise in areas that are very important to you just to be a good sport. If you agree to a decision unwillingly, or allow someone else to do so, you won't really be committed to the agreement.
- Brainstorm alternative solutions. List as many as you can.
- Consider each alternative. List and weigh the pros and cons of each.
- Discuss the pros and cons and select the alternative which minimizes the cons and maximizes the pros. To help you do this, you might want to think of ways to "solve" the cons.
- Throughout the process, get input from all team members; discuss the problem and alternative solutions until you find an alternative that can be supported

Factors Enhancing Parent Participation

Factors enhancing parent/professional relationships

- Parents and school personnel have an established and ongoing relationship;
- Parents and representatives of adult agencies have ongoing opportunities to meet and interact;
- Teachers indicate that they know the interests and needs of parents' sons/daughters; and
- Teachers use specific strategies to encourage active parent and student participation.

Factors enhancing communication among parents, school and agency personnel

- Communication is constant and open;
- Communication centers on shared goals for the student;
- Parents are knowledgeable regarding the IEP planning process;
- Parents are informed of legal rights and responsibilities; and
- Parents are informed of community resources

IEP MEETINGS – Parent Participation

Factors Inhibiting Parent Participation

Factors contributing to unsatisfactory parent/professional relationships

- Teachers or other district representatives fail to attend or leave the meetings;
- Team membership changes frequently;
- Professionals do not appear to listen to parents; and
- Professionals are not prepared to answer questions and/or seem to lack knowledge regarding community resources.

Factors contributing to a sense that IEP/transition planning meetings are predetermined:

- Parent input is not requested prior to the meeting;
- IEP/transition goals and objectives appear to have been decided on or written prior to meeting; and
- School and /or agency personnel seem to control the meeting agenda and discussion.

Barriers related to the language and legal aspects of IEP/transition planning:

- Teachers have not fully explained the purpose of transition planning;
- Language of IEP/transition plan is unclear; and

- Legal nature of the IEP makes it difficult to state goals and objectives in language that reflects the student's needs and interests.

Excerpt from Facilitating Participation: Parents Perceptions of their involvement in IEP/Transition Planning

Role of the Facilitator and Recorder

The role of facilitator is important in supporting a good meeting process. The primary roles of the facilitator according to Chang and Kehoe are to:

- Keep the group on task;
- Ensure that all IEP team members participate;
- Manage the verbal behaviors of people (help individual know when to give up the floor, keep the discussion moving smoothly);
- Keep track of the agenda and the amount of time spent on agenda items;
  - Suggest alternate methods and processes when those suggested on the agenda are not working;
  - Protect people and their ideas from being attacked;
  - Deal with difficult people; and
  - Remain neutral during conflicts.

The role of the recorder is intrinsically tied to the success of the IEP meeting. Documentation of the discussion at the IEP meeting is essential, especially when key people have been unable to attend. The recorder must keep an accurate record of what was discussed and decided at the IEP meeting.

The roles of the recorder, according to Chang & Kehoe are to:

- Capture ideas visually without editing or paraphrasing;
- Regularly check to ensure appropriate information has been recorded;
- Help the facilitator keep track of information; and
- Produce meeting minutes.

IEP MEETINGS – Parent Participation

To be an effective recorder:

- Ask for clarification when you need to make sure you have the right information
- Write only the key words and phrases. You don't need to get every word;
- Try to use the words expressed and not your own interpretation;
- Write legibly on a flip chart or whiteboard, in full view of meeting participants;
- Circle or underline key ideas, phrases, decisions , or actions;
- Number all charts to help maintain order and flow of information;
- Don't eliminate ideas or phrases just because you don't agree with them; and
- If the meeting is long and technical, have the group review recorded minutes periodically.

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ESSENTIAL ELEMENTS OF A FUNCTIONAL BEHAVIORAL ASSESSMENT

Behavior Definition:

- An objective and behaviorally specific definition/description of the behavior(s) of concern is developed.

Data Collection:

- The scope and comprehensiveness of data collection is tailored to the particular behavior(s) of concern.
- Existing data is reviewed, particularly prior measurable and goal-directed attempts to address the behavior(s) of concern.
- Both qualitative and quantitative data are collected and considered.
- Strengths or areas of competence are identified.
- Data collection is individually tailored.
- Data collection procedures are valid and reliable.
- Information is collected and considered in a culturally competent manner.
- Additional information is collected when needed.
- When relevant, data is collected from multiple settings, i.e., school, home, and community.
- When relevant, diagnostic/descriptive information is collected through collaboration with professionals/agencies external to the school.

Analysis:

- Multiple sources of relevant information are considered, including:
  - The setting(s) in which the behavior(s) occurs
  - The specific behaviors of the student
  - Student traits, including personal/affective characteristics
- Analysis focuses on:
  - Understanding the purpose and function of the behavior(s) of concern;
  - The individual's social, emotional and behavioral functioning in relationship to expectations;
  - The development of interventions; and
  - The identification of needed supports.

Communication with parents throughout the functional behavioral assessment process is critical.

ESSENTIAL ELEMENTS OF A BEHAVIORAL INTERVENTION PLAN

Intervention Planning and Implementation:

- There is a clear link between the functional behavioral assessment data collected and the intervention(s) selected.
- The intervention strategies are selected based on the nature of the defined problem, parent input, and professional judgments about the potential effectiveness of strategies.
- Specific target goals are written which clearly describe projected improvement or remediation of the problem.
- Specific target goals are directly related to the student's present level of educational performance.
- Specific target goals are written that are clearly related to accomplishment of the goal.
- Target goals and objectives include strategies that will increase positive behavior and decrease undesirable behavior, including planned disciplinary procedures, if necessary.
- Strategies for generalizing and maintaining positive behavior outside of the training situation are included.
- The behavioral intervention plan is implemented with integrity, i.e., interventions are actually implemented in the manner in which they were designed, and consistent with established professional standards and practices.

Monitoring of Intervention Effects:

- Student performance data are collected and documented on a regular and frequent basis.
- Modification of the behavioral intervention plan is made as frequently as necessary, based on monitoring information.
- Progress monitoring information in a way that communicates whether the intervention is accomplishing its intended effect.
- Progress monitoring information is used frequently and repeatedly to determine whether the anticipated outcomes for the individual are being met and whether the placement and services are appropriate to the individual's learning needs.

Communicating with parents is critical throughout the development and implementation of a behavioral intervention plan.

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BLINDNESS AND VISUAL IMPAIRMENTS CHECKLIST

In order for a student with a visual impairment to be educated in the most effective way possible, the IEP Team needs to address the following:

1. Has the student received a functional vision evaluation?
   _____ Yes
   _____ No
   _____ Student's vision is so limited a functional vision evaluation would not be appropriate

2. Has the student received a learning media assessment?
   _____ Yes
   _____ No

3. Has the student received a recent clinical low vision assessment?
   _____ Yes
   _____ No
   _____ Student's vision is so limited a low vision clinical examination is not appropriate

4. Does the student's visual condition indicate:
   _____ A progressive loss of vision?
   _____ Stability at the current level?
   _____ Unpredictability that will be followed by a possible decrease in vision?
   _____ A temporary condition that is expected to improve?

5. Is there a medically diagnosed expectation of visual deterioration in adolescence or early childhood?
   _____ Yes
   _____ No

6. Does the student qualify for instruction and use of a new primary reading and writing medium because the individual can no longer effectively use the current medium?
   _____ Yes
   _____ No

BLINDNESS AND VISUAL IMPAIRMENTS CHECKLIST

7. Will the student receive instruction in Braille? (The IEP Team must provide for instruction in Braille unless the IEP Team determines, after evaluation of the child's reading and writing skills, that instruction in Braille is not appropriate.)
   _____ Yes
   _____ No

8. If instruction in Braille is not appropriate, which primary and secondary (if appropriate) learning media has been selected for this student?
   _____ Large Print ..... (____ primary ____ secondary)
   _____ Regular Print ..... (____ primary ____ secondary)
   _____ Regular Print with an optical device ..... (____ primary ____ secondary)
   _____ Closed circuit television ..... (____ primary ____ secondary)
   _____ Recorded ..... (____ primary ____ secondary)
   _____ Individual is a non-reader or uses assistive technology ..... (____ primary ____ secondary)

9. Has a written explanation of why the individual is using the selected learning media been provided?
   _____ Yes
   _____ No

10. Will a teacher certified at the appropriate grade level to teach students with visual impairment provide instruction in Braille reading and writing?
    _____ Yes
    _____ No
    _____ Not applicable

11. Has the student received an assessment in the following areas of need:
    - Orientation and Mobility (independent travel instruction)?
    - Skills for acquiring information, including appropriate use of technological devices and services (low and high tech?)
    - Social interaction skills?

- Transition services needs?
- Recreation needs?
- Career Education?
- Daily living (adaptive skills)?
- Other skills necessary to enable the individual to learn effectively?

How Do We Know We Are Doing It Right?

The IEP:

- Provides information regarding the student's visual condition.
- Addresses the student's Braille/tactile needs.
- Addresses the student's vision needs.
- Describes the student's reading and writing medium.
- Addresses assistive technology and accommodations.

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ASSISTIVE TECHNOLOGY QUESTIONS/ANSWERS

ASSISTIVE TECHNOLOGY

What is it?

Assistive technology enables children with disabilities to participate more fully in all aspects of life (home, school, and community) and helps them access their right to a “free appropriate, public education” in the “least restrictive environment”.

The IEP Team must determine whether an individual child needs an assistive technology device or service, and if so, the nature and extent to be provided. It is possible that an assistive technology evaluation will be required to determine if the child would need an assistive technology service and/or assistive technology device. Any needs identified should be reflected in the content of the IEP, including, as appropriate, the instructional program and services provided to the child (92 NAC 51 007.07B7).

Why is it important?

Assistive technology increases a student’s opportunities for education, social interactions, and potential for meaningful employment. It also supports a student’s participation in learning experiences in the least restrictive environment. Assistive technology is a tool to help the student benefit from the general education curriculum, and access extracurricular activities in home, school, and work environments.

In addition:

- A child’s need for assistive technology must be determined on a case-by-case basis and could be special education, related services or supplementary aids and services for children with disabilities who are educated in the least restrictive environment.
- A district must provide a device for use at home if necessary for FAPE. Decisions regarding the use of the assistive technology device or service in other settings outside school must be made on an individual basis.
- A school may access alternative funding sources to defray costs of assistive technology devices and services. Schools may not compel parents to file an insurance claim and may not condition provision of equipment or services on filing or approval of a claim.

ASSISTIVE TECHNOLOGY QUESTIONS/ANSWERS

How do we do it?

The following written process addresses primary questions related to assistive technology:

1. **What is it we want the student to be able to do within the educational program that he or she isn't able to do because of his or her disability.**

The team needs to consider carefully what environments the student accesses now, what are the tasks the student is required to accomplish, and what challenges does the student have in accomplishing the tasks. This will show us what the current educational need(s) are of the student. Then ask the question, "Would assistive technology of some kind enable the student to meet the goal?"

Areas to consider include, but are not necessarily limited to:

- Handwriting
- Spelling
- Reading
- Math
- Written expression
- Daily organization
- Communication
- Mobility
- Recreation
- Seating/positioning
- Seeing
- Self-care
- Levels of independence
- Cognitive processing

Proceed to Step #2.

ASSISTIVE TECHNOLOGY QUESTIONS/ANSWERS

2. What has been tried to meet the student's special education needs?

Once the area of educational need(s) has been identified, the team needs to review what has been tried in the past to address the need(s) of the student. This may include a variety of interventions achieved through strategies or modifications not typically considered "assistive technology." These may be low-tech in nature or there may be high-tech assistive technology devices in place.

Example: A student with a learning disability, unable to memorize multiplication facts, may use a multiplication table. The multiplication table could be identified as a supplementary aid in the regular education environment. An assistive technology device, such as a calculator (identified as a low-tech device) could also be used to meet the student's needs.

Proceed to Step # 3.

3. Is it working?

Is the current strategy, modification or device meeting the student's specific need in the environment? - Additionally, does the current strategy, modification or device encourage the level of desired independence, allowing the student to remain in the least restrictive environment (LRE) where he or she is able to receive FAPE?

Proceed to Step #4 and #5 or #6.

4. and 5. Is it working? YES. Provide documentation and evidence to support this conclusion.

If the team agrees the specified educational needs and level of independence are being met within the LRE, and the student's current programming is appropriate with the strategies, modifications, and/or devices in place. There should be evidence to support this conclusion.

The evidence may be in the form of:

- Work samples
- Classroom tests
- Formal testing
- Recorded observations
- Videotaping
- Any other form appropriate to the student and his or her needs.

ASSISTIVE TECHNOLOGY QUESTIONS/ANSWERS

The use of successful interventions may be documented within the IEP as part of the Present Levels of Academic Achievement and Functional Performance (PLAAFP), within goal statements, as components of the objectives, or as related services.

Proceed to Step #13.

6. Is it working? NO

If the team agrees that the current educational needs are not being met, they should proceed to Step #7.

7. What was tried? What were the results?

What strategy, device, or modification was tried? If there were more than one, deal with each one separately.

Document the time period the strategy, device, or modification was tried. Indicate if there were any "breaks" in service that may have affected the outcome. Provide information and descriptions about how each strategy, modification or device was used and indicate the anticipated outcome.

Actual outcomes or results should be noted. Indicate what worked and what did not work. Are there implications regarding further strategies or modifications or devices that should be considered to achieve the student's goals? Specific information and/or data collected from this step should be used in considering alternative interventions.
Proceed to Step #8.

8. Do we as a collaborative team have the necessary knowledge and resources to continue to try to meet the student's needs?

After efforts have been made to attempt modification, apply strategies, and/or use assistive services or devices, and it is apparent the IEP Team's efforts are not affecting the desired change, determine a course of action.

By asking this question, you can determine whether or not you can continue to brainstorm and come up with strategies on your own, whether there are more resources that can be tapped, or whether it is time to consider advice or assistance from an outside source.

The next step is to either seek additional process or continue to work as a team.

ASSISTIVE TECHNOLOGY QUESTIONS/ANSWERS

Proceed to Step #9 or Step #11.

9. Do we have the necessary knowledge and resources? NO

Proceed to Step #10.

10. Seek additional assistance.

At this point, the IEP Team may consider a referral to another source for information.

There may be other resources within the school building or school district, or other agencies, local or otherwise, the IEP Team may want to use.

As a result of information provided by your source of additional assistance, proceed to Step #12.

11. Do we have the necessary knowledge and resources? YES

The team needs to develop a plan of action to meet the specific need(s) of the student. Based on what has been tried, they need to decide on alternative intervention strategies, service or devices, or modifications to interventions already in place.

Proceed to Step #12.

12. What will be tried?

Given the specific educational needs of the child, the team needs to address the following questions regarding the assistive technology device:

- Under what conditions will it be tried?
- In what environment(s) will it be tried?
- How long will it be tried?
- What is the criterion for determining whether or not the need is being met?

ASSISTIVE TECHNOLOGY QUESTIONS/ANSWERS

Based on the discussion of previous outcomes, develop an action plan and incorporate it into the IEP as documentation of consideration for assistive technology that will be acted upon to meet the appropriate educational needs of the student in the LRE.

NOTE: Assistive technology is necessary as a supplementary aid if its presence (along with other necessary aids) supports the student sufficiently to maintain the placement, and its absence requires the student's removal to a more restrictive setting. For example—If a student with multiple physical disabilities can make independent, educational progress on his or her IEP goals in the regular classroom with the use of a computer and an augmentative communication device and cannot make such progress in that setting without the devices, then those devices are necessary supplementary aides.

Assistive technology needs for each student will vary. The criteria will also be unique to each student, depending on the desired goal. The goal for each student should include:

- Increased independence
- Task mastery
- Rate at which a task is accomplished
- Stamina to accomplish task(s)
- Accuracy
- Attentiveness
- Increased interactions
- Other child-specific criteria

As with any IEP considerations, goals related to assistive technology depend on the individual needs of the child and must be determined on a case-by-case basis. The service or device is related to, or integrated into the goal or short-term objectives, but is it the student's needs, not service or device limitation, that drives the decisions?

Proceed to Step #13

13. Consideration is an ONGOING PROCESS. Change in environment, change in student skill level or needs, and new technology may influence the process

It is important to remember that consideration of assistive technology and evaluating its role in the education program of a student is an ongoing process. While there is a beginning, there could quite possibly be no end. As the student's environments change, as the tasks change, and abilities change, the student's needs will likely change as well.

The process of consideration is required to be a part of every annual IEP review, at minimum

ASSISTIVE TECHNOLOGY QUESTIONS/ANSWERS

In best practice, the evaluation process will be ongoing with those around the student continuing to ask, "*Are the needs being met?"*

How Do We Know We Are Doing It Right?

The IEP Team:

- Considers what they want the student to be able to do within the educational program, what he or she isn't able to do because of his or her disability.
- Documents on the IEP what has been tried, how long it was tried, and the results.
- Documents on the IEP what will be tried?
- Considers whether necessary knowledge and resources have been obtained.
- Seeks additional assistance if needed.
- Considers the student's ongoing assistive technology needs.

ASSISTIVE TECHNOLOGY DEVICES

This list of devices, products, and systems represents a relatively comprehensive list of items that are considered to fall within the definition of "assistive technology". It includes both "low-tech" and "high-tech" items.

Ambulation:
- Canes
- Cane accessories
- Crutches
- Crutch accessories
- Walkers
- Walker accessories

Architectural Access:

Bathroom remodel
- Bathtubs
- Modified showers
- Toilets
- Bathroom sinks

Kitchen remodel
- Shelves
- Accessible appliances
- Cabinets
- Sinks/appliances
- Doors/auto open
- Handles
- Lighting

Safety/security
- Elevators
- Wheelchair lifts
- Chair-stair lift
- Ceiling track lift
- Pool lifts
- Ramps
- Drinking fountains
- House plans
- Other specialties

Orthotics:
- Restraints
- Supports
- Helmets
- Braces
- Splints
- Foot orthosis

Personal Care:
- Feeding devices
- Dishes/utensils
- Feeding accessories
- Drinking
- Grooming/hygiene
- Mechanical transfer lift
- Wheeled bath chair or commode
- Stationary commode
- Toileting accessories
- Incontinent supplies
- Shower/bath chair
- Bathing accessories
- Reaching/carrying
- Grab bars/grips/handles
- Transfer board

Personal Health:
- Scales
- Thermometers
- Blood pressure/pulse
- Dispenser aids

Communication:
- Mouthsticks
- Headwands
- Light pointers
- Manual page-turners
- Electric plate turners
- Reading machines
- Book holders
- Writing aids
- Typewriters
- Typing aids
- Modified keyboards
- Telephone access
- Signal system
- Communication boards
- Augmentative communication devices
- Television adaptations
- Personal voice amplification

Computer Software:
- Educational programs
- Recreation/games
- Communication programs
- Voice recognition
- Switch operated
- Assessment/evaluation training
- Tools/word Processing/database

Prosthetics:
- Upper extremity
- Lower extremity

ASSISTIVE TECHNOLOGY DEVICES

Recreation:
- Crafts
- Sewing
- Board games
- Other games
- Gardening
- Toys
- Music
- Electronics
- Photography
- Modified sports equipment
- Sports activities
- Playground equipment
- Park/picnic equipment
- Hunting/fishing
- Vacation travel

Robotics:
- Robotic arm
- Other robotic equipment

Seating:
- Postural support system
- Postural support hardware
- Bolster or corner chairs
- Other therapeutic seats
- Large print
- Special access
- Recliner

Computer Hardware:
- Special computer systems
- Keyboards
- Printers
- Computer supplies
- Computer workstations
- Computer peripherals
- Expanded keyboards
- Other keyboards
- Key guards
- Voice synthesizers
- Voice recognition systems
- Braille printers
- Tactile printers
- Visual accessories
- Cursor control
- Interface adaptations
- Other adaptations

Ergonomics:
- Arm/wrist supports
- Back supports
- Ergo joystick
- Industrial workstations
- Office workstations
- Tools seat/chair
- CRT access

Environmental Controls:
- Environmental control systems
- Environmental control components

Switches:
- Wheelchair controls
- Mounting hardware
- Other switches

Technology for Hearing:
- Alert/signal systems
- Telephone adaptations
- TV decoders
- TV amplifiers
- Personal amplification
- FM Amplification system
- Infrared amplification system
- Audio loop systems
- TDDs/TTYs
- Hearing aids

Technology for Vision:
- Braille
- Clock/watches
- Sensors/safety/security
- Labeling
- Large button phone speakerphone
- Large print books
- Taped/audio books
- Magnifiers
- Magnification system
- Talking equipment
- Calculators
- Other devices

Therapeutic Aids:
- Sensory integration
- Perceptual motor
- Gross motor
- Fine motor
- Crawling/scooting
- Hand controls
- Pressure monitors
- Decubitis cushion
- Wheelchair cushion
- Other cushions

Home Management:
- Food preparation

ASSISTIVE TECHNOLOGY DEVICES

- Housekeeping
- Lift chairs/lift cushions
- Modified furniture
- Beds/mattresses
- Protective bed padding
- Special pillows
- Shopping aids

Medical Equipment-adapted:

- Stethoscopes
- Diabetic equipment
- Thermometers
- Pressure monitors
- Scales
- Signal systems
- Other medical equipment

Mobility:

- Manual wheelchair
- Adult lightweight
- Child light weight
- Sports/racing
- Standing wheelchair
- Power wheelchair
- Power standing wheelchair
- 3-wheeled mobility device
- Other mobility devices
- Wheelchair trays
- Portable ramps
- Batteries
- Power conversion
- Other accessories
- Ambulation training
- Balance training
- Prone standers
- Upright frames
- Supine standers
- Parapodiums
- Side lying boards
- Stand tables
- Treatment tables
- Rolls/inclines
- Mats
- Positioning
- Strengthening
- Exercise equipment
- Pain relief
- Hydrotherapy

Transportation:

- Vehicles
- Vehicle conversions
- Motocycles
- Motorcycle conversions
- Driving controls
- Assistive accessories
- Seat belts
- Wheelchair restraint system
- Wheelchair lifts
- Ramps
- Wheelchair loaders
- Wheelchair carriers
- Vehicle access
- Wheelchair parts
- Patient chairs
- Adult travel chairs
- Travel chairs
- Car seats/beds
- Strollers
- Hand-operated trikes
- Other adapted trikes
- Adult bikes/trikes
- Manual stretchers
- Power stretchers

Working Animals:

- Animals for blind/low vision
- Animals for hearing impairment
- Animals for physical disability

Vocational/Education:

- Workstations
- Desks
- Classroom equipment
- Tools
- Office equipment
- Adjustable tables
- Education/instruction
- Vocational/assessment
- Training
- Literature/books

Adapted from: *Has Technology Been Considered? A guide for IEP Teams.* Chambers, A.C., (1997)

EXAMPLES OF PLAAFP STATEMENTS AND GOALS

PLAAFP	Example
Present Level of Academic Achievement and Functional Performance The PLAAFP describes the child's current level of academic achievement and functioning performance including: how the child's disability affects the child's involvement in and progress in the general education curriculum. For preschool children, as appropriate, how the disability affects the child's participation in appropriate activities, areas of need. The PLAAFP states recent evaluation data, baseline data, performance on any general state and district-wide assessments/or indicates that the child did not participate. The PLAAFP includes a statement of the child's strengths related to goal area & parent concerns. The PLAAFP describes how the child's disability affects involvement and progress in general curriculum and activities; (differences between the child's performance *(baseline data);* and supports needed for success in	**Juan (Preschool)** *(Strengths)* Juan is very social and loves to be involved and actively participate in new activities. (*Needs*) When he needs something, he calls out and/or gets what he needs/wants without permission on 4 out of 5 occasions. He is easily distracted and will go from one activity to another attending to a task an average of one minute. He requires verbal redirection and reminders to complete his work and interact with peers at appropriate times. (*Impact of disability*). His distractibility and short attention span is affecting his ability to learn new concepts in pre-math, pre-literacy and learn acceptable social skills. **Nick (Kindergarten)** (*Strengths)* -- Nick can identify all letters in his name in capital form, can read 10 high frequency words, and knows 8 consonant sounds (s, b, t, f, p, n, c/k). (*Needs)* -- He needs to: be able identify all 26 letters (capital or lowercase); increase high frequency words; and continue working on sounds/symbols relationships. (*Impact of disability)* -- Nick's short term memory is impacting his ability to identify and recall letters and sounds which is affecting his pre reading skills. **Maria (3rd grade)** *(Strengths)* -- Maria can add and subtract three digit numbers without regrouping with 85% accuracy; she understands the concept of multiplication as repeated addition. *(Needs)* -- She has difficulty: adding or subtracting three digit numbers; with regrouping (45% accuracy); and multiplication facts are not automatic (60% accuracy). *(Impact of disability)* -- Maria's ability to learn and understand numerical concepts/relationships and compute fluently and accurately using appropriate strategies and tools. **Lily (4th grade)** (*Strengths*) -- Lily is very interested in science and is good at gathering materials for science experiments. (*Needs)* -- Lily's reading, math, and written language skills are at the middle 1st grade level. She can verbally state that sentences begin with a capital letter and end with a period. 50% of her written assignments lack appropriate punctuation. (*Impact of disability*) -- Lily's reading comprehension, fluency, and writing skills affect her performance in science lab assignments. **Raul (5th grade)** (*Strengths)* Raul is using his augmentative communication device (Dynavox) an average of 3 hours a day. He shows more interest in listening to stories on tape. With the use of his Dynavox, Raul correctly answers comprehension questions from a Jamestown reader, Level I with 60% accuracy. *(Impact of Disability)* – Because Raul is nonverbal and non ambulatory, he requires assistive technology to demonstrate his understanding of material. *(Needs)* -- To increase his level of comprehension of written material (via audiotape).

EXAMPLES OF PLAAFP STATEMENTS AND GOALS

PLAAFP	Example
general education curriculum. Transition age students *(16 yr.; or younger if deemed appropriate by the IEP team):* PLAAFP addresses needs, transition assessments in the areas of training, education, employment, & where appropriate, independent living, and transition services (including course of study) to assist in reaching those goals.	**Tye (8th grade)** *(Strengths)* --Tye can identify the main characters and setting in a story; he can summarize a story using the main idea and two supporting details and can compare and contrast two characters. *(Needs)* --Tye can identify and analyze the plot development and point of view in one out of five stories. He can summarize the story using an average of 2 details. Although he can sequence at least 10 main events from the story, he can only identify both cause and effect in one out of five stories. *(Impact of disability)* -- Tye's challenges with language and ability to organize and process information is affecting his ability to comprehend the information he reads in the 8th grade classroom. **Devin (11th grade)** *(Strengths)* -- With continual redirection and support, Devin completes assignments with 90% accuracy. (*Impact of Disability*) -- He misreads social cues, becomes frustrated and has an average of three verbal altercations a day. He needs a cool down period away from the classroom to get his emotions under control. During this cool down period, he misses instruction. In a typical week, he misses an average of one hour of instructional time a day. (*Needs)* -- Devin needs to acquire skills to cope with social interactions in order to remain in the classroom.

EXAMPLES OF PLAAFP STATEMENTS AND GOALS

Benchmarks/Short Term Objectives	Example
Benchmarks/short term objectives (<u>Required</u> for students taking alternate assessments aligned to alternate achievement standards, <u>Optional</u> for all other students) Benchmarks/short term objectives state the conditions for student performance, the skill/behavior to be performed, criteria, and the method or instrument of evaluation. Short term objectives and benchmarks are steps that measure the child's progress toward the annual measurable goal. Short term objectives provide a roadmap and clear mechanism to evaluate the child's progress.	**Raul (5th grade)** When given a story from the Jamestown reader, Raul will demonstrate, through the use of his Dynavox, comprehension at 90% accuracy. <u>Objectives/Benchmarks</u> • By 11/08, when given a story from the Jamestown reader, Level 1, Raul will demonstrate, through the use of his Dynavox, comprehension at 80% accuracy. • By 1/09, when given a story from the Jamestown reader, Level 1, Raul will demonstrate, through the use of his Dynavox, comprehension at 90% accuracy. • By 3/09, when given a story from the Jamestown reader, Level 2, Raul will demonstrate, through the use of his Dynavox, comprehension at 80% accuracy. • By 5/09, when given a story from the Jamestown reader, Level 2, Raul will demonstrate, through the use of his Dynavox, comprehension at 90% accuracy.

DETERMINING APPROPRIATE ACCOMMODATIONS CHECKLIST FOR IEP TEAM

DETERMINING APPROPRIATE ACCOMMODATIONS

Directions: Use these questions to identify various types of presentation, response, setting, timing, and scheduling accommodations for students with disabilities. Though not exhaustive—its purpose is to prompt IEP Teams to consider a wide range of accommodation needs. Use the list in planning the IEP by indicating Y (Yes), N (No), or DK/NA (Don't Know or Not Applicable).

Student Name: _____

		Y	N	DK/ NA
PRESENTATION ACCOMMODATIONS				
1.	Does the student have a visual impairment that requires large-type or Braille materials?	☐	☐	☐
2.	Is the student able to read and understand directions?	☐	☐	☐
3.	Can the student follow oral directions from an adult or audiotape?	☐	☐	☐
4.	Does the student need directions repeated frequently?	☐	☐	☐
5.	Are assistive technology devices indicated on the student's IEP?	☐	☐	☐
6.	Has the student been identified as having a reading disability?	☐	☐	☐
7.	Does the student have low or poor reading skills that may require the reading of tests or sections of tests that do not measure reading comprehension in order to demonstrate knowledge of subject areas?	☐	☐	☐
8.	Does the student have a hearing impairment that requires an interpreter to sign directions?	☐	☐	☐
9.	Does the student have a hearing impairment and need a listening device?	☐	☐	☐
RESPONSE ACCOMMODATIONS				
10.	Does the student have difficulty tracking from one page to another and maintaining that student's place?	☐	☐	☐
11.	Does the student have a disability that affects the ability to record that student's responses in the standard manner?	☐	☐	☐
12.	Can the student use a pencil or writing instrument?	☐	☐	☐
13.	Does the student use a word processor to complete homework assignments or tests?	☐	☐	☐
14.	Does the student respond orally or use a recording device to complete assignments or tests?	☐	☐	☐
15.	Does the student need the services of a scribe?	☐	☐	☐

16. Does the student have a disability that affects that student's ability to spell?	☐	☐	☐
17. Does the student have a visual or motor disability that affects that student's ability to perform math computations?	☐	☐	☐

SETTING ACCOMMODATIONS	**Y**	**N**	**DK/ NA**
18. Do others easily distract the student?	☐	☐	☐
19. Does the student require any specialized equipment or other accommodations that may be distracting to others?			
20. Does the student have visual impairments that require special lighting?	☐	☐	☐
21. Does the student have auditory impairments that require special acoustics?	☐	☐	☐

TIMING AND SCHEDULING ACCOMMODATIONS	**Y**	**N**	**DK/ NA**
23. Can the student work continuously for the length of time allocated for typical assignments?	☐	☐	☐
24. Does the student use other accommodations or adaptive equipment that require more time to complete work (e.g., Braille, scribe, use of head pointer to type)?	☐	☐	☐
25. Does the student tire easily due to health impairments?	☐	☐	☐
26. Does the student have a visual impairment that causes eyestrain and requires frequent breaks?	☐	☐	☐
27. Does the student have a learning disability that affects the rate at which that student processes written information?	☐	☐	☐
28. Does the student have a disability that affects the rate at which that student writes responses?	☐	☐	☐

MEASURABLE POSTSECONDARY GOALS

THE LAW

Idea 2004 and Nebraska's Rule 51 state that measurable postsecondary goals must be:

- Included in the IEP of every child beginning no later than the first IEP to be in effect when the child is 16 (or younger if determined appropriate by the IEP team);
- Updated annually; and
- Based upon age appropriate transition assessments related to:
  - Training;
  - Education;
  - Employment; and
  - Independent living skills (where appropriate).

THE FOUR AREAS

The following descriptions are provided to help differentiate between the required four areas. It is the intent that a goal be developed for each of the areas of training, education, and employment. A goal for independent living skills is required only if determined appropriate by the team. The question has been raised whether there must be a separate goal for each of the above areas or whether "combination" goals are acceptable. It is recognized that it may be appropriate to address training and education together in one goal. If a team chooses to combine all areas (training, education, employment, and independent living) into one all-inclusive goal, it must ensure that the goal remains measurable.

Training may include a program leading to a high school completion document or certificate (e.g., Adult Basic Education, General Education Development); short term employment training (e.g., Workforce Investment Act, Job Corps); or Vocational Technical School (less than a two-year program).

Education may include enrollment and studies at a community or technical college (two-year programs); college or university (four-year programs); or continuing education.

Employment may include part-time or full-time employment. This includes competitive employment, sheltered work, non-paid experiences, or employment in an enclave setting.

MEASURABLE POSTSECONDARY GOALS

Independent living skills refers to the skills necessary to be self-reliant and self-sufficient. Such skills may center on personal grooming and hygiene, self-advocacy, budgeting and personal finances, home maintenance and repair, community involvement, transportation, or other daily living skills.

ASSESSMENTS

Goals must be based upon age appropriate transition assessments. This is a critical piece, in that many students are unsure of what they want to do after leaving high school. Transition assessments are unsure of what they want to do after leaving high school. Transition assessments serve to assist students in discovering their strengths, interests, and preferences in order to help them determine their future plans. Assessments serve to identify the skills the student possesses, as well as identify the skills the student needs to acquire.

Age appropriate transition assessments may include both informal and formal assessments. The assessments to be used to determine appropriate measurable postsecondary goals will depend upon the individual needs of the student and are best determined on an individual basis. The IEP team may choose to utilize assessments completed by other sources, such as Vocational Rehabilitation, in order to avoid duplication and to ensure coordination.

Examples of information and formal assessments are listed below:

Information Assessments	***Formal Assessments***
Observations	*IQ testing*
Parent/Family Surveys	*Interest Inventories*
Curriculum-Based Assessments	*State and/or District Assessments*
Student Interviews/Discussions	*Academic/Vocational/Independent Living Skills Assessments*

APPROPRIATE MEASURABLE POSTSECONDARY GOALS

While IDEA and Rule 51 do not specifically define the term “postsecondary goals”, it is generally understood that this refers to those goals that a student hopes to achieve after leaving high school. In order for a goal to be measurable, it must communicate in specific and concrete terms the observable results to be attained. Goals must have a measurability that is the same across people evaluating the goals. In other words, multiple people should be able to agree whether the goal has been reached. Given that a student’s goals are likely to change as s/he moves through the high school years, it is particularly important that the goals be reviewed and updated annually.

MEASURABLE POSTSECONDARY GOALS

EXAMPLES

Following are examples of measurable postsecondary goals that are believed to meet the intent of the law. There are different interpretations as to the degree of specificity required for these goals; therefore, it is recommended that the individual district and/or IEP team determine how specific the goal must be. It may be appropriate to begin writing the postsecondary goals in broader terms in the early years and narrowing the focus as the student moves toward completion of high school. The key is to ensure that the goals clearly describe what the student intends to achieve after high school and that the goals are measurable.

An example of a measurable postsecondary **training** goal may be:
Jonathan will seek an apprenticeship in the industrial field.

An example of a measurable postsecondary **education** goal may be:
Jonathan will apply to a community college for purposes of enrolling in coursework related to computers.

An example of a measurable postsecondary **employment** goal may be:
Jonathan will seek employment in the area of auto mechanics.

An example of a measurable postsecondary **independent living skills** goal may be:
Jonathan will pursue living independently in his own apartment.

The above examples are written in such a way to identify the student's plans for life after high school and to provide a clear mechanism for measuring whether the goal was achieved (e.g., Did the student obtain work in the chosen field? Is the student living independently in his own apartment? Is the student attending community college?) In order to emphasize the fact that these are the student's goals, teams may choose to write goals in first person (i.e., "I will…).

TRANSITION SERVICES

The ongoing planning and support of the IEP team is crucial for fulfilling their responsibility of preparing the student to meet his or her measurable postsecondary goals after leaving high school. IDEA 2004 and Rule 51 require that the IEP identify the transition services (including courses of study) needed to assist the child in reaching his/her postsecondary goals. The IEP team must address and refine plans each year for the student's course of study, transition activities, and linkages to post school agencies and supports.

PARTICIPATION OF OTHER AGENCIES

Regulations require that, to the extent appropriate and with the consent of the parents, the school invite to the IEP meeting a representative of any other agency that is likely to be responsible for providing or paying for transition services. Previously, IDEA further required that, if an agency was invited to attend and did not send a representative, the school take steps to obtain participation of the other agency in planning transition services. This additional requirement was eliminated in the re-authorization of IDEA 2004. However, it is still recommended as an effective practice that attempts to be made to secure this participation and those attempts be documented.

DOCUMENTATION

There is not a specific place on the IEP where the measurable postsecondary goals must be written. IDEA and Rule 51 state that, once information has been written in one part of the IEP, the information does not need to be duplicated in any other areas.

IN CONCLUSION

Measurable postsecondary goals are to serve as the guide for a student's transition plan. In the early years of transition planning for a student, these goals may be broad descriptions reflecting the student's preferences, interests or vision. They should be refined each year as the student moves toward exiting high school. The development of measurable postsecondary goals, identification of the needed transition services, and implementation of the transition plan all must come together to ultimately prepare the student for a successful life after high school.

MEASURABLE POSTSECONDARY GOALS

DISCUSSION POINT

Because neither the law nor the regulations give specific guidance regarding measurable postsecondary goals, it is difficult to provide answers to questions that may arise. The following discussion is provided to assist teams in meeting the requirements of the law.

Question: *How does a team develop appropriate postsecondary goals?*

Discussion: IDEA and Rule 51 require that goals be based upon appropriate transition assessments. It is important that goals are based upon and supported by the results of these assessments. Given that the team begins developing these goals when the student reaches age 16, there is ample time to review and refine them before the student exits high school. Depending upon the desires of the student, it may be necessary for the team to have considerable discussion to ensure that the goals that are developed are actually achievable for the student.

Question: *Are there specific assessment tools that should be used in order to determine the measurable postsecondary goals?*

Discussion: There are no specific assessments that must be completed for this purpose. The key is that the assessments, whether formal or informal, are appropriate to the student's age and that they assist in identifying the student's strengths, interests, and preferences.

Question: *Who is responsible for writing the measurable postsecondary goal?*

Discussion: The measurable postsecondary goal is to be developed within the IEP team process. Therefore, there is no one specific person responsible for this. It is important that that this is a team decision, and, most importantly, that it accurately reflects the student's plans for him/herself.

Question: *What is the district's accountability for students achieving their measurable postsecondary goals?*

Discussion: A student may or may not achieve the postsecondary goals s/he identifies due to a variety of reasons beyond the control of the district. However, the child is accountable for developing annual IEP goals to reasonable enable the student to meet his/her postsecondary goals and providing the needed transition services and course of study to improve the academic and functional achievement of the student to facilitate movement from school to post-school.

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GLOSSARY OF TERMS

Accommodations:
Supports or services provided to help a student access the general education curriculum and validly demonstrate learning.

Adaptations:
Any procedure intended to meet an educational situation with respect to individual differences in ability or purpose.

Annual Goal:
A statement that describes what a child with a disability can reasonably be expected to accomplish within a twelve-month period in the child's special education program. There should be a direct relationship between the annual goals and the present levels of academic achievement and functional performance.

Assessment:
Methods or tools used for measuring present levels of academic achievement and functional performance as well as educational needs; progress toward achieving annual goals and objectives (benchmarks), progress in meeting State standards.

Assistive Technology Device:
Any item, piece of equipment or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve the functional capabilities of a child with a disability. The term does not include a medical device that is surgically implanted, or the replacement of such service.

Assistive Technology Services:
Any service that directly assists a child with a disability in the selection, acquisition, or use of an assistive technology device. This includes evaluation of the needs of the child with a disability, including functional evaluation of the child in the child's customary environment; purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by children with a disability; selecting designing, fitting, customizing, adapting, applying, maintaining, repairing or replacing of assistive technology devices; coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs; training or technical assistance for a child with a disability, or, if appropriate, that child's family; and training or technical assistance, for those professionals (including individuals providing education or rehabilitation services), employers, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of the child with a disability.

Baseline Performance:
To measure baseline performance, a point in time is selected from which one can monitor changes or improvement in student performance.

Behavioral Intervention Plan (BIP):
Written, specific, purposeful, and organized plan which describes positive behavioral interventions and other strategies that will be implemented to address goals for a student's social, emotional, and behavioral development. For students whose behavior prompts disciplinary action by the school, the behavioral intervention plan addresses the behavior(s) of concern that led to conducting a functional behavioral assessment.

Benchmarks (Major Milestones): Are major milestones, which specify skill or performance levels a student needs to accomplish toward reaching his or her annual goal.

GLOSSARY OF TERMS

Competencies:
A competency is a learned student performance statement, which can be accurately repeated and measured. Competencies function as the basis for building the instructional program.

Consensus:
The mutual feeling that all concerns have been addressed and each member has been heard and understood.

Content Standards:
Describe the goals for individual student achievement. They specify what students should know and be able to do in identified disciplines or subject areas.

Continuum of Services:
Includes instruction in regular education classes, special classes, special Schools, home instruction, instructing in hospitals and institutions, and provisions for supplementary services (such as resource classrooms and instruction by itinerant staff) to be provided in conjunction with regular education class placement. For preschool children ages three through five, means the availability of different types of settings where specialized services may be delivered; for school-age children means the availability of different types of education environments.

Core Academic Subject:
English, reading or language arts, mathematics, science, foreign languages, civics and government, economics, arts, history and geography.

Course of Study:
A general statement that identifies the career path, based on the student's vision and his or her needs, interests, and preferences.

Critical Skills:
Knowledge or performance skills that are essential to the progress of a student.

District Standards:
District goals for student achievement and performance that can be obtained by measuring the improvement of students' skills in reading, writing, speaking, listening, mathematics, reasoning, studying, and technological literacy.

District-wide Assessment:
A large-scale academic achievement assessment.

Extended School Year Services (ESY):
Special education and related services that: are provided to a child with a disability, beyond the normal school year of the school district; in accordance with the child's IEP; at no cost to the parents of the child; and meet the standards of the State.

Free Appropriate Public Education (FAPE):
Special education and related services provided at public expense, under public supervision and direction, and at no cost to parents. These services must include an appropriate preschool, elementary school, or secondary school education in the state, and be provided in conformity with the child's IEP.

Functional Behavioral Assessment (FBA):
A process that may include interviews, direct observation, and other evaluations of the child's behaviors. Some of the questions asked as part of a functional behavioral assessment

might include: What happened before the behavior? What happened during the behavior? What was the result of the behavior? In what environment did the behavior occur? Has the child's medication been changed? Did the child receive medication at the right time? The FBA enhances an understanding of the purpose and function of a student's behaviors and subsequently provides information that leads to interventions and needed supports.

General Curriculum:
A description of the standards and benchmarks adopted by a school district, or a school within the district, that applies to all children. It is applicable to children with disabilities as well as nondisabled children and related to the content of the curriculum and not to the setting in which it is used. It is the basis of planning instruction of all students.

General Education Intervention:
Attempts to resolve presenting problems, or behaviors of concern, in the general education environment, prior to conducting a full and individual evaluation.

Individualized Education Program (IEP):
A written statement for a child with a disability that is developed, reviewed and revised in accordance with federal and state regulations.

Instructional Services:
The specially designed instruction and accommodations provided by special education instructional personnel to eligible individuals.

Least Restrictive Environment (LRE):
To the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are not disabled. Removal of children with disabilities from the regular educational environment occurs only when the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

Limited English Proficiency (LEP):
Is when an individual's primary language is something other than English.

Modifications:
Are changes made to the content and performance expectations for students?

Monitoring Strategy:
Is a guide to describe how data will be collected to make decisions about the progress of a student and it establishes the decision-making plan for examining data collected.

Performance Standards:
Standards that specify how good is good enough and describe at least three levels of student performance. The federal Elementary and Secondary Education Act (ESEA) requires that at least three levels of performance be established to assist in determining which students have or have not achieved a satisfactory or proficient level of performance for reading and mathematics. Districts may decide to provide more than three performance levels.

Physical Education:
The term of development of physical and motor fitness, fundamental motor skills and patterns; and skills in aquatics, dance, and individual and group games and sports (including intramural and lifetime sports). The term also refers to special

physical education, adaptive physical education, movement education, and motor development.

Present Level of Academic Achievement and Functional Performance:
A summary statement which describes the student's current achievement in the areas of need, as determined by an evaluation. This includes information about progress on the current IEP, the evaluation team report, input from the parents and child, interventions, assessment, observations and special factors. This information provides a "picture' of the child including his/her strengths and needs.

Primary Learning Medium:
The primary learning medium is the medium most frequently used by a student with a visual impairment during classroom instruction. A primary learning medium can also be utilized in a wide variety of settings inside and outside the classroom. It should permit independence and efficiency in both reading and writing. It must accommodate academic, nonacademic, and vocational needs and be applicable to adult activities following the termination of school.

Progress Monitoring:
A method of monitoring a student's progress that enable the IEP Team to discern whether changes need to be made in the IEP.

Related Services:
Developmental, corrective, and other services that are required to assist an individual with a disability benefit from special education.

Short-term Objectives:
Measurable, intermediate steps between a student's present level of academic achievement and functional performance and the annual goals of the student. Objectives must be measurable and understandable to all IEP Team members.

Special Education:
Specially designed instruction, at no cost to the parents, to meet the unique needs of a child with a disability, including instruction conducted in the classroom, in the home, in hospitals, institutions, and in other settings; and instruction in physical education.

Standard:
A clear statement of what students are expected to know and be able to do.

Supplemental Aids and Services:
Services provided in order for an eligible individual to be served in the regular education classroom environment, which may include intensive short-term specially designed instruction; educational interpreters; readers for individuals with visual impairments; special education assistants; special education assistants for individuals with physical disabilities for assistance in and about school, and for transportation; materials; and specialized or modified instructionally related equipment for use in the school to enable children with disabilities to be educated with nondisabled children to the maximum extent appropriate.

Support Services:
The specially designed instruction and activities, which augment, supplement, or support the educational program of eligible individuals.

Surrogate Parent:
Someone who is appointed by the school district to act in the place of the child's parent, representing the child in all areas of special education, if the child's parent cannot be located.

GLOSSARY OF TERMS

Transition Services:
A coordinated set of activities for a child with a disability at age 16, or earlier, that is designed with a results-oriented process, that is focused on improving the academic and functional achievement of the child with a disability to facilitate the child's movement from school to post-school activities, including postsecondary education, vocational training, integrated employment (including supported employment), continuing and adult education, adult services, independent

living, or community participation; is based on the individual child's needs, taking into account the child's strengths, preferences, and interests; and includes instruction; related services; community experiences; the development of employment and other post-school adult living objectives; and provision of a functional vocational evaluation.

Transportation:
A related service that refers to the means by which a student travels to and from school.

Vocation Education:
Organized educational programs that are directly related to the preparation of individuals for paid or unpaid employment, or additional preparation for a career requiring other than a baccalaureate or advanced degree.

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FREQUENTLY ASKED QUESTIONS

Development of Annual Goals

1. **Should the IEP Team put scores in the Present Level of Academic Achievement and Functional Performance (PLAAFP)**?

   The names of specific tests and related scores do not need to be included in the PLAAFP since they are documented in the evaluation report and eligibility determination. The PLAAFP should not be a reiteration of the most current evaluation/ reevaluation. The PLAAFP needs to describe the skills, or areas identified during the evaluation process, that have the greatest impact on the child's educational performance. Consider what critical information you are trying to convey by including the test score and whether there is an alternative way to communicate this information. If it is necessary to use a test score, the score must be clearly defined including the interpretation of the score.

2. **Should there be a goal for every weakness (need) contained in the PLAAFP?**

   No. IEP teams are not required to write a goal for each concern or need in the present level of performance. The IEP Team must identify the skill areas affected by the disability and develop a goal around the skill(s) the student can reasonably accomplish within a 12-month period. For example, if math is the skill area affected by the disability and the assessment has identified ten specific math skills the student needs to learn in the general education curriculum to be at grade level, the IEP team needs to target what skill(s) the student can reasonably be expected to accomplish in 12 months. The goal is developed around that specific math skill(s). Should the student meet that goal earlier than 12 months, the team will target a higher level skill and develop a new goal.

3. **What are the required components of an annual goal to meet state requirements?**

   Federal and state regulations require that a goal be a "measurable annual goal and that you must indicate how progress will be measured. The following components must be included in an annual goal:
   a. Conditions (i.e. procedures used to present information, i.e. when, where, how)
   b. Performance (i.e. specific observable skill the student is expected to accomplish)
   c. Criteria (i.e. how well must the skill be done and how often to acquire mastery)

4. **How is "measurable" defined?**

   Measurable means you can count it or observe it. When tempted to write immeasurable words, stop and ask, "What do I see the student doing that

makes me make this judgment call?" What you actually see the student doing is the measurable content you need to identify in your present level. To make something measurable, you can specify rate, (for example, 3 out of 4 times, 80% of the time, 5

minutes out of every 10, 75% success), grade or performance level. You can make student behavior measurable by defining the factors surrounding the behavior. These include precipitating events, such as, "when asked to work independently," or environmental factors, such as "when dealing with female authority figures, "or other patterns, such as "always after lunch," "in math class," On the playground." It is also important to write goals that include the specific skill to be learned, and not just improve reading or teaching the accommodation or assistive device.

5. **Must the measurable annual goals in a child's IEP address all areas of the general education curriculum, or only those areas in which the child's involvement and progress are affected by the child's disability?**

The regulations require that each child's' IEP include a "statement of measurable annual goals, including benchmarks or short-term objectives, related to (1) Meeting 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 (2) meeting each of the child's' other education needs that result from the child's disability…" Thus, a school district is not required to include in an IEP annual goals that relate to areas of the general education curriculum in which the disability does not affect the child's ability to be involved in and progress.

6. **Do all goals have to be connected to standards (academic, social and functional)?**

It is not a requirement that all goals be connected to the standards. It is best practice to try to make that connection whenever possible. There may even be areas addressed on the IEP for which the state has not developed standards, for example, transition and behavior. It is important that goals are skill based and linked to functional assessment and present levels of performance.

7. **Why does the IEP Team have to write goals that connect to standards?**

The regulations require that a student be involved and make progress in the general education curriculum. IDEA requires that students participate in statewide testing based on grade level standards. If IEPs are connected to the standards, it promotes consistency.

8. **Does the IEP Team have to address all the standards?**

It is not a requirement to address all standards on the IEP. The IEP should reflect the student's skill areas affected by the disability. Specific skills

identified under each area are prioritized and annual goals are developed. These goals should connect

to the standards to the extent possible. The expectation is that the student be exposed to all the standards through instruction throughout the year.

To reach this expectation, it is important for special education staff and regular education staff to work closely together to ensure that student is receiving the appropriate instruction in the general education curriculum.

9. If a student has a behavior that impedes learning, is a behavior goal required?

It is not required to have a goal for the behavior(s) identified in this section (such as not completing homework on time or being defiant to teachers). You must outline positive intervention strategies to address these behaviors but they can be in the special conditions section of the IEP.

10. Can the IEP Team write objectives for students even if they do not take the alternate assessment?

Students who are assessed on an alternate assessment are required to have goals and objectives and/or benchmarks. For other students, it is up to the discretion of the IEP team how to best write goals and/or goals and objectives/benchmarks that clearly outline the educational program for the student.

The IEP Meeting

11. May IEP meetings be audio or videotape recorded?

State and federal special education rules and statutes do not address the use of audio or video recording devices at IEP meetings, and no federal statute either authorizes or prohibits recording of an IEP meeting by either a parent or a school official. Any recording of an IEP meeting that is maintained by the school district is an “education record” within the meaning of the Family Educational Rights and Privacy Act (FERPA) and would be subject to confidentiality requirements.

12. Must the school district let the parents know who will be at the IEP meeting?

Yes. In notifying parents about the meeting, the school district “must indicate the purpose, time, and location of the meeting, and who will be in attendance.” In addition, if a purpose of the IEP meeting is the consideration of transition services for a student, the notice must also inform the parents that the school district is inviting the student, and identify any other agency that will be invited to send a representative. The school district should also inform the parents of their right to invite to the meeting “other individuals who have knowledge or

special expertise regarding the child". It is appropriate for the school district to ask the parents who they have invited to the IEP meeting.

13. Is it permissible for an agency to have a draft IEP completed before the IEP meeting?

Yes. A district may come to an IEP meeting prepared with evaluation findings and proposed

recommendations regarding IEP content, but must make it clear to the parents at the outset of the meeting that the services proposed are only recommendations for review and discussion with the parents. Parents have the right to bring written questions, concerns, and recommendations to an IEP meeting as a part of a full discussion of the student's needs and the services to be provided to meet those needs before the IEP is finalized.

14. For a child with a disability receiving special education for the first time, when must an IEP be developed before placement or after placement?

An IEP must be "in effect before special education and related services are provided to a child." The appropriate placement for a particular child with a disability cannot be determined until after decisions have been made about the child's needs and the services that the school district will provide to meet those needs. These decisions must be made at the IEP meeting. It is not be permissible to first place the child and then develop the IEP. Therefore, the IEP must be developed before placement.

15. What timelines apply to the development and implementation of an initial IEP for a child with a disability?

According to 92 NAC 51-009.04A2--009.02A3, upon completion of a multidisciplinary team verification decision, school districts or approved cooperatives shall provide a reasonable notification and conduct an individualized education program conference within 30 calendar days. As soon as possible following development of the IEP, special education and related services must be made available to the child in accordance with the child's IEP.

16. Must a school district hold separate meetings to determine a child's eligibility for special education and related services, develop the child's IEP, and determine the child's placement or may the school district meet all of these requirements in a single meeting?

A school district may, after a child is determined to be a child with a disability who needs special education services, continue in the same meeting to develop an IEP for the child and to determine the child's placement. However, the school district must ensure that it meets all of the requirements regarding meetings to develop IEPs, including providing appropriate notification to the parents, and including the required team participants.

17. How frequently must a school district conduct meetings to review, and if appropriate, revise, the IEP for each child with a disability?

A school district must initiate and conduct meetings periodically, but at least once every twelve months, to determine whether the annual goals for the child are being achieved, and to revise the IEP as appropriate to address: (a) Any lack of expected progress toward the annual goals and in the general curriculum, if appropriate; (b) the results of any reevaluation;' (c) information about the child provided to or by, the parents; (d) the child's anticipated needs; or (e) other matters.

A school district must also ensure that an IEP is in effect for each child at the beginning of each school year. It may conduct IEP meetings at any time during the year. However, if the district conducts the IEP meeting prior to the beginning of the next school year, it must ensure that the IEP contains the necessary special education and related services and supplementary aids and services to ensure that the students' IEP can be appropriately implemented during the next school year. Otherwise, it would be necessary for the school district to conduct another IEP meeting.

Although the school district is responsible for determining when it is necessary to conduct an IEP meeting, the parents of a child with a disability have the right to request an IEP meeting at any time. For example, if the parents believe that the child is not progressing satisfactorily or that there is a problem with the child's current IEP, it would be appropriate for parents to request an IEP meeting. If a child's teachers feel that the child's placement or IEP services are not appropriate for the child, the teachers should follow district procedures with respect to requesting the school district to hold another IEP meeting to review the child's IEP.

In general, if either a parent or school district believes that a required component of the student's IEP should be changed, the school district should conduct an IEP meeting. If it believes that the question of whether the student's IEP needs to be revised to ensure the provision of FAPE for the student, this is a matter that must be considered by the IEP Team. If a parent requests an IEP meeting because the parent believes that a change in the provision of FAPE to the child or the education placement of the child, and the district refuses to convene an IEP meeting to determine whether such a change is needed, the district must provide written notice to the parents of the refusal, including explanation of why the agency has determined that conducting the meeting is not necessary. The parents may initiate a due process hearing at any time regarding the identification, evaluation, or educational placement of the child, or the provision of FAPE to the child.

18. Can an Individualized Education Program (IEP) be changed without an IEP meeting?

Yes. In making changes to the IEP after the annual IEP meeting, the parent and the district may develop a written document to amend or modify the current IEP. The IEP can only be amended or modified during the time that the

annual IEP is in effect. The student's IEP must continue to be reviewed annually. An IEP amendment cannot extend the term of the annual IEP. The district must ensure that all members of the student's IEP Team are informed of the amendment.

19. How must a school district document that IEP Team members have been informed of changes to the IEP?

The regulations provide that, in making changes to a child's IEP after the annual IEP Team meeting for a

school year, the parent and the school district may agree not to convene an IEP Team meeting for the purposes of making those changes. Instead they may develop a written document to amend or modify the child's current IEP. The regulations require that if changes are made to the child's IEP, the school district must ensure that the child's IEP Team is informed of those changes. While the Act and the regulations do not specify the manner in which school districts must document that all IEP team members have been informed of the revisions, they must maintain records to show compliance.

20. Who must participate when an IEP is amended without convening the IEP Team?

The regulations provide that, in 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 school district may agree not to convene an IEP Team meeting for the purposes of making those changes, and instead may develop a written document to amend or modify the child's current IEP. The Act and the regulations are silent as to which individuals must participate in making changes to the IEP where there is agreement between the parent and the school district not to convene a meeting for the purpose of making the changes.

21. Must a school district provide a parent with prior written notice when amending an IEP without convening the IEP Team?

The regulations require that written notice must be given to the parents of a child with a disability a reasonable time before the school district proposes to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child; or refuses to initiate or change the identification, evaluation, or education placement of the child or the provision of FAPE to the child. This provision applies, even if the IEP is revised without convening an IEP Team meeting.

IEP Team Members

22. What is the role of the parents, including surrogate parents, in decisions regarding the educational program of their children?

The parents of a child with a disability are expected to be equal participants along with school personnel, in developing, reviewing, and revising the IEP for their child. This is an active role in which the parents (1) provide critical information about their child's abilities, interests, performance, and history, (2) participate in the discussion about the child's need for special education and related services and supplementary aids and services, and (3) joining with the other participants in deciding how the child will be involved and progress in the general education curriculum and participate in State and district-wide assessments, and what services the district will provide to the child and in what setting.

The regulations specifically provide that parents have the right to:

(a) Participate in meetings about their child's identification, evaluation, educational program (including IEP meetings), and educational placement :

(b) Be part of the teams that determine what additional data are needed as part of an evaluation of the child, and determine the child's eligibility and educational placement;

(c) Have their concerns and information that they provide regarding their child considered in developing and reviewing their child's IEPs; and

(d) Be regularly informed (by such means as periodic report cards), as specified in their child's IEP, of their child's progress toward the annual goals in the IEP and the extent to which that progress is sufficient to enable the child to achieve the goals by the end of the year.

A surrogate parent is a person appointed to represent the interests of a child with a disability in the educational decision-making process when no parent is known, the school district, after reasonable efforts, cannot locate the child's parents, or the child is a ward of the State. A surrogate parent has all of the rights and responsibilities of a parent for special education services. Thus, the surrogate parent is entitled to participate in the child's IEP meeting, examine the child's education records, and receive notice, grant consent, and request a due process hearing to resolve differences.

23. What must school districts do to meet the requirements regarding the participation of a "regular education teacher" in the development and review of the IEP, for children aged 3 through 5 who are receiving preschool special education services?

If a school district provides "regular education" preschool services to nondisabled children, then the requirements apply as they do in the case of older children with disabilities. If a school district makes kindergarten available to nondisabled children, then a regular education kindergarten teacher could appropriately be the regular education teacher who would participate in an IEP meeting for a kindergarten-aged child who is, or may be, participating in the regular education environment. If a school district does not provide regular preschool education services to nondisabled children, the school would designate an individual who, under

State standards, is qualified to serve nondisabled children of the same age.

24. What are the requirements regarding the participation of a child or youth with a disability in an IEP meeting?

If a purpose of an IEP meeting will be the consideration of needed transition services, the school district must invite the student and, as part of notification to the parent of the IEP meeting, inform the parents that the district will invite the student to the IEP meeting. If the student does not attend, the school district must take other steps to ensure that the student's preferences and interests are considered.

For students younger than 16 years of age, it is generally a good idea to have the child with a disability attend the IEP meeting if the parent decides that it is appropriate for the child to do so. If possible, the school district and parents should discuss the appropriateness of the child's participation before a decision is made, in order to help the parents determine whether or not the child's attendance will be helpful in developing the IEP or beneficial to the child.

25. Must the school district let the parents know who will be at the IEP meeting?

Yes. In notifying parents about the meeting, the school district "must indicate the purpose, time, and location of the meeting, and who will be in attendance." In addition, if a purpose of the IEP meeting is the consideration of transition services for a student, the notice must also inform the parents that the school district is inviting the student, and identify any other agency that will be invited to send a representative. The school district should also inform the parents of their right to invite to the meeting "other individuals who have knowledge or special expertise regarding the child". It is appropriate for the school district to ask the parents who they have invited to the IEP meeting.

26. Who can serve as the representative of the school district at an IEP meeting?

The IEP Team must include a representative of the local educational agency who: (a) Is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children with disabilities;(b) is knowledgeable about the general curriculum; and (c) is knowledgeable about the availability of resources of the local educational agency. The school district may determine which specific staff member will serve as the agency representative in a particular IEP meeting, so long as the individual meets these requirements. It is however, important that the agency representative have the authority to commit agency resources and be able to ensure that whatever services are set out in the IEP will actually be provided.

27. If a child with a disability attends several regular education classes, must all of the child's' regular education teachers attend the IEP meetings?

No. The IEP Team need not include more than one regular education teacher of the child. If the participation of more than one regular education teacher is considered by the district or the parents to be beneficial to the child's success in school (e.g., in terms of enhancing the child's participation in the general curriculum) it would be appropriate for them to attend the meeting.

28. For a child whose primary disability is a speech/language impairment, may a school district meets its responsibility to ensure that the IEP Team include "at least one special education teacher, or, if appropriate, at least one special education provider of the child" by including a speech-language pathologist on the IEP Team?

Yes, if speech is considered special education under State standards. As with other children with disabilities, the IEP Team must also include at least one of the child's regular education teachers if the child is, or may be, participating in the regular education environment.

29. Do school districts and parents have the option of bringing any individual of their choice to a student's IEP meeting? Would it be permissible for other individuals to attend IEP meetings at the discretion of the parents or the agency?

The IEP Team may, at the discretion of the parent or the school district, include other individuals who have knowledge or special expertise regarding the child. The legislative history of IDEA made it clear that attendance at IEP meetings should be limited to those who have in intense interest in the child.

The regulations do not provide for the participation of individuals such as representatives of teacher organizations or attorneys at IEP meetings. For example, since a representative of a teacher organization would be concerned with the interests of the teacher rather than the interest of the child, and generally would not posses knowledge or expertise regarding the child, it generally would be inappropriate for such an official to attend an IEP meeting. While either the parent or school district may consider inviting their attorneys to an IEP meeting, parents and school districts need to ensure that their attorneys possess knowledge and expertise regarding the child to warrant their participation. However, the participation of attorneys at IEP meetings should be discouraged if their participation would have the potential for creating an adversarial atmosphere, which would not necessarily be in the best interests of the child.

30. Must related services personnel attend IEP meetings?

Although the regulations do not expressly require that the IEP Team include related services personnel as part of the IEP Team, it is appropriate for those

personnel to be included if a particular related service is to be discussed as part of the IEP meeting. The related services provider could, at the discretion of the parent or the school district, be included as someone who has knowledge or expertise regarding the child. Additionally, the regulations require that the IEP Team for each child with a disability include "at least one special education teacher, or, if appropriate, at least one special education provider of the child…" this requirement can be met by the participation of either a special education teacher of the child, or another special education provider such as a speech pathologist, physical or occupational therapist, etc., if the related service consists of specially designed instruction and is considered special education under the applicable State standard.

If a child with a disability has an identified need for related services, it would be appropriate for the related services personnel to attend the meeting or otherwise be involved in developing the IEP. Related services personnel should be included on the team when a particular related service will be discussed at the request of the child's parents or the school. For example, if the child's evaluation indicates the need for a specific related service (e.g., physical therapy, occupational therapy, special transportation services, school social work services, school health services, or counseling), the school district should ensure that a qualified provider of that service either attends the IEP meeting, or provides a written recommendation concerning the nature, frequency, and amount of service to be provided to the child. This written recommendation could be a part of the evaluation report.

31. Under what circumstances must a school district invite representatives from other agencies to an IEP meeting at which a child's need for transition services will be considered?

The school district must invite a representative of any other agency that is likely to be responsible for providing or paying for transition services. To meet this requirement, the school district must establish and implement appropriate procedures to ensure that it identifies all agencies that are "likely to be responsible for providing or paying for transition services" for each student, and invites each of those agencies to the IEP meeting. If, during the course of an IEP meeting, the team identifies additional agencies that are "likely to be responsible for providing or paying for transition services" for the student, the school district must determine whether it is necessary to invite those agencies to an additional IEP meeting in order to develop an appropriate statement of needed transition services for the student.

32. May the representative of the school district be excused from an IEP Team meeting?

The school district representative is not required to attend an IEP Team meeting in whole or in part, if the parent or the child with a disability and the district agree, in writing, that the attendance of the member is not necessary because the meeting will not be dealing with curriculum or related services about which this member is knowledgeable.

A representative of the school district may be excused from an IEP meeting, in whole or in part, when the meeting does involve a modification to or discussion of the member's area of the curriculum or related services, if the parent, in writing, and the district consent to the excusal; and the member submits, in writing to the parent and the IEP Team, input into the development of the IEP prior to the meeting.

Allowing IEP Team members to be excused from attending an IEP Team meeting is intended to provide additional flexibility to parents in scheduling IEP team meetings and to avoid delays in holding an

IEP Team meeting when an IEP Team member cannot attend due to a schedule conflict. Although the district, not the parents, determines the specific personnel to fill the roles of the school district's required participants at the IEP Team meeting, the school district remains responsible for conducting IEP meetings that are consistent with the IEP requirements of the Act and the regulations.

Accordingly, it may not be reasonable for a school district to agree to consent to the excusal of the school district representative if that individual is needed to ensure that decisions can be made at the meeting about commitment of district resources that are necessary to implement the child's IEP.

33. Must the school district receive consent from a parent to excuse multiple regular education teachers if at least one regular education teacher will be in attendance?

No. The school district must ensure that the IEP Team includes "not less than one regular education teacher of the child (if the child is, or may be, participating in the regular education environment). Neither the Act nor the regulations require that the IEP Team include more than one regular education teacher. Therefore, if the IEP Team includes not less than one regular education teacher of the child, the excusal provisions would not be required to allow additional regular education teachers to be absent from the meeting.

34. If the regular education teacher were excused from attending the IEP meeting, would an alternate regular education teacher be required to attend?

If the school district designates a particular regular education teacher as the person who will participate in the IEP Team meeting and that individual is excused from the meeting consistent with the

requirements of the regulations, the school district is not required to include a different regular education teacher in the IEP Team meeting.

IEP Services

35. If a student needs specially designed physical education to participate in physical education classes, must this be included in the student's IEP?

Yes. Students with disabilities must be included in physical education. If a student needs specially designed physical education, the student's IEP must describe the specially designed physical education the student needs. This documentation could include measurable annual goals, a separate physical education course which addresses the curriculum for physical education, and/or accommodations and modifications to an existing physical education class.

36. Must transportation be included in a student's IEP?

The IEP should include transportation only when transportation has been determined to be a related service. As with other related services, a school district must provide transportation as a related service if it is required to assist the student to benefit from special education. The school district must ensure that any transportation service in a student's IEP as a related service is provided at public expense and at no cost to the parents, and that the student's IEP describes the transportation arrangement.

The IEP team must consider how the student's disability affects the student's need for transportation, including determining whether the student's disability prevents the student from using the same transportation provided to children without disabilities, or from getting to school in the same manner as children without disabilities. If the student is able to use the same transportation or get to school in the same manner as children without disabilities, transportation would not be considered a related service.

37. What are some examples of program modifications or supports for school personnel?

Examples include, but are not limited to, providing information on a student's specific disability and implications for instruction to the child's teachers; staff training in the use of specific positive behavioral interventions, training on how to use a student's communication device or methods for correcting or addressing speech production errors. School personnel can include special and regular education teachers, food service staff, paraeducators, bus drivers, administrators, office staff, etc.

38. How does the IEP team determine if extended school year services are necessary?

As required by 92 NAC 51-007.07C5, each school district or approved cooperative shall ensure that extended school year services are available as necessary to provide a free appropriate public education for all students with disabilities. Extended School Year (ESY) services must be provided only if a child's IEP team determines, on an individual basis that the services are necessary for the provision of a free appropriate public education. In implementing the requirements of this section, a school district or approved cooperative may not limit extended school year services to particular categories of disability or unilaterally limit the types, amount, or duration of those services.

39. Must a child's IEP address involvement in the general education curriculum, regardless of the nature and severity of the child's disability and the setting in which the child is educated?

Yes. The IEP for all children with disabilities must address how the child will be involved and progress in the general education curriculum. Each child's IEP must include: "A statement of measurable annual goals, including benchmarks or short-term objectives, related to (I) Meeting the child's needs that result from the child's disability to enable the

child to be involved in and progress in the general education curriculum; and (2) meeting each of the child's other educational needs that result from the child's disability." Thus, the IEP Team for each child with a disability must make an individualized determination regarding how the child will participate in the general education curriculum, and what, if any, educational needs that will not be met through involvement in the general curriculum should be addressed in the IEP. This includes children who are educated in separate classrooms or schools.

40. Must the school district ensure that all services specified in a child's IEP are provided?

Yes. The school district must ensure that all services set forth in the child's IEP are provided, consistent with the child's needs as identified in the IEP. It may provide each of those services directly, by contracting with another public or private agency; or though other arrangements. In providing the services, the school district may use whatever State, local, Federal, and private sources of support are available for those purposes. However, the services must be at no cost to the parents and the school district remains responsible for ensuring that the IEP services are provided in a manner that appropriately meets the student's needs as specified in the IEP.

41. Must a school district provide related services that are required to assist a child with a disability to benefit from special education, whether or not those services are included in the definition of related services contained in the federal regulations?

The list of related services is not exhaustive and may include other developmental, corrective, or

supportive service, if they are required to assist a child with a disability to benefit from special education. This could, depending upon the unique needs of a child, include services which are specifically mentioned in the definition.

42. Must the IEP specify the amount of services or may it simply list the services to be provided?

The amount of services to be provided must be stated in the IEP, so that the level of the school district's commitment of resources will be clear to parents and other IEP Team members. The amount of time to be committed to each of the various services to be provided must be appropriate to the specific service, and stated in the IEP in a manner that is clear to all who are involved in both the development and implementation of the IEP.

43. What is the district's responsibility if it is not possible to reach consensus on which services should be included in a student's IEP?

The IEP meeting serves as a communication vehicle between parents and school personnel, and enables them, as equal participants, to make joint, informed decisions regarding the:

- Child's needs and appropriate goals;
- Extent to which the child will be involved in the regular curriculum and participate in the regular education environment and state and district wide assessments; and
- Services needed to support that involvement and participation and to achieve agreed upon goals.

Parents are considered equal partners with school personnel in making these decisions, and the IEP team must consider the parents' concerns and the information that they provide regarding their child in developing, reviewing, and revising IEPs. The IEP Team should work toward consensus, but the district has ultimate responsibility to ensure that the IEP include the services that the child needs in order to receive FAPE. It is never appropriate to make IEP decision based upon a majority "vote". If the team cannot reach consensus, the school district must:

- Inform the parents of the district's proposals or refusals, or both, regarding the child's educational program. The district must provide the parents with a written copy of the IEP that includes not only those items upon which the parents and district agree in addition to those items the district proposes as essential for the provision of FAPE; and
- Advise the parents that they have the right to seek resolution of any disagreements by initiating an impartial due process hearing.

Every effort should be made to resolve differences between parents and the school through voluntary mediation or some other informal step, without resort

to a due process hearing. However, mediation or other informal procedures may not be used to deny or delay a parent's right to a due process hearing, or to deny any other rights afforded under IDEA. Similarly, any initiation of due process will begin with a resolution session, at which the district and parent will attempt to resolve the concern before resorting to due process procedures.

Transition

44. What are the school district responsibilities prior to graduation from high school?

Graduation from high school with a regular diploma constitutes a change in placement, requiring written prior notice. This written prior notice must include a description of the action proposed or refused by the agency, an explanation of why the agency proposes or refuses to take the action, a description of any other options that the agency considered and the reasons why those options were rejected, a description of each evaluation procedure, test, record, or report the agency used as a basis for the

proposed or refused action, a description of any other factors that are relevant to the agency's proposal or refusal, a statement that the parents of a child with a disability have protection under the procedural safeguards of this par and , if this notice is not an initial referral for evaluation, the means by which a copy of a description of the procedural safeguards can be obtained and sources for parents to contact to obtain assistance.

In addition to providing a change in placement notice, the district must provide the student with a summary of the student's academic achievement and functional performance, which shall included recommendations on how to assist the student in meeting the student's postsecondary goals.

45. Must the IEP for each student with a disability, beginning no later than age 16, include all "needed transition services" as identified by the IEP Team even if an agency other than the school district will provide those services? What is the school district's responsibility if another agency fails to provide agreed-upon transition services?

The regulations require that the IEP for each child with a disability, beginning no later than age 16, or younger if determined appropriate by the IEP Team, include all "needed transition services," as identified by the IEP Team, regardless of whether the school district or some other agency will provide those services. Specifically, the regulations require that the statement of needed transition services include, "…if appropriate, a statement of the interagency responsibilities or any needed linkages." Additionally, the regulations requires that if an agency fails to provide agreed upon transition services contained in the IEP of a student with a disability, the school district shall, as soon as possible, initiate a meeting for the purpose of

identifying alternative strategies to meet the transition objectives and, if necessary, revising the student's IEP. This requirement is consistent with the school districts' ultimate responsibility to ensure that FAPE is available to each eligible child with a disability.

46. Must an IEP include measurable postsecondary goals based on age appropriate transition assessment for every 16-year-old student with a disability regardless of the student's skill levels relating to education, employment and training?

Yes. The IEP for each child with a disability, must, 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, include: (1) appropriate measurable postsecondary goals based upon age appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills; and (2) the transition services (including courses of study) needed to assist the child in reaching those goals. This requirement applies; whether or not the child's skill levels related to training, education, and employment are age appropriate. The IEP Team must, however develop the specific postsecondary goals for the child, in light of the unique needs of the child as determined based on age appropriate transition assessments of the child's skills in these areas.

47. If an IEP Team chooses to address transition before age 16 (for example, at age 14) do the same standards apply?

Yes. The regulations provide that 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: (1) Appropriate measurable postsecondary goals based upon age appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills; and (2) The transition services (including courses of study) needed to assist the child in reaching those goals. If the IEP Team for a particular child with a disability determines that it is appropriate to address transition needs for a child who is younger than age 16, then the IEP for that child must meet all of the transition requirements.

48. The regulations require that appropriate postsecondary transition goals be measurable. Must goals be measured once a student has graduated or has aged out?

There is no requirement for school districts to measure postsecondary goals once a child is no longer eligible for special education and related services. FAPE must be made available to all children residing in the State in mandatory age ranges. However, the obligation to make FAPE available does not apply to children who have graduated from high school with a regular high school diploma or to children who have exceeded the

mandatory age range for provision of FAPE under State law. The school district must provide a summary of the child's academic achievement and functional performance, which shall include recommendations on how to assist the child in meeting the child's postsecondary goals. However, this provision does not require the school district to provide services to the child to meet these goals.

49. Prior to a district inviting a representative from a participating agency, must a parent provide consent?

Yes. The district must get written consent from a parent, or an adult student, prior to inviting a representative of any participant agency that may be responsible for providing or paying for transition services

Transfer Students

50. If a child with a disability has been receiving special education from one school district and transfers to another school district in the same State, must the new school district develop an IEP before the child can be placed in a special education program?

If a child with a disability changes school districts in the same State, the school district receiving the student has an ongoing responsibility to ensure that the child receives FAPE, and is responsible for ensuring that the child receives special education and related services in conformity with an IEP. The new school district must ensure that the child has an IEP in effect before the district can provide special education and related services. The new school district may meet this responsibility by either adopting the IEP the former district developed or by developing a new IEP for the child.

In general, while the new school district must conduct an IEP meeting, it would not be necessary if: (1) A copy of the child's current IEP is available; (2) the parents indicate that they are satisfied with the current IEP; and (3) the new school district determines that the current IEP is appropriate and can be implemented as written.
If the child's current IEP is not available, or if either the new school district or the parent believes that it is not appropriate, the new school district must conduct an IEP meeting within a short time after the child enrolls in the new district.

51. What if a student, who has an IEP that has not been subject to a timely annual review, but who continues to receive services under that IEP, transfers to another school district in the same state"? Is the new school district required to provide FAPE from the time the student arrives?

If a child with a disability was receiving special education and related services pursuant to an IEP in a previous school district (even if that school district failed to meet the annual review requirements), and transfers to a new school district in the same State and enrolls in a new school within the same school

year, the new district (in consultation with the parents) must, provide FAPE to the child (including services comparable to those described in the child's IEP from the previous school district), until the new school district either adopts the child's IEP from the previous district; or develops, adopts, and implements a new IEP.

52. What options are available when an out-of-state transfer student cannot produce an IEP, and the parent is the source for identifying "comparable" services?

The regulations require that, to facilitate the transition for a child the new district 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 district. The previous district in which the child was enrolled must take reasonable steps to promptly respond to the request from the new school district.

If after taking reasonable steps to obtain the child's records from the school district in which the child was previously enrolled, including the IEP and any other records relating to the provision of special education or related services to the child, the new district is not able to obtain the IEP from the previous district or from the parent, the new school district is not required to provide services to the child. This is because the new district, in consultation with the parents, would be unable to determine what constitutes comparable services for the child, since that determination must be based on the services contained in the child's' IEP from the previous district. However, the new district must place the child in the regular school program and conduct an evaluation if determined to be necessary by the new district. If there is a dispute between the parent and the new district regarding whether an evaluation is necessary or regarding what special education and related services are needed to provide FAPE to the child, the dispute could be resolved through the mediation procedures in or, as appropriate, the due process procedures. Once a due process complaint notice requesting a due process hearing is filed, the child would remain in the regular school program during the pendency of the due process proceedings.

53. Is it permissible for a school district to require a student, who transfers from another state with a current IEP, to remain at home, with no services, until an IEP is developed by the new school district?

If a child with a disability (who had an IEP that was in effect in a previous school in another State) transfers to a school district in a new State, and enrolls in a new school within the same school year, the new district (in consultation with the parent) must provide the child with FAPE (including services comparable to those described in the child's IEP from the previous district), until the new district conducts an evaluation, if determined to be necessary; and develops, adopts, and implements a new IEP, if

appropriate. Thus, the school district must provide FAPE to the child when the child enrolls in the new school, and may not deny services to the child pending the development of a new IEP.

54. What is the timeline for the new school district to adopt an IEP from a previous district or to develop and implement a new IEP?

Neither the Act nor the regulations establish timelines for the new district to adopt the child's IEP from the previous district; or to develop, adopt, and implement a new IEP. However, the new district must take these steps within a reasonable period of time to avoid any undue interruption in the provision of required services.