

160-4-7-.06 INDIVIDUALIZED EDUCATION PROGRAM (IEP).

(1) GENERAL. The IEP is a written statement for each child with a disability that is developed, reviewed, and revised in a meeting in accordance with this Rule, and that must include--

(a) A statement of the child's present levels of academic achievement and functional performance, including—

1. How the child's disability affects the child's involvement and progress in the general education curriculum (i.e., the same curriculum as for nondisabled children); or

2. For preschool children, as appropriate, how the disability affects the child's participation in appropriate activities; [34 C.F.R. § 300.320(a)(1)(i) – (ii)]

(b) A statement of measurable annual goals, including academic and functional goals designed to--

1. Meet the child's needs that result from the child's disability to enable the child to be involved in and make progress in the general education curriculum; and

2. Meet each of the child's other educational needs that result from the child's disability; [34 C.F.R. § 300.320(a)(2)(i)(A) – (B)]

(c) For children with disabilities who take alternate assessments aligned to alternate achievement standards, a description of benchmarks or short-term objectives; [34 C.F.R. § 300.320(a)(2)(ii)]

(d) A description of--

1. How the child's progress toward meeting the annual goals will be measured; and

2. When periodic reports on the progress the child is making toward meeting the annual goals (such as through the use of quarterly or other periodic reports, concurrent with the issuance of report cards) will be provided; [34 C.F.R. § 300.320(a)(3)]

(e) A statement of the special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided to enable the child--

1. To advance appropriately toward attaining the annual goals;

2. To be involved in and make progress in the general education curriculum and to participate in extracurricular and other nonacademic activities; and

3. To be educated and participate with other children with disabilities and nondisabled children in academic, nonacademic and extracurricular activities; [34 C.F.R. § 300.320(a)(4)(i) – (iii)]

(f) An explanation of the extent, if any, to which the child will not participate with nondisabled children in the regular class and in the nonacademic and extracurricular activities; [34 C.F.R. § 300.320(a)(5)]

(g) A statement of any individual appropriate accommodations that are necessary to measure the academic achievement and functional performance of the child on State and districtwide assessments; and

1. If the IEP Team determines that the child must take an alternate assessment instead of a particular regular State or districtwide assessment of student achievement, a statement of why--

(i) The child cannot participate in the regular assessment; and

(ii) The particular alternate assessment selected is appropriate for the child; [34 C.F.R. § 300.320(a)(6)(i) – (ii)] and

(iii) The parents of the child must be informed that the child is being assessed against alternate or modified achievement standards and any consequences of such assessments. [34 C.F.R. § 300.160(e)]

2. IEP teams must select for each assessment only those accommodations that do not invalidate the score according to state standards. [34 C.F.R. § 300.160(b)(2)(ii)]

(h) The projected date for the beginning of the services and program modifications and the anticipated frequency, location, and duration of those services and program modifications. [34 C.F.R. § 300.320(a)(7)]

(2) TRANSITION SERVICES. Beginning not later than entry into ninth grade or by age 16, whichever comes first, or younger if determined appropriate by the IEP Team and updated annually, the IEP must include:

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

(b) The transition services (including courses of study) needed to assist the student in reaching those goals. [See 34 C.F.R. § 300.320(b)(1) – (2)]

(3) TRANSFER OF RIGHTS AT AGE OF MAJORITY. Beginning not later than one year before the student reaches age 18, the IEP must include a statement that the student has been

informed of the student's rights under Part B of the IDEA, if any, which will transfer to the student on reaching age 18. [34 C.F.R. § 300.320(c); *See also* 34 C.F.R. § 300.520]

(4) CONSTRUCTION. Nothing in this Rule shall be construed to require that additional information be included in a child's IEP beyond what is explicitly required or that the IEP Team is required to include information under one component of a child's IEP that is already contained under another component of the child's IEP. [34 C.F.R. § 300.320(d)]

(5) THE IEP TEAM is a group of individuals that is responsible for developing, reviewing, or revising an IEP for a child with a disability. [34 C.F.R. § 300.23] The LEA shall ensure that each IEP Team meeting includes the following participants:

(a) The parents of the child;

(b) Not less than one regular education teacher of the child (if the child is, or may be, participating in the regular education environment);

(c) Not less than one special education teacher of the child, or where appropriate, not less than one special education provider of the child;

(d) A representative of the LEA who -

1. Is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children with disabilities;

2. Is knowledgeable about the general education curriculum; and

3. Is knowledgeable about the availability of resources of the LEA. [34 C.F.R. § 300.321(a)(1) – (4)]

(e) An individual who can interpret the instructional implications of evaluation results, who may be a member of the team described in (5)(b) through (f) of this section; [34 C.F.R. § 300.321(a)(5)]

(f) At the discretion of the parent or the LEA, other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate; [34 C.F.R. § 300.321(a)(6)] and

(g) Whenever appropriate, the child with a disability. [34 C.F.R. § 300.321(a)(7)]

(6) TRANSITION SERVICES PARTICIPANTS. In accordance with (5)(g) above, the LEA must invite the student with a disability to attend the student's IEP Team meeting if a purpose of the meeting will be the consideration of the postsecondary goals for the student and the transition services needed to assist the student in reaching those goals. [34 C.F.R. § 300.321(b)(1)]

(a) If the student does not attend the IEP Team meeting, the LEA must take other steps to ensure that the student's preferences and interests are considered. [34 C.F.R. § 300.321(b)(2)]

(b) To the extent appropriate, with the consent of the parents or the adult student who has reached the age of 18, in implementing the transition requirements, the LEA must invite a representative of any participating agency that is likely to be responsible for providing or paying for transition services. [34 C.F.R. § 300.321(b)(3)]

(7) DETERMINATION OF KNOWLEDGE AND SPECIAL EXPERTISE. The determination of the knowledge or special expertise of any individual described in paragraph (5)(f) of this Rule must be made by the party (parents or LEA) who invited the individual to be a member of the IEP Team. [34 C.F.R. § 300.321(c)]

(8) DESIGNATING A LEA REPRESENTATIVE. The LEA may designate a LEA member of the IEP Team to also serve as the LEA representative, if the criteria in (5)(d) of this section are satisfied. [34 C.F.R. § 300.321(d)]

(9) IEP TEAM ATTENDANCE.

(a) A member of the IEP Team described in (5)(a-e) of this section 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 LEA agree, in writing, that the attendance of the member is not necessary because the member's area of the curriculum or related services is not being modified or discussed in the meeting. [34 C.F.R. § 300.321(e)(1)]

(b) A member of the IEP Team described in (5)(a-e) 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:

1. The parent, in writing, and the LEA consent to the excusal; and
2. The member submits, in writing to the parent and the IEP Team, input into the development of the IEP prior to the meeting. [34 C.F.R. § 300.321(e)(2)(i) – (ii)]

(10) INITIAL IEP TEAM MEETING FOR A CHILD UNDER PART C (DELHVC & BCW). In the case of a child, birth through age 2, who was previously served under BCW, an invitation to the initial IEP Team meeting must, at the request of the parent, be sent to the BCW service coordinator or other representatives of BCW to assist with the smooth transition of services. [34 C.F.R. § 300.321(f)]

(11) PARENT PARTICIPATION.

(a) Each LEA shall take steps to ensure that one or both of the parents of a child with a disability are present at each IEP Team meeting or are afforded the opportunity to participate, including notifying parents of the meeting early enough to ensure that they will have an

opportunity to attend, and scheduling the meeting at a mutually agreed upon time and place. [34 C.F.R. § 300.322(a)(1) – (2)]

(b) The invitation to the IEP Team meeting shall indicate the purpose, time, and location of the meeting, participants who will be in attendance, and informs the parents of their right to invite other individuals who, in their opinion, have knowledge or special expertise regarding their child, including related services personnel. The invitation shall also inform the parents of a child previously served in Babies Can't Wait of their right to request that an invitation to the initial IEP Team meeting be sent to the service coordinator or other representative of Babies Can't Wait to assist with the smooth transition of services. [34 C.F.R. § 300.322 (b)(1)(i) – (ii)]

(c) For a student with a disability, beginning not later than entry into ninth grade or by age 16 whichever comes first, or younger if determined appropriate by the IEP Team, the invitation must also indicate that a purpose of the meeting will be the consideration of postsecondary goals and transition services for the student. The LEA will invite the student and identify any other agency that will be invited to send a representative. [See 34 C.F.R. § 300.322(b)(2)(i) – (ii)]

(d) If neither parent can attend an IEP Team meeting, the LEA must use other methods to ensure parent participation, including individual or conference telephone calls or video conferences. A meeting may be conducted without the parents in attendance if the LEA is unable to convince the parents that they should attend. In this case, the LEA must keep a record of its attempts to arrange a mutually agreed on time and place such as detailed records of telephone calls made or attempted and the results of those calls; copies of correspondence sent to the parents and any responses received; and detailed records and results of visits made to the home or place of employment and the results of those visits. [34 C.F.R. § 300.322(c) – (d)]

(e) The LEA must take whatever action is necessary to ensure that the parents understand the proceedings of the IEP Team meeting, including arranging for an interpreter for a parent who is deaf or whose native language is other than English. [34 C.F.R. § 300.322(e)]

(f) The LEA shall provide a copy of the IEP to the parents at no cost. [34 C.F.R. § 300.322(f)]

(g) Each LEA shall ensure that the parents of each child with a disability are members of any group that makes decisions on the child's educational placement. [34 C.F.R. § 300.116(a)(1)]

(12) WHEN THE IEP MUST BE IN EFFECT.

(a) General. At the beginning of each school year, each LEA must have an IEP in effect, for each child with a disability within its jurisdiction. [34 C.F.R. § 300.323(a)]

(b) IEP or IFSP for children aged three through five. In the case of a child with a disability aged three through five, an IEP or IFSP shall be in place. If the IFSP is utilized, it must be -

1. Consistent with the Georgia rule for IEPs; and

2. Agreed to by the LEA and the child's parents. [34 C.F.R. § 300.323(b)(1)(i) – (ii)]

3. The LEA must -

(i) Provide to the child's parents a detailed explanation of the differences between an IFSP and an IEP; and

(ii) If the parents choose an IFSP, obtain written informed consent from the parents. [34 C.F.R. § 300.323(b)(2)(i) – (ii)]

(13) SERVICES. Each LEA must ensure that –

(a) A meeting to develop an IEP for a child is conducted within 30 days of a determination that the child needs special education and related services; and

(b) As soon as possible following development of the IEP, special education and related services are made available to the child in accordance with the child's IEP. [34 C.F.R. § 300.323(c)(1) – (2)]

(14) . Each LEA must ensure that:

(a) The child's IEP is accessible to each regular education teacher, special education teacher, related services provider, and any other service provider who is responsible for its implementation; and

(b) Each teacher and provider is informed of -

1. His or her specific responsibilities related to implementing the child's IEP; and

2. The specific accommodations, modifications, and supports that must be provided for the child in accordance with the IEP. [34 C.F.R. § 300.323(d)(1) – (2)]

(15) IEPs FOR CHILDREN WHO TRANSFER LEAS WITHIN GEORGIA. If a child with a disability transfers to a new LEA in the same school year within Georgia, the new LEA (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 LEA), until the new LEA either:

(a) Adopts the child's IEP from the previous LEA; or

(b) Develops, adopts, and implements a new IEP that meets the IEP requirements of this Rule. [34 C.F.R. § 300.323(e)(1) – (2)]

(16) IEP FOR CHILDREN WHO TRANSFER FROM ANOTHER STATE. If a child with a disability (who had an IEP that was in effect in a LEA in another State) transfers to Georgia within the same school year, the new LEA (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 LEA), until the LEA -

(a) Conducts an evaluation if determined to be necessary by the new LEA; and

(b) Develops, adopts, and implements a new IEP, if appropriate. [34 C.F.R. § 300.323(f)(1) - (2)]

(17) TRANSMITTAL OF RECORDS. To facilitate the transition for a child described above -

(a) The new LEA in which the child enrolls must take reasonable steps to promptly obtain the child's records, including the IEP, supporting documents, and any other records relating to the provision of special education or related services to the child, from the previous LEA in which the child was enrolled, pursuant to the Family Educational Rights and Privacy Act (which does not require prior parental consent to disclose education records to officials of another school where the student seeks or intends to enroll); and [34 C.F.R. § 300.323(g)(1); 34 C.F.R. § 99.31(a)(2)]

(b) The previous LEA in which the child was enrolled must take reasonable steps to promptly respond to the request from the new LEA. [34 C.F.R. § 300.323(g)(2)]

(18) DEVELOPMENT, REVIEW, AND REVISION OF IEP.

(a) General. In developing each child's IEP, the IEP Team must consider –

1. The strengths of the child;
2. The concerns of the parents for enhancing the education of their child;
3. The results of the initial or most recent evaluation of the child;
4. The results, as appropriate, of the child's Statewide or districtwide assessments; and
5. The academic, developmental, and functional needs of the child. [34 C.F.R. § 300.324(a)(1)(i) – (iv)]

(b) Consideration of special factors. The IEP team must –

1. In the case of a child whose behavior impedes the child's learning or that of others, consider the use of positive behavioral interventions and supports and other strategies, to address that behavior in the IEP or behavioral intervention plan;
2. In the case of a child with limited English proficiency, consider the language needs of the child as those needs relate to the child's IEP;

3. In the case of a child who is blind or visually impaired, provide for instruction in Braille and the use of Braille unless the IEP Team determines, after an evaluation of the child's reading and writing skills, needs and appropriate reading and writing media, that instruction or the use of Braille is not appropriate for the child;

4. Consider the communication needs of the child, and in the case of a child who is deaf or hard of hearing, consider the child's language and communication needs, opportunities for direct communications with peers and professional personnel in the child's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the child's language and communication mode; and

5. Consider whether the child needs assistive technology devices and services. [34 C.F.R. § 300.324(a)(2)(i) – (v)]

(c) Each LEA must ensure that extended school year services (ESY) are available as necessary to provide FAPE. 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 FAPE to the child. The LEA shall not limit ESY services to a particular disability category or unilaterally limit the type, amount or duration of those services. [34 C.F.R. § 300.106(a)(1) – (3)]

1. The IEP Team shall determine if ESY services are needed as part of the child's FAPE. In doing so, it shall consider the individual needs of the child.

2. If the IEP Team determines that ESY shall be provided, it shall:

(i) Indicate which goals are being extended or modified to deliver FAPE; and,

(ii) State the specific services needed, the amount of time for each service, the beginning and ending dates for the services and the service provider and location.

3. The LEA shall provide ESY services as required by the child's IEP and all necessary transportation at no cost to the parent. [34 C.F.R. § 300.106(b)(2)]

(d) Requirements with respect to regular education teacher. A regular education teacher of a child with a disability, as a member of the IEP Team, must, to the extent appropriate, participate in the development of the IEP of the child, including the determination of –

1. Appropriate positive behavioral interventions and supports and other strategies for the child; and

2. Supplementary aids and services, accommodations, program modifications, and support for school personnel. [34 C.F.R. § 300.324(a)(3)(i) – (ii)]

(e) IEP Changes or Amendments. Changes or amendments to the IEP may be made either by the entire IEP Team at an IEP Team meeting or by agreement between the parents and LEA.

1. In making changes to a child's IEP after the annual IEP Team meeting for a school year, the parent(s) of a child with a disability and the LEA 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. [34 C.F.R. § 300.324(a)(4)(i)]

(i) If changes are made to the child's IEP, the LEA must ensure that the child's IEP Team is informed of those changes. [34 C.F.R. § 300.324(a)(4)(ii)]

(ii) A parent must be provided with a revised copy of the IEP with the amendments incorporated. [See 34 C.F.R. § 300.324(a)(6)]

(19) REVIEW AND REVISION OF IEPS – Each LEA must ensure that the IEP Team –

(a) Reviews the child's IEP periodically, but not less than annually, to determine whether the annual goals for the child are being achieved; and

(b) Revises the IEP, as appropriate, to address –

1. Any lack of expected progress toward the annual goals and in the general curriculum, if appropriate;

2. The results of any reevaluations conducted.

3. Information about the child provided to, or by, the parents;

4. The child's anticipated needs; or

5. Other matters. [34 C.F.R. § 300.324(b)(1)(i) & (ii)(A) – (E)]

(c) Consolidation of IEP Team meetings. To the extent possible, the LEA must encourage the consolidation of reevaluation meetings for the child and other IEP Team meetings for the child. [34 C.F.R. § 300.324(a)(5)]

(d) Consideration of special factors. In conducting a review of the child's IEP, the IEP Team must consider the special factors in (18)(b) above. [34 C.F.R. § 300.324(b)(2)]

(e) A regular education teacher of the child, as a member of the IEP Team, must participate in the review and revision of the IEP of the child. [34 C.F.R. § 300.324(b)(3)]

(f) Failure to meet transition objectives –

1. Participating agency failure. If a participating agency, other than the LEA, fails to provide the transition services described in the IEP, the LEA must reconvene the IEP Team to identify alternative strategies to meet the transition objectives for the child set out in the IEP. [34 C.F.R. § 300.324(c)(1)]

2. Nothing in this part relieves any participating agency, including the State vocational rehabilitation agency, of the responsibility to provide or pay for any transition service that the agency would otherwise provide to children with disabilities who meet the eligibility criteria of that agency. [34 C.F.R. § 300.324(c)(2)]

(g) Children with disabilities in adult prisons.

1. The following requirements do not apply to children with disabilities who are convicted as adults under State law and incarcerated in adult prisons (Department of Corrections):

(i) Participation of children with disabilities in State and districtwide assessments; and

(ii) The requirements related to transition planning and transition services do not apply to children whose eligibility under Part B of the IDEA will end, because of their age, before they will be eligible to be released from prison based on consideration of their sentence and eligibility for early release. [34 C.F.R. § 300.324(d)(1)(i) – (ii)]

2. Modifications of IEP or placement. The IEP Team of a child with a disability who is convicted as an adult and incarcerated in an adult prison may modify the child's IEP or placement if the State has demonstrated a bona fide security or compelling penological interest that cannot otherwise be accommodated. [34 C.F.R. § 300.324(d)(2)(i)]

3. The IEP requirements in this Rule and the LRE requirements do not apply with respect to the modifications described in paragraph (g)(2) above. [34 C.F.R. § 300.324(d)(2)(ii)]

(20) This rule shall become effective July 1, 2007.

Authority O.C.G.A. § 20-2-133; 20-2-152; 20-2-240.

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