

3301-51-07 Individualized education program (IEP)

- (A) Each school district shall adopt and implement written policies and procedures approved by the Ohio department of education, office for exceptional children, that ensure an individualized education program (IEP) is developed and implemented for each child with a disability.
- (B) The county boards of developmental disabilities (county boards of DD) and other educational agencies shall adopt and implement written policies and procedures approved by the Ohio department of education, office for exceptional children, that ensure services identified in the child's IEP are provided as agreed upon with the child's school district of residence.
- (C) The child's school district of residence is responsible for ensuring that the requirements of this rule are met regardless of which school district, county board of DD, or other educational agency implements the child's IEP. This includes the responsibility for initiating and conducting meetings for the purpose of developing, reviewing, and revising the IEP of a child with a disability.
- (D) Children in other districts or agencies
 - (1) The school district of residence is responsible for ensuring that an IEP is developed and implemented for each child with a disability residing in the school district. When providing special education services for a child with a disability in another school district, county board of DD, or other educational agency, the school district of residence must follow the same procedural safeguards as it does for all children with disabilities and have on file a copy of the current evaluation team report and the IEP.
 - (2) Each school district will cooperate with other districts, county boards of DD, and other educational agencies that serve children with disabilities in institutions or other care facilities to ensure that these children have access to an education in a regular public school setting, when appropriate and as specified in the IEP.
- (E) IEPs
 - (1) The state must ensure that an IEP that meets the requirements of Section 636(d) of the Individuals with Disabilities Education Act, as amended by the Individuals with Disabilities Education Improvement Act of 2004, December 2004 (IDEA), is developed, reviewed, and revised for each child with a disability in accordance with paragraphs (H) to (L) of this rule, except as provided in paragraph (C)(2)(c) of rule 3301-51-05 of the Administrative Code.
 - (2) Paragraphs (F) to (G) of this rule apply only to children with disabilities who are or have been placed in or referred to a nonpublic school or facility by a public school district as a means of providing special education and related services.
- (F) Responsibility of the Ohio department of education

The Ohio department of education must ensure that a child with a disability who is placed in or referred to a nonpublic school or facility by a public school district:

- (1) Is provided special education and related services:
 - (a) In conformance with an IEP that meets the requirements of paragraphs (H) to (M) of this rule; and
 - (b) At no cost to the parents;
- (2) Is provided an education that meets the standards that apply to education provided by the Ohio department of education and school districts including the requirements of this rule, except for paragraph (B)(29) of rule 3301-51-01 of the Administrative Code and paragraph (H) of rule 3301-51-09 of the Administrative Code; and
- (3) Has all of the rights of a child with a disability who is served by a public school district.

(G) Implementation by the Ohio department of education

In implementing paragraph (F) of this rule, the Ohio department of education must:

- (1) Monitor compliance through procedures such as written reports, on-site visits, and parent questionnaires;
- (2) Disseminate copies of applicable standards to each nonpublic school and facility to which a school district has referred or placed a child with a disability; and
- (3) Provide an opportunity for those nonpublic schools and facilities to participate in the development and revision of state standards that apply to them.

(H) Definition of individualized education program

(1) General

As used in this rule, the term “individualized education program” or “IEP” means a written statement for each child with a disability that is developed, reviewed, and revised in a meeting in accordance with paragraphs (H) to (L) of this rule and that must include:

- (a) A statement that discusses the child’s future
The IEP team shall ensure that the family and child’s preferences and interests are an essential part of the planning process. The IEP team will document planning information on the IEP;
- (b) A statement of the child’s present levels of academic achievement and functional performance, including:
 - (i) 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

- (ii) For preschool children, as appropriate, how the disability affects the child's participation in appropriate activities;
- (c) A statement of measurable annual goals, including academic and functional goals and benchmarks or short-term objectives designed to:
 - (i) 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
 - (ii) Meet each of the child's other educational needs that result from the child's disability;
- (d) A description of:
 - (i) How the child's progress toward meeting the annual goals described in paragraph (H)(1)(c) of this rule will be measured; and
 - (ii) 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;
- (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:
 - (i) To advance appropriately toward attaining the annual goals;
 - (ii) To be involved in and make progress in the general education curriculum in accordance with paragraph (H)(1)(b) of this rule, and to participate in extracurricular and other nonacademic activities; and
 - (iii) To be educated and participate with other children with disabilities and nondisabled children in the activities described in this rule;
- (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 activities described in paragraph (H)(1)(e) of this rule;
- (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 consistent with Section 612(a)(16) of the IDEA;

- (h) 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; and
 - (i) The projected date for the beginning of the services and modifications described in paragraph (H)(1)(e) of this rule and the anticipated frequency, location, and duration of those services and modifications.
- (2) Transition services
- Beginning not later than the first IEP to be in effect when the child turns fourteen, or younger if determined appropriate by the IEP team, and updated annually, thereafter, the IEP must include:
- (a) Appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to training, education, and, if assessment data supports the need, independent living skills;
 - (b) Appropriate measureable post-secondary goals based on age-appropriate transition assessments related to integrated employment in a competitive environment; and
 - (c) The transition services (including courses of study) needed to assist the child in reaching those goals.
- (3) Transfer of rights at age of majority
- Beginning not later than one year before the child reaches eighteen years of age, which is the age of majority under Ohio law, the IEP must include a statement that the child has been informed of the child's rights under Part B of the IDEA that will transfer to the child on reaching the age of majority, as specified in rule 3301-51-05 (D) of the Administrative Code.
- (4) Construction
- Nothing in this rule shall be construed to require:
- (a) That additional information be included in a child's IEP beyond what is explicitly required in Section 614 of the IDEA; or
 - (b) The IEP team to include information under one component of a child's IEP that is already contained under another component of the child's IEP.
- (I) IEP team
- (1) General

The school district must ensure that the IEP team for each child with a disability includes:

- (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 school district who:
 - (i) Is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children with disabilities;
 - (ii) Is knowledgeable about the general education curriculum; and
 - (iii) Is knowledgeable about the availability of resources of the school district.
 - (e) An individual who can interpret the instructional implications of evaluation results, who may be a member of the team described in paragraphs (I)(1)(b) to (I)(1)(f) of this rule;
 - (f) At the discretion of the parent or the school district, other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate; and
 - (g) Whenever appropriate, the child with a disability.
- (2) Transition services participants
- (a) In accordance with paragraph (I)(1)(g) of this rule, the school district must invite a child with a disability to attend the child's IEP team meeting if a purpose of the meeting will be the consideration of the postsecondary goals for the child and the transition services needed to assist the child in reaching those goals under paragraph (H)(2) of this rule.
 - (b) If the child does not attend the IEP team meeting, the school district must take other steps to ensure that the child's preferences and interests are considered.
 - (c) To the extent appropriate, with the consent of the parents or a child who has reached the age of majority, in implementing the requirements of paragraph (I)(2)(a) of this rule, the school district must invite a representative of any participating agency that is likely to be responsible for providing or paying for transition services.
- (3) Determination of knowledge and special expertise

The determination of the knowledge or special expertise of any individual described in paragraph (I)(1)(f) of this rule must be made by the party (parents or school district) who invited the individual to be a member of the IEP team.

(4) Designating a school district representative

A school district may designate a school district member of the IEP team to also serve as the district representative, if the criteria in paragraph (I)(1)(d) of this rule are satisfied.

(5) IEP team attendance

(a) A member of the IEP team described in paragraphs (I)(1)(b) to (I)(1)(e) of this rule 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 district 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.

(b) A member of the IEP team described in paragraph (I)(5)(a) of this rule 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:

(i) The parent, in writing, and the school district consent to the excusal; and

(ii) The member submits, in writing to the parent and the IEP team, input into the development of the IEP prior to the meeting.

(6) Initial IEP team meeting for child under Part C

In the case of a child who was previously served under Part C of the IDEA, an invitation to the initial IEP team meeting must, at the request of the parent, be sent to the Part C service coordinator or other representatives of the Part C system to assist with the smooth transition of services.

(J) Parent participation

(1) School district responsibility

Each school district must 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:

(a) Notifying parents of the meeting early enough to ensure that they will have an opportunity to attend; and

(b) Scheduling the meeting at a mutually agreed on time and place.

(2) Information provided to parents

(a) The notice required under paragraph (J)(1)(a) of this rule must:

- (i) Indicate the purpose, time, and location of the meeting and who will be in attendance; and
 - (ii) Inform the parents of the provisions in paragraphs (I)(1)(f) and (I)(3) of this rule (relating to the participation of other individuals on the IEP team who have knowledge or special expertise about the child), and paragraph (I)(6) of this rule (relating to the participation of the Part C service coordinator or other representatives of the Part C system at the initial IEP team meeting for a child previously served under Part C of the IDEA).
 - (b) For a child with a disability, beginning not later than the first IEP to be in effect when the child turns fourteen, or younger if determined appropriate by the IEP team, the notice also must:
 - (i) Indicate that a purpose of the meeting will be the development of a statement of the transition services needs of the child; and
 - (ii) Indicate that the school district will invite the child.
 - (c) For a child with a disability, beginning not later than the first IEP to be in effect when the child turns fourteen, or younger if determined appropriate by the IEP team, the notice also must:
 - (i) Indicate:
 - (a) That a purpose of the meeting will be the consideration of the postsecondary goals and transition services for the child, in accordance with paragraph (H)(2)(b) of this rule; and
 - (b) That the school district will invite the child; and
 - (ii) Identify any other agency that will be invited to send a representative.
- 3) Other methods to ensure parent participation
- If neither parent can attend an IEP team meeting, the school district must use other methods to ensure parent participation, including individual or conference telephone calls, consistent with paragraph (O) of this rule (related to alternative means of meeting participation).
- (4) Conducting an IEP team meeting without a parent in attendance
- A meeting may be conducted without a parent in attendance if the school district is unable to convince the parents that they should attend. In this case, the school district must keep a record of its attempts to arrange a mutually agreed on time and place, such as:
- (a) Detailed records of telephone calls made or attempted and the results of those calls;

- (b) Copies of correspondence sent to the parents and any responses received; and
 - (c) Detailed records of visits made to the parent's home or place of employment and the results of those visits.
- (5) Use of interpreters or other action, as appropriate

The school district must take whatever action is necessary to ensure that the parent understands the proceedings of the IEP team meeting, including arranging for an interpreter for parents with deafness or whose native language is other than English.
- (6) Parent copy of child's IEP

Within thirty calendar days after the IEP meeting, the school district must give the parent a copy of the child's IEP at no cost to the parent.
- (K) When IEPs must be in effect
 - (1) General

By the child's third birthday and at the beginning of each subsequent school year, each school district must have in effect, for each child with a disability within its jurisdiction, an IEP, as defined in paragraph (H) of this rule. The IEP shall be implemented as soon as possible following the IEP meeting.
 - (2) The initial IEP must be developed within whichever of the following time periods is the shortest:
 - (a) Within thirty calendar days of the determination that the child needs special education and related services;
 - (b) Within ninety calendar days of receiving parental consent for an evaluation; or
 - (c) Within one hundred twenty calendar days of the receipt of a request for an evaluation from a parent or school district.
 - (3) Initial IEPs; provision of services

Each school district must ensure that:

 - (a) A meeting to develop an IEP for a child is conducted within thirty 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.
 - (c) Once a child begins receiving services for the first time under an IEP, the school district in which the child is enrolled shall notify parents that the child is required to undergo a comprehensive eye

exam within three months in accordance with Revised Code section 3323.19.

(4) Accessibility of child's IEP to teachers and others

Each school district 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 described in paragraph (K)(4)(a) of this rule is informed of:
 - (i) The teacher's and provider's specific responsibilities related to implementing the child's IEP; and
 - (ii) The specific accommodations, modifications, and supports that must be provided for the child in accordance with the IEP.

(5) IEPs for children who transfer school districts in the same state

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

- (a) Adopts the child's IEP from the previous school district of residence; or
- (b) Develops, adopts, and implements a new IEP that meets the applicable requirements in paragraphs (H) to (L) of this rule.

(6) IEPs for children who transfer from another state

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

- (a) Conducts an evaluation pursuant to paragraphs (E) to (G) of rule 3301-51-06 of the Administrative Code (if determined to be necessary by the new school district of residence); and

- (b) Develops, adopts, and implements a new IEP, if appropriate, that meets the applicable requirements in paragraphs (H) to (L) of this rule.
- (7) Transmittal of records
- To facilitate the transition for a child described in paragraphs (K)(5) and (K)(6) of this rule:
- (a) The new school district of residence 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 school district of residence in which the child was enrolled, pursuant to 34 C.F.R. 99.31(a)(2) (January 14, 2013); and
 - (b) The previous school district of residence in which the child was enrolled must take reasonable steps to promptly respond to the request from the new school district of residence.
- (L) Development, review, and revision of IEP
- (1) Development of IEP
- (a) General

In developing each child's IEP, the IEP team must consider:

 - (i) The strengths of the child;
 - (ii) The concerns of the parents for enhancing the education of their child;
 - (iii) The results of the initial or most recent evaluation of the child;
 - (iv) The results of the child's performance on any state or districtwide assessment programs, as appropriate; and
 - (v) The academic, developmental, and functional needs of the child.
 - (b) Consideration of special factors

The IEP team must:

 - (i) 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;
 - (ii) 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;
 - (iii) In the case of a child who is blind or visually impaired:

- (a) 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 (including an evaluation of the child's future needs for instruction in braille or the use of braille), that instruction in braille or the use of braille is not appropriate for the child; and
 - (b) Ensure that the requirements for IEPs for children with visual impairments are implemented as provided in section 3323.011 of the Revised Code;
 - (iv) 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
 - (v) Consider whether the child needs assistive technology devices and services.
- (c) Requirement 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:
- (i) Appropriate positive behavioral interventions and supports and other strategies for the child; and
 - (ii) Supplementary aids and services, program modifications, and support for school personnel consistent with paragraph (H)(1)(e) of this rule.
- (d) Agreement
- (i) 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.
 - (ii) If the IEP team amends or modifies the child's current IEP, as described in paragraph (L)(1)(d)(i) of this rule, the annual review date for the amended or modified IEP does not change. The annual review date will change upon a complete review and revision of the child's IEP as outlined in paragraph (L)(2) of this rule.

- (iii) If changes are made to the child's IEP in accordance with paragraph (L)(1)(d)(i) of this rule, the school district must ensure that the child's IEP team is informed of those changes.
 - (e) Consolidation of IEP team meetings

To the extent possible, the school district must encourage the consolidation of reevaluation meetings for the child and other IEP team meetings for the child.
 - (f) Amendments

Changes to the IEP may be made either by the entire IEP team at an IEP team meeting, or as provided in paragraph (L)(1)(d) of this rule, by amending the IEP rather than by redrafting the entire IEP. When an IEP is amended the school district shall send a copy of the amended IEP to the parent within thirty days of the date the IEP was amended.
- (2) Review and revision of IEPs
 - (a) General

Each school district must ensure that, subject to paragraphs (L)(2)(b) and (L)(2)(c) of this rule, the IEP team:

 - (i) Reviews the child's IEP periodically, but not less than annually, to determine whether the annual goals for the child are being achieved; and
 - (ii) Revises the IEP, as appropriate, to address:
 - (a) Any lack of expected progress toward the annual goals described in paragraph (H)(1)(c) of this rule, and in the general education curriculum, if appropriate;
 - (b) The results of any reevaluation conducted under rule 3301-51-06 of the Administrative Code;
 - (c) Information about the child provided to, or by, the parents, as described under paragraph (F)(1)(b) of rule 3301-51-06 of the Administrative Code;
 - (d) The child's anticipated needs; or
 - (e) Other matters.
 - (b) Consideration of special factors

In conducting a review of the child's IEP, the IEP team must consider the special factors described in paragraph (L)(1)(b) of this rule.
 - (c) Requirement with respect to regular education teacher

A regular education teacher of the child, as a member of the IEP team, must, consistent with paragraph (L)(1)(c) of this rule, participate in the review and revision of the IEP of the child.

(3) Failure to meet transition objectives

(a) Participating agency failure

If a participating agency, other than the school district, fails to provide the transition services described in the IEP in accordance with paragraph (H)(2) of this rule, the school district must reconvene the IEP team to identify alternative strategies to meet the transition objectives for the child set out in the IEP.

(b) Construction

Nothing in this rule relieves any participating agency, including a 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.

(4) Children with disabilities in adult prisons

(a) Requirements that do not apply

The following requirements do not apply to children with disabilities who are convicted as adults under state law and incarcerated in adult prisons:

(i) The requirements contained in Section 612(a)(16) of the IDEA and paragraph (H)(1)(g) of this rule (relating to participation of children with disabilities in general assessments).

(ii) The requirements in paragraph (H)(2) of this rule (relating to transition planning and transition services) do not apply with respect to the 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.

(b) Modifications of IEP or placement

(i) Subject to paragraph (L)(4)(b)(ii) of this rule, the IEP team of a child with a disability who is convicted as an adult under state law 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.

(ii) The requirements of paragraphs (E) and (H) of this rule do not apply with respect to the modifications described in paragraph (L)(4)(b)(i) of this rule.

(M) Nonpublic school placements by public school districts

(1) Developing IEPs

- (a) Before a public school district places a child with a disability in, or refers a child to, a nonpublic school or facility, the district must initiate and conduct a meeting to develop an IEP for the child in accordance with paragraphs (H) and (L) of this rule.
- (b) The district must ensure that a representative of the nonpublic school or facility attends the meeting. If the representative cannot attend, the district must use other methods to ensure participation by the nonpublic school or facility, including individual or conference telephone calls.

(2) Reviewing and revising IEPs

- (a) After a child with a disability enters a nonpublic school or facility, any meetings to review and revise the child's IEP may be initiated and conducted by the nonpublic school or facility at the discretion of the public school district.
- (b) If the nonpublic school or facility initiates and conducts these meetings, the public school district must ensure that the parents and a district representative:
 - (i) Are involved in any decision about the child's IEP; and
 - (ii) Agree to any proposed changes in the IEP before those changes are implemented.

(3) Responsibility

Even if a nonpublic school or facility implements a child's IEP, responsibility for compliance with this rule remains with the public school district and the Ohio department of education.

(N) Educational placements

Consistent with rule 3301-51-04 of the Administrative Code, each school district must ensure that the parents of each child with a disability are members of any group that makes decisions on the educational placement of their child.

(O) Alternative means of meeting participation

When conducting IEP team meetings and placement meetings pursuant to this rule, and Subpart E of Part B of the IDEA, and carrying out administrative matters under Section 615 of the IDEA (such as scheduling, exchange of witness lists, and status conferences), the parent of a child with a disability and a school district may agree to use alternative means of meeting participation, such as video conferences and conference calls.

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