

Individualized Education Program (IEP) Planning and Individualized Family Service Plan (IFSP) Planning

Individualized education program (IEP) planning and individualized family service plan (IFSP) planning are the processes of determining, based on assessment data, a child's or student's educational needs and then completing a written statement, such as an IEP or IFSP, that is developed, reviewed, and revised by a team of individuals. The team must consist of the required individuals as specified in state and federal law.

Required Policies

The district shall have, as part of the district's TSES plan a description of the full range of available educational service alternatives. The district's TSES plan shall include:

- (1) a description of the sites available at which services may occur. Sites describe the building or other location where special education occurs; and
- (2) a description of the available instruction and related services. (Minn. R. 3525.1100, subp. 2(B).)

Through their Interagency Early Intervention Committees, districts are required to develop and implement policies and procedures related to development of IFSPs and IEPs, and transitional plans. These policies and procedures must be included in the district's comprehensive, documented TSES plan.

Each district must develop a policy that describes the district's procedures for implementing the use of conditional interventions with pupils. Section 4.09.01 of the Generic TSES Manual describes the required components of this policy. The policy must be included in the district's TSES plan.

IEP/IFSP Planning Standards

Individualized education program or IEP means a written statement for a child with a disability that is developed, reviewed, and revised in accordance with the Code of Federal Regulations, title 34, sections 300.320 through 300.324.34 (34 C.F.R. § 300.22.)

The State must ensure that an IEP, or an IFSP that meets the requirements of section 636(d) of the Act, is developed, reviewed, and revised for each child with a disability in accordance with sections 300.320 through 300.324, except as provided in section 300.300(b)(3)(ii). (34 C.F.R. § 300.112.)

The LEA, in providing for the education of children with disabilities within its jurisdiction, must have in effect policies, procedures, and programs that are consistent with the State policies and

procedures established under sections 300.101 through 300.163, and sections 300.165 through 300.174. (34 C.F.R. § 300.201.)

If a determination is made that a child has a disability and needs special education and related services, an IEP must be developed for the child in accordance with sections 300.320 through 300.324. (34 C.F.R. § 300.306(c)(2).)

As used in parts 3525.0200 to 3525.4770, the terms defined in this part have the meanings given them.

"Individualized education program" or "IEP" means a written statement for each pupil that is developed, reviewed, and revised in a meeting in accordance with this part. (Minn. R. 3525.2810, subp. 1(A).)

"Individualized family service plan" or "IFSP" means a written plan for providing services to a pupil and the pupil's family through interagency agreements. Procedural and program requirements for the IEP also apply to the educational components of the IFSP. (Minn. R. 3525.0210, subp. 28.)

General Individualized Education Program (IEP) Requirements

IEP Team

Individualized education program team or IEP Team means a group of individuals described in the Code of Federal Regulations, title 34, section 300.321 that is responsible for developing, reviewing, or revising an IEP for a child with a disability. (34 C.F.R. § 300.23.)

Placement Decision Made By an IEP Team

In determining the educational placement of a child with a disability, including a preschool child with a disability, each public agency shall ensure that —

(a) The placement decision

(1) Is made by a group of persons, including the parents, and other persons knowledgeable about the child, the meaning of the evaluation data, and the placement options. (34 C.F.R. § 300.116(a).)

IEP Manager

The district shall assign a teacher or licensed related service staff who is a member of the pupil's IEP team as the pupil's IEP manager to coordinate the instruction and related services for the pupil. The IEP manager's responsibility shall be to coordinate the delivery of special education services in the pupil's IEP and to serve as the primary contact for the parent. A district may assign the following responsibilities to the pupil's IEP manager: assuring compliance with procedural requirements; communicating and coordinating among home, school, and other agencies; coordinating regular and special education programs; facilitating placement; and scheduling team meetings. (Minn. R. 3525.0550.)

IEP Team Members

A. Parents

The public agency must ensure that the IEP Team for each child with a disability includes —

(1) The parents of the child. (34 C.F.R. § 300.321(a)(1).)

"Individualized education program team" or "IEP team" means a group of individuals that must include:

(1) the parents of the pupil. (Minn. R. 3525.2810, subp. 1(B)(1).)

(1) Each public agency must ensure that a parent of each child with a disability is a member of any group that makes decisions on the educational placement of the parent's child.

(2) In implementing the requirements of paragraph (c)(1) of this section, the public agency must use procedures consistent with the procedures described in section 300.322(a) through (b)(1). (34 C.F.R. § 300.501(c)(1)-(2).)

Consistent with section 300.501(c), each public agency 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. (34 C.F.R. § 300.327.)

B. Regular Education Teacher

The public agency must ensure that the IEP Team for each child with a disability includes —

(2) Not less than one regular education teacher of the child (if the child is, or may be, participating in the regular education environment). (34 C.F.R. § 300.321(a)(2).)

"Individualized education program team" or "IEP team" means a group of individuals that must include:

(2) at least one regular education teacher of the pupil, if the pupil is, or may be, participating in the regular education environment. (Minn. R. 3525.2810, subp. 1(B)(2).)

C. Special Education Teacher

The public agency must ensure that the IEP Team for each child with a disability includes —

(3) Not less than one special education teacher of the child, or where appropriate, not less than one special education provider of the child. (34 C.F.R. § 300.321(a)(3).)

"Individualized education program team" or "IEP team" means a group of individuals that must include:

(3) at least one special education teacher or, where appropriate, at least one special education provider of the pupil. (Minn. R. 3525.2810, subp. 1(B)(3).)

D. Representative of the School District

The public agency must ensure that the IEP Team for each child with a disability includes —

(4) A representative of the public agency 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 public agency. (34 C.F.R. § 300.321(a)(4).)

A public agency may designate a public agency member of the IEP Team to also serve as the agency representative, if the criteria in paragraph (a)(4) of this section are satisfied. (34 C.F.R. § 300.321(d).)

"Individualized education program team" or "IEP team" means a group of individuals that must include:

(4) an administrative designee, as defined in part 3525.0210, subpart 2, who is qualified to provide or supervise the provision of specially designed instruction to meet the unique needs of pupils with disabilities, is knowledgeable about the general curriculum, and is knowledgeable about the availability of resources of the district. (Minn. R. 3525.2810, subp. 1(B)(4).)

E. Individual to Interpret Instructional Implications

The public agency must ensure that the IEP Team for each child with a disability includes —

(5) An individual who can interpret the instructional implications of evaluation results, who may be a member of the team described in paragraphs (a)(2) through (a)(6) of this section. (34 C.F.R. § 300.321(a)(5).)

"Individualized education program team" or "IEP team" means a group of individuals that must include:

(5) an individual who can interpret the instructional implications of evaluation results, who may be a member of the team described in subitems (2) to (6). (Minn. R. 3525.2810, subp. 1(B)(5).)

F. Other Individuals at the Parent or District's Discretion with Knowledge or Special Expertise

The public agency must ensure that the IEP Team for each child with a disability includes —

(6) At the discretion of the parent or the agency, other individuals who have knowledge or special expertise regarding the child, according to Code of Federal Regulations, title 34, section 300.344 including related services personnel as appropriate. (34 C.F.R. § 300.321(a)(6).)

The determination of the knowledge or special expertise of any individual described in paragraph (a)(6) of this section must be made by the party (parents or public agency) who invited the individual to be a member of the IEP Team. (34 C.F.R. § 300.321(c).)

"Individualized education program team" or "IEP team" means a group of individuals that must include:

(6) at the discretion of the parent or the district, other individuals who have knowledge or special expertise regarding the pupil, according to Code of Federal Regulations, title 34, section 300.344(c), including related services personnel, as appropriate. (Minn. R. 3525.2810, subp. 1(B)(6).)

G. Student

The public agency must ensure that the IEP Team for each child with a disability includes —

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

"Individualized education program team" or "IEP team" means a group of individuals that must include:

(7) whenever appropriate, the pupil. (Minn. R. 3525.2810, subp. 1(B)(7).)

H. Special Situations

1. Multidisability Team

The team member licensed in the pupil's disability shall be responsible for conducting the pupil's evaluation and participating at team meetings when an IEP is developed, reviewed, or revised. Consultation and indirect services as defined in part 3525.0210 must be provided to the general or special education teacher providing instruction if not licensed in the disability. The frequency and amount of time for specific consultation and indirect services shall be determined by the IEP team. (Minn. R. 3525.2350, subp. 3.)

2. Specific Learning Disability Suspected

The determination of whether a child suspected of having a specific learning disability is a child with a disability as defined in section 300.8, is made by the child's parents and a team of qualified professionals, which must include

(a)(1) The child's regular teacher; or

(2) If the child does not have a regular teacher, a regular classroom teacher qualified a teacher of his or her age; or

(3) For a child of less than school age, an individual qualified by the SEA to teach a child of his or her age; and

(b) at least one person qualified to conduct individual diagnostic examinations of children, such as a school psychologist, speech-language pathologist, or remedial reading teacher. (34 C.F.R. § 300.308(a)(b).)

3. Student Enrolled in a Private School

Before a public agency places a child with a disability in, or refers a child to, a private school or facility, the agency must initiate and conduct a meeting to develop an IEP for the child in accordance with sections 300.320 and 300.324. The agency must ensure that a representative of the private school or facility attends the meeting. If the representative cannot attend, the agency shall use other methods to ensure participation by the private school or facility, including individual or conference telephone calls. (34 C.F.R. § 300.325(a)(1)-(2).)

4. Out-of-District Placement Considered

If the team determines that it may be appropriate to consider placement options outside of the resident district, representatives from the outside district, agency, or academy must be invited to attend a team meeting as a participant to complete an appropriate IEP for the pupil, including the needs, goals, objectives, services, and placement of the pupil. (Minn. R. 3525.0800, subp. 3.)

5. Secondary Transition Services Being Considered

(1) In accordance with paragraph (a)(7) of this section, the public agency 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 section 300.320(b).

(2) If the child does not attend the IEP Team meeting, the public agency must take other steps to ensure that the child's preferences and interests are considered.

(3) 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 (b)(1) of this section, the public agency 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).)

For each pupil, the district shall conduct an evaluation of secondary transition needs and plan appropriate services to meet the pupil's transition needs. The areas of evaluation and planning must be relevant to the pupil's needs and may include work, recreation and leisure, home living, community participation, and postsecondary training and learning opportunities. To appropriately evaluate and plan for a pupil's secondary transition, additional IEP team members may be necessary and may include vocational education staff members and other community agency representatives as appropriate.

Secondary transition evaluation results must be documented as part of an evaluation report. Current and secondary transition needs, goals, and instructional and related services to meet the pupil's secondary transition needs must be considered by the team with annual needs, goals, objectives, and services documented on the pupil's IEP. (Minn. R. 3525.2900, subp. 4.)

6. Initial IEP Team Meeting for Child Previously Under Part C

In the case of a child who was previously served under Part C of the Act, 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. (34 C.F.R. § 300.321(f).)

Meeting Requirements

General Requirements

Each public agency must ensure that —

(1) 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.(34 C.F.R. § 300.323(c)(1).)

Ensuring Parent Attendance at Meetings

Each public agency 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 —

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

(2) Scheduling the meeting at a mutually agreed on time and place. (34 C.F.R. § 300.322(a).)

(1) The notice required under paragraph (a)(1) of this section 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 section 300.321(a)(6) and (c) (relating to participation of other individuals on the IEP Team who have knowledge or special expertise about the child) and section 300.231(f) (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 Act).

(2) For a child with a disability 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, 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 section 300.320(b); and

(B) That the agency will invite the student; and

(ii) Identify any other agency that will be invited to send a representative (34 C.F.R. § 300.322(b).)

If neither parent can attend an IEP Team meeting, the public agency must use other methods to ensure parent participation, including individual or conference telephone calls, consistent with section 300.328 (related to alternative means of meeting participation).(34 C.F.R. § 300.322(c).)

A meeting may be conducted without a parent in attendance if the public agency is unable to convince the parents that they should attend. In this case, the public agency must keep a record of its attempts to arrange a mutually agreed on time and place, such as —

- (1) Detailed records of telephone calls made or attempted and the results of those calls;
- (2) Copies of correspondence sent to the parents and any responses received; and
- (3) Detailed records of visits made to the parent's home or place of employment and the results of those visits. (34 C.F.R. § 300.322(d).)

The public agency 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. (34 C.F.R. § 300.322(e).)

Annual Review of the IEP

Each public agency must ensure that, subject to paragraphs (b)(2) and (b)(3) of this section, 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. (34 C.F.R. § 300.324(b)(1)(i).)

Periodic Review of the IEP and Changes to IEP Outside of Meetings

(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 public agency 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 changes are made to the child's IEP in accordance with paragraph (a)(4)(i) of this section, the public agency must ensure that the child's IEP Team is informed of those changes. (34 C.F.R. § 300.324(a)(4).)

To the extent possible, the public agency 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).)

Changes to the IEP may be made either by the entire IEP Team at an IEP Team meeting, or as provided in paragraph (a)(4) of this section, by amending the IEP rather than by redrafting the entire IEP. Upon request, a parent must be provided with a revised copy of the IEP with the amendments incorporated. (34 C.F.R. § 300.324(a)(6).)

Private Schools

If a child with a disability is enrolled in a religious or other private school by the child's parents and will receive special education or related services from an LEA, the LEA must

- (1) Initiate and conduct meetings to develop, review, and revise a services plan for the child, in accordance with section 300.138(b). (34 C.F.R. § 300.137(c)(1).)

Before a public agency places a child with a disability in, or refers a child to, a private school or facility, the agency must initiate and conduct a meeting to develop an IEP for the child in accordance with sections 300.320 and 300.324. (34 C.F.R. § 300.325(a)(1).)

After a child with a disability enters a private school or facility, any meetings to review and revise the child's IEP may be initiated and conducted by the private school or facility at the discretion of the public agency. (34 C.F.R. § 300.325(b)(1).)

Failure to Provide Transition Services

If a participating agency, other than the public agency, fails to provide the transition services described in the IEP in accordance with section 300.320(b), the public agency 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).)

If a participating agency, other than the local school district, fails to provide the transition services described in the IEP in accordance with subpart 1, item A, subitem (7), the district shall reconvene the IEP team to identify alternative strategies to meet the transition objectives for the pupil set out in that program. (Minn. R. 3525.2810, subp. 4.)

Alternative Means of Meeting Participation

When conducting IEP Team meetings and placement meetings pursuant to this subpart, and subpart E of this part, and carrying out administrative matters under section 615 of the Act (such as scheduling, exchange of witness lists, and status conferences), the parent of a child with a disability and a public agency may agree to use alternative means of meeting participation, such as video conferences and conference calls. (34 C.F.R. § 300.328.)

Excused Absence from Team Meeting by Individual Members

(1) A member of the IEP Team described in paragraphs (a)(2) through (a)(5) 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 public agency 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.

(2) A member of the IEP Team described in paragraph (e)(1) of this section 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 public agency 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. (34 C.F.R. § 300.321(e).)

Required Content of the IEP

As defined in this section, every district must ensure the following:

(1) all students with disabilities are provided the special instruction and services which are appropriate to their needs. [. . .] The student's needs and the special education instruction and services to be provided must be agreed upon through the development of an individual education program. The program must address the student's need to develop skills to live and work as independently as possible within the community. [. . .] (Minn. Stat. § 125A.08(b)(1).)

Nothing in this section shall be construed to require

(1) That additional information be included in a child's IEP beyond what is explicitly required in section 614 of the Act; or

(2) The IEP Team to include information under one component of a child's IEP that is already contained under another component of the child's IEP. (34 C.F.R. § 300.320(d).)

Nothing in this part shall be construed to require the IEP team to include information under one component of a pupil's IEP that is already contained under another component of such IEP. (Minn. R. 3525.2810, subp. 5.)

Present Level of Educational Performance

As used in this part, 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 sections 300.320 through 300.324, and that must include —

(1) 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. (34 C.F.R. § 300.320(a)(1).)

"Individualized education program" or "IEP" means a written statement for each pupil that is developed, reviewed, and revised in a meeting in accordance with this part and includes:

(1) a statement of the pupil's present levels of educational performance, including how the pupil's disability affects the pupil's involvement and progress in the general curriculum, or for preschool pupils, as appropriate, how the disability affects the pupil's participation in appropriate activities. (Minn. R. 3525.2810, subp. 1(A)(1).)

In developing each pupil's IEP, the IEP team shall consider the strengths of the pupil and the concerns of the parents for enhancing the education of the pupil, the results of the initial evaluation or most recent evaluation of the pupil, and, as appropriate, the results of the pupil's performance on any general state or districtwide assessment program. (Minn. R. 3525.2810, subp. 2(A).)

A. Strengths of the Child and Concerns of the Parents

In developing each child's IEP, the IEP Team must consider —

(i) The strengths of the child; and

(ii) The concerns of the parents for enhancing the education of their child. (34 C.F.R. § 300.324(a)(1)(i)-(ii).)

In developing each pupil's IEP, the IEP team shall consider the strengths of the pupil and the concerns of the parents for enhancing the education of the pupil, the results of the initial evaluation or most recent evaluation of the pupil, and, as appropriate, the results of the pupil's performance on any general state or districtwide assessment program. (Minn. R. 3525.2810, subp. 2(A).)

B. Recent Evaluation Results

In developing each child's IEP, the IEP Team must consider

(iii) The results of the initial or most recent evaluation of the child. (34 C.F.R. § 300.324(a)(1)(iii).)

C. Academic, Developmental, and Functional Needs

In developing each child's IEP, the IEP Team must consider —

(iv) The academic, developmental, and functional needs of the child. (34 C.F.R. § 300.324(a)(1)(iv).)

In developing each pupil's IEP, the IEP team shall consider the strengths of the pupil and the concerns of the parents for enhancing the education of the pupil, the results of the initial evaluation or most recent evaluation of the pupil, and, as appropriate, the results of the pupil's performance on any general state or districtwide assessment program. (Minn. R. 3525.2810, subp. 2(A).)

D. Communication Needs

The IEP Team must

(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. (34 C.F.R. § 300.324(a)(2)(iv).)

, The IEP Team must

(iii) 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 (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. (34 C.F.R. § 300.324(a)(2)(iii).)

The IEP Team must —

(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. (34 C.F.R. § 300.324(a)(2)(ii).)

The IEP team shall:

(4) consider the communication needs of the pupil, and in the case of a pupil who is deaf or hard of hearing, consider the pupil's language and communication needs, opportunities for direct communications with peers and professional personnel in the pupil's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the pupil's language and communication mode. (Minn. R. 3525.2810, subp. 2(B)(4).)

The IEP team shall:

(3) in the case of a pupil 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 pupil's reading and writing skills, needs, and appropriate reading and writing media, including an evaluation of the pupil'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 pupil. (Minn. R. 3525.2810, subp. 2(B)(3).)

In developing an individualized education plan for each blind student the presumption must be that proficiency in Braille reading and writing is essential for the student to achieve satisfactory educational progress. The assessment required for each student must include a Braille skills inventory, including a statement of strengths and deficits. Braille instruction and use are not required by this paragraph if, in the course of developing the student's individualized education program, team members concur that the student's visual impairment does not affect reading and writing performance commensurate with ability. This paragraph does not require the exclusive use of Braille if other special education services are appropriate to the student's educational needs. The provision of other appropriate services does not preclude Braille use or instruction. Instruction in Braille reading and writing must be available for each blind student for whom the multidisciplinary team has determined that reading and writing is appropriate. (Minn. Stat. § 125A.06(c).)

Instruction in Braille reading and writing must be sufficient to enable each blind student to communicate effectively and efficiently with the same level of proficiency expected of the student's peers of comparable ability and grade level. (Minn. Stat. § 125A.06(d).)

The student's individualized education plan must specify:

- (1) the results obtained from the assessment required under paragraph (c);
- (2) how Braille will be implemented through integration with other classroom activities;
- (3) the date on which Braille instruction will begin;
- (4) the length of the period of instruction and the frequency and duration of each instructional session;
- (5) the level of competency in Braille reading and writing to be achieved by the end of the period and objective assessment measures to be used; and
- (6) if a decision has been made under paragraph (c) that Braille instruction or use is not required for the student, a statement that the decision was reached after a review of pertinent literature describing the educational benefits of Braille instruction and use; and a specification of

the evidence used to determine that the student's ability to read and write effectively without Braille is not impaired. (Minn. Stat. § 125A.06(e).)

The IEP team shall:

(2) in the case of a pupil with limited English proficiency, consider the language needs of the pupil as such needs relate to the pupil's IEP. (Minn. R. 3525.2810, subp. 2(B)(2).)

If, in considering the special factors described in items A and B, the IEP team determines the pupil needs a particular device or service, including an intervention, accommodation, or other program modification, in order for the pupil to receive FAPE, the IEP team must include a statement to that effect in the pupil's IEP. (Minn. R. 3525.2810, subp. 2(C).)

E. Student's Behavior Impedes Learning

In developing each child's IEP, the IEP Team must consider—(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. (34 C.F.R. § 300.324(a)(2)(i).)

[. . .] The individualized education program team must consider positive behavioral interventions, strategies, and supports that address behavior for children with attention deficit disorder or attention deficit hyperactivity disorder. (Minn. Stat. § 125A.08(a)(1).)

The IEP team shall:

(1) in the case of a pupil whose behavior impedes his or her learning or that of others, consider, when appropriate, strategies, including positive behavioral interventions and supports to address that behavior. (Minn. R. 3525.2810, subp. 2(B)(1).)

If, in considering , the special factors described in items A and B, the IEP team determines the pupil needs a particular device or service, including an intervention, accommodation, or other program modification, in order for the pupil to receive FAPE, the IEP team must include a statement to that effect in the pupil's IEP. (Minn. R. 3525.2810, subp. 2(C).)

F. Assistive Technology

The IEP Team must —

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

The IEP team shall:

(5) consider whether the pupil requires assistive technology devices and services. (Minn. R. 3525.2810, subp. 2(B)(5).)

If, in considering , the special factors described in items A and B, the IEP team determines the pupil needs a particular device or service, including an intervention, accommodation, or other program modification, in order for the pupil to receive FAPE, the IEP team must include a statement to that effect in the pupil's IEP. (Minn. R. 3525.2810, subp. 2(C).)

Short and Long Term Goals and Objectives

As used in this part, 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 sections 300.320 through 300.324, and that must include —

(2)(i) A statement of measurable annual goals, including academic and functional goals designed to

(A) Meet the child's needs that result from the child's disability to enable the child to be involved in and progress in the general curriculum; and

(B) Meet each of the child's other educational needs that result from the child's disability;

(ii) 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).)

"Individualized education program" or "IEP" means a written statement for each pupil that is developed, reviewed, and revised in a meeting in accordance with this part and that includes:

(2) a statement of measurable annual goals, including benchmarks or short term objectives, related to meeting the pupil's needs that result from the pupil's disability to enable the pupil to be involved in and progress in the general curriculum, and meeting each of the pupil's other educational needs that result from the pupil's disability. (Minn. R. 3525.2810, subp. 1(A)(2).)

Least Restrictive Environment (LRE)

As used in this part, 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 sections 300.320 through 300.324, and that must include —

(5) 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 (a)(4) of this section. (34 C.F.R. § 300.320(a)(5).)

"Individualized education program" or "IEP" means a written statement for each pupil that is developed, reviewed, and revised in a meeting in accordance with this part and includes:

(4) an explanation of the extent, if any, to which the pupil will not participate with students in the regular class and in the activities described in subitem (3). (Minn. R. 3525.2810, subp. 1(A)(4).)

Special Education and Related Services

As used in this part, 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 sections 300.320 through 300.324, and that must include

(4) 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 for the child

- (i) To advance appropriately toward attaining the annual goals;
- (ii) To be involved and progress in and make progress in the general education curriculum in accordance with paragraph (a)(1) of this section, 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 section. (34 C.F.R. § 300.320(a)(4).)

"Individualized education program" or "IEP" means a written statement for each pupil that is developed, reviewed, and revised in a meeting in accordance with this part and includes:

- (3) a statement of the special education and related services and supplementary aids and services to be provided to the pupil, or on behalf of the pupil, and a statement of the program modifications or supports for school personnel that will be provided for the pupil to advance appropriately toward attaining the annual goals, to be involved and progress in the general curriculum in accordance with subitem (1) and to participate in extracurricular and other nonacademic activities, and to be educated and participate with other pupils and students in the activities described in this paragraph; (Minn. R. 3525.2810, subp. 1(A)(3))

The [multidisciplinary] team member licensed in a pupil's disability shall be responsible for conducting the pupil's evaluation and participating at team meetings when an IEP is developed, reviewed, or revised. Consultation and indirect services as defined in part 3525.0210 must be provided to the general or special education teacher providing instruction if not licensed in the disability. The frequency and amount of time for specific consultation and indirect services shall be determined by the IEP team.

Pupils may receive instruction and related services from any or all of the [multidisciplinary] team members with appropriate skills. The special education provided by each team member shall be included in the IEP. Minn. R. 3525.2350, subp. 3 & 4.

A. Extended School Year Services

Extended school year services must be provided only if a child's IEP Team determines, on an individual basis, in accordance with sections 300.320 through 300.324, that the services are necessary for the provision of FAPE to the child. (34 C.F.R. § 300.106(a)(2).)

In implementing the requirements of this section, a public agency may not —

- (i) Limit extended school year services to particular categories of disability; or
- (ii) Unilaterally limit the type, amount, or duration of those services. (34 C.F.R. § 300.106(a)(3).)

School districts are required to provide extended school year (ESY) services to a pupil if the IEP team determines the services are necessary during a break in instruction in order to provide a free appropriate public education. (Minn. R. 3525.0755, subp. 1.)

At least annually, the IEP team must determine a pupil is in need of ESY services if the pupil meets the conditions of item A, B, or C.

A. there will be significant regression of a skill or acquired knowledge from the pupil's level of performance on an annual goal that requires more than the length of the break in instruction to recoup unless the IEP team determines a shorter time for recoupment is more appropriate;

B. services are necessary for the pupil to attain and maintain self-sufficiency because of the critical nature of the skill addressed by an annual goal, the pupil's age and level of development, and the timeliness for teaching the skill; or

C. the IEP team otherwise determines, given the pupil's unique needs, that ESY services are necessary to ensure the pupil receives a free appropriate public education. (Minn. R. 3525.0755, subp. 3.)

The IEP team must decide the basis for determining whether a pupil is eligible for ESY services using information including:

A. prior observation of the pupil's regression and recoupment over the summer;

B. observation of the pupil's tendency to regress over extended breaks in instruction during the school year; and

C. experience with other pupils with similar instructional needs. (Minn. R. 3525.0755, subp. 4).

Instruction in Braille reading and writing is a service for the purpose of special education and services under this section. (Minn. Stat. § 125A.06(f)).

"Individualized education program" or "IEP" means a written statement for each pupil that is developed, reviewed, and revised in a meeting in accordance with this part and includes:

(10) a statement of the pupil's need for and the specific responsibilities of a paraprofessional; (Minn. R. 3525.2810, subp. 1(A)(10).)

B. Cost Consideration

As defined in this section, every district must ensure the following:

(1) all students with disabilities are provided the special instruction and services which are appropriate to their needs. Where the individualized education program team has determined appropriate goals and objectives based on the student's needs, including the extent to which the student can be included in the least restrictive environment, and where there are essentially equivalent and effective instruction, related services, or assistive technology devices available to meet the student's needs, cost to the district may be among the factors considered by the team in choosing how to provide the appropriate services, instruction, or devices that are to be made part of the student's individual education program. The individualized education program team shall consider and may authorize services covered by medical assistance according to section 256B.0625, subdivision 26. [. . .] (Minn. Stat. § 125A.08(b)(1).)

C. Role of the 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 section 300.320(a)(4). (34 C.F.R. § 300.324(a)(3).)

The regular education teacher of the pupil, as a member of the IEP team, shall, to the extent appropriate, participate in the development of the IEP of the pupil, including the determination of appropriate positive behavioral interventions and strategies and the determination of supplementary aids and services, program modifications, and support for school personnel consistent with subpart 1, item A, subitem (3). (Minn. R. 3525.2810, subp. 2(D).)

The regular education teacher of the pupil, as a member of the IEP team, shall, to the extent appropriate, participate in the review and revision of the IEP of the pupil. (Minn. R. 3525.2810, subp. 3(B).)

When IEP Must Be in Effect

At the beginning of each school year, each public agency must have in effect, for each child with a disability within its jurisdiction, an IEP, as defined in section 300.320. (34 C.F.R. § 300.323(a).)

As used in this part, 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 sections 300.320 through 300.324, and that must include —

(7) The projected date for the beginning of the services and modifications described in paragraph (a)(4) of this section, and the anticipated frequency, location, and duration of those services and modifications. (34 C.F.R. § 300.320(a)(7).)

"Individualized education program" or "IEP" means a written statement for each pupil that is developed, reviewed, and revised in a meeting in accordance with this part and that includes:

(6) the projected date for the beginning of the services and modifications described in subitem (3), and the anticipated frequency, location, and duration of those services and modifications. (Minn. R. 3525.2810, subp. 1(A)(6).)

Review and Revision of the IEP

Each public agency must ensure that, subject to paragraph (b)(2) and (b)(3) of this section, 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. (34 C.F.R. § 300.324(b)(1)(i).)

Each public agency must ensure that, subject to paragraphs (b)(2) and (b)(3) of this section, the IEP Team

(ii) Revises the IEP, as appropriate, to address —

(A) Any lack of expected progress toward the annual goals described in section 300.320(a)(2), and in the general education curriculum, if appropriate;

(B) The results of any reevaluation conducted under section 300.303;

(C) Information about the child provided to, or by, the parents, as described under section 300.305(a)(2);

(D) The child's anticipated needs; or

(E) Other matters. (34 C.F.R. § 300.324(b)(1)(ii).)

The district shall ensure that the IEP team reviews the pupil's IEP periodically, but not less than annually to determine whether the annual goals for the pupil are being achieved, and reviews the IEP as appropriate to address:

(1) any lack of expected progress toward the annual goals and in the general curriculum, where appropriate;

(2) the results of any reevaluation conducted under part 3525.2710;

(3) information about the pupil provided to, or by, the parents; or

(4) the pupil's anticipated needs and other matters. (Minn. R. 3525.2810, subp. 3(A).)

At least annually, the IEP team must determine a pupil is in need of ESY services if the pupil meets the conditions of item A, B, or C.

A. there will be significant regression of a skill or acquired knowledge from the pupil's level of performance on an annual goal that requires more than the length of the break in instruction to recoup unless the IEP team determines a shorter time for recoupment is more appropriate;

B. services are necessary for the pupil to attain and maintain self-sufficiency because of the critical nature of the skill addressed by an annual goal, the pupil's age and level of development, and the timeliness for teaching the skill; or

C. the IEP team otherwise determines, given the pupil's unique needs, that ESY services are necessary to ensure the pupil receives a free appropriate public education. (Minn. R. 3525.0755, subp. 3.)

Progress Reporting

As used in this part, 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 sections 300.320 through 300.324, and that must include —

(3) A description of —

(i) How the child's progress toward meeting the annual goals described in paragraph (2) of this section 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. (34 C.F.R. § 300.320(a)(3).)

"Individualized education program" or "IEP" means a written statement for each pupil that is developed, reviewed, and revised in a meeting in accordance with this part and that includes:

(9) a statement of how the pupil's progress toward the annual goals described in subitem (2) will be measured, how the pupil's parents will be regularly informed by such means as periodic report cards, at least as often as parents are informed of their nondisabled student's progress, of the pupil's progress toward the annual goals described in subitem (2), and the extent to which that progress is sufficient to enable the pupil to achieve the goals by the end of the year; (Minn. R. 3525.2810, subp. 1(A)(9).)

Restrictive Procedures

Subdivision 1. Schools that intend to use restrictive procedures shall maintain and make publicly accessible a restrictive procedures plan for children that includes at least the following: (1) the list of restrictive procedures the school intends to use; (2) how the school will monitor and review the use of restrictive procedures, including conducting post-use debriefings and convening an oversight committee; and (3) a written description and documentation of the training staff completed under subdivision 5. Subd. 2. (a) Restrictive procedures may be used only by a licensed special education teacher, school social worker, school psychologist, behavior analyst certified by the National Behavior Analyst Certification Board, a person with a master's degree in behavior analysis, other licensed education professional, paraprofessional under section 120B.363, or mental health professional under section 245.4871, subdivision 27, who has completed the training program under subdivision 5. (b) A school shall make reasonable efforts to notify the parent on the same day a restrictive procedure is used on the child, or if the school is unable to provide same-day notice, notice is sent within two days by written or electronic means or as otherwise indicated by the child's parent under paragraph (d). (c) When restrictive procedures are used twice in 30 days or when a pattern emerges and restrictive procedures are not included in a child's individualized education program or behavior intervention plan, the district must hold a meeting of the individualized education program team, conduct or review a functional behavioral analysis, review data, consider developing additional or revised positive behavioral interventions and supports, consider actions to reduce the use of restrictive procedures, and modify the individualized education program or behavior intervention plan as appropriate. At the meeting, the team must review any known medical or psychological limitations that contraindicate the use of a restrictive procedure, consider whether to prohibit that restrictive procedure, and document any prohibition in the individualized education program or behavior intervention plan. (d) An individualized education program team may plan for using restrictive procedures and may include these procedures in a child's individualized education program or behavior intervention plan; however, the restrictive procedures may be used only in response to behavior that constitutes an emergency, consistent with this section. The individualized education program or behavior intervention plan shall indicate how the parent wants to be notified when a restrictive procedure is used. Subd. 3. Physical holding or seclusion may be used only in an emergency. A school that uses physical holding or seclusion shall meet the following requirements: (1) the physical holding or seclusion must be the least intrusive intervention that effectively responds to the emergency; (2) physical holding or seclusion must

end when the threat of harm ends and the staff determines that the child can safely return to the classroom or activity;(3) staff must directly observe the child while physical holding or seclusion is being used;(4) each time physical holding or seclusion is used, the staff person who implements or oversees the physical holding or seclusion shall document, as soon as possible after the incident concludes, the following information:(i) a description of the incident that led to the physical holding or seclusion; (ii) why a less restrictive measure failed or was determined by staff to be inappropriate or impractical; (iii) the time the physical holding or seclusion began and the time the child was released; and (iv) a brief record of the child's behavioral and physical status; (5) the room used for seclusion must: (i) be at least six feet by five feet; (ii) be well lit, well ventilated, adequately heated, and clean; (iii) have a window that allows staff to directly observe a child in seclusion; (iv) have tamperproof fixtures, electrical switches located immediately outside the door, and secure ceilings;(v) have doors that open out and are unlocked, locked with keyless locks that have immediate release mechanisms, or locked with locks that have immediate release mechanisms connected with a fire and emergency system; and (vi) not contain objects that a child may use to injure the child or others; (6) before using a room for seclusion, a school must: (i) receive written notice from local authorities that the room and the locking mechanisms comply with applicable building, fire, and safety codes; and (ii) register the room with the commissioner, who may view that room; and (7) until August 1, 2012, a school district may use prone restraints under the following conditions: (i) a district has provided to the department a list of staff who have had specific training on the use of prone restraints; (ii) a district provides information on the type of training that was provided and by whom; (iii) prone restraints may only be used by staff who have received specific training; (iv) each incident of the use of prone restraints is reported to the department within five working days on a form provided by the department or on a district's restrictive procedure documentation form; and (v) a district, prior to using prone restraints, must review any known medical or psychological limitations that contraindicate the use of prone restraints. The department will report back to the chairs and ranking minority members of the legislative committees with primary jurisdiction over education policy by February 1, 2012, on the use of prone restraints in the schools. Subd. 4. The following actions or procedures are prohibited: (1) engaging in conduct prohibited under section 121A.58; (2) requiring a child to assume and maintain a specified physical position, activity, or posture that induces physical pain; (3) totally or partially restricting a child's senses as punishment; (4) presenting an intense sound, light, or other sensory stimuli using smell, taste, substance, or spray as punishment; (5) denying or restricting a child's access to equipment and devices such as walkers, wheelchairs, hearing aids, and communication boards that facilitate the child's functioning, except when temporarily removing the equipment or device is needed to prevent injury to the child or others or serious damage to the equipment or device, in which case the equipment or device shall be returned to the child as soon as possible; (6) interacting with a child in a manner that constitutes sexual abuse, neglect, or physical abuse under section 626.556; (7) withholding regularly scheduled meals or water; (8) denying access to bathroom facilities; and (9) physical holding that restricts or impairs a child's ability to breathe. Subd. 5 .(a) To meet the requirements of subdivision 1, staff who use restrictive procedures shall complete training in the following skills and knowledge areas: (1) positive behavioral interventions; (2) communicative intent of behaviors; (3) relationship building; (4) alternatives to restrictive procedures, including techniques to identify events and environmental factors that may escalate behavior; (5) de-escalation methods; (6) standards for using restrictive procedures; (7) obtaining emergency medical assistance; (8) the physiological

and psychological impact of physical holding and seclusion; (9) monitoring and responding to a child's physical signs of distress when physical holding is being used; and (10) recognizing the symptoms of and interventions that may cause positional asphyxia when physical holding is used. (b) The commissioner, after consulting with the commissioner of human services, must develop and maintain a list of training programs that satisfy the requirements of paragraph (a). The district shall maintain records of staff who have been trained and the organization or professional that conducted the training. The district may collaborate with children's community mental health providers to coordinate trainings. Subd. 6. School districts are encouraged to establish effective schoolwide systems of positive behavior interventions and supports. Nothing in this section or section 125A.0941 precludes the use of reasonable force under sections 121A.582; 609.06, subdivision 1; and 609.379. (Minn. Stat. § 125A.0942).

Prior to using any conditional procedure, the IEP team must conduct a functional behavioral assessment (FBA) as defined in part 3525.0210, subpart 22. The team must also document that it has ruled out any other treatable cause for the behavior, for example, a medical or health condition, for the interfering behavior. (Minn. R. 3525.2710, subp. 4(F).)

Transition Services Beginning at Age 14

Transition services for students with disabilities may be special education, if provided as specially designed instruction, or a related service, if required to assist a student with a disability to benefit from special education.(34 C.F.R. § 300.43(b).)

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. (34 C.F.R. § 300.320(b).)

As defined in this section, every district must ensure the following:

- (1) [. . .] During grade 9, the program must address the student's needs for transition from secondary services to postsecondary education and training, employment, community participation, recreation, and leisure and home living. In developing the program , districts must inform parents of the full range of transitional goals and related services that should be considered. The program must include a statement of the needed transition services, including a statement of the interagency responsibilities or linkages or both before secondary services are concluded; (Minn. Stat. § 125A.08(a)(1).)

"Individualized education program" or "IEP" means a written statement for each pupil that is developed, reviewed, and revised in a meeting in accordance with this part and that includes:

- (7) beginning at age 14, and updated annually, a statement of the transition service needs of the pupil in accordance with part 3525.2900, subpart 4. (Minn. R. 3525.2810, subp. 1(A)(7).)

By grade nine or age 14, whichever comes first, the IEP plan shall address the pupil's needs for transition from secondary services to postsecondary education and training, employment, and community living.

A. For each pupil, the district shall conduct an evaluation of secondary transition needs and plan appropriate services to meet the pupil's transition needs. The areas of evaluation and planning must be relevant to the pupil's needs and may include work, recreation and leisure, home living, community participation, and postsecondary training and learning opportunities. To appropriately evaluate and plan for a pupil's secondary transition, additional IEP team members may be necessary and may include vocational education staff members and other community agency representatives as appropriate.

B. Secondary transition evaluation results must be documented as part of an evaluation report. Current and secondary transition needs, goals, and instructional and related services to meet the pupil's secondary transition needs must be considered by the team with annual needs, goals, objectives, and services documented on the pupil's IEP. (Minn. R. 3525.2900, subp. 4.)

A. Failure to Meet Transition Objectives

Nothing in this part 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. (34 C.F.R. § 300.324(c)(2).)

B. Exception for Students with Disabilities Convicted Under State Law

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

(1) The requirements in section 300.320(b) (relating to transition planning and transition services), do not apply with respect to the children whose eligibility under Part B of the Act 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)(ii).)

Notice of Transfer of Right

Beginning not later than one year before the child reaches the age of majority under State law, the IEP must include a statement that the child has been informed of the child's rights under Part B of the Act, if any, that will transfer to the child on reaching the age of majority, under section 300.520. (34 C.F.R. § 300.320(c).)

"Individualized education program" or "IEP" means a written statement for each pupil that is developed, reviewed, and revised in a meeting in accordance with this part and that includes:

(8) when a pupil reaches the age of 18, unless a guardian or conservator has been appointed for the pupil by a court of competent jurisdiction, the following shall occur and be documented in the pupil's IEP:

(a) the district shall provide any notice required under this chapter to the pupil and the pupil's parents; and

(b) all other rights accorded to the parents under this chapter and Part B of IDEA 1997, Code of Federal Regulations, title 34, chapter 300, transfer to the pupil, even if the pupil is incarcerated in an adult or juvenile state or local correctional institution.

Beginning at least one year before the pupil reaches the age of 18, the pupil and the pupil's parents must be informed of those rights under this chapter that will transfer to the pupil at age 18. (Minn. R 3525.2810, subp. 1(A)(8).)

Modification of State and District-Wide Assessments

As used in this part, 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 sections 300.320 through 300.324, and that must include

(6)(i) A statement of any individual appropriate accommodations that are necessary to measure the academic achievement and functional performance of the child on State and districtwide assessments consistent with section 612(a)(16) of the Act; and

(ii) 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

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

(B) The particular alternate assessment selected is appropriate for the child. (34 C.F.R. § 300.320(a)(6).)

"Individualized education program" or "IEP" means a written statement for each pupil that is developed, reviewed, and revised in a meeting in accordance with this part and that includes:

(5) a statement of any individual modifications in the administration of state or districtwide assessments of student achievement that are needed in order for the pupil to participate in such assessment. If the IEP team determines that the pupil will not participate in a particular state or districtwide assessment of student achievement or part of such an assessment, a statement of why that assessment is not appropriate for the pupil; and how the pupil will be assessed; (Minn. R. 3525.2810, subp. 1(A)(5).)

A. Exception for Students with Disabilities Convicted Under State Law

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 Act and section 300.320(a)(6) (relating to participation of children with disabilities in general assessments). (34 C.F.R. § 300.324(d)(1)(i).)

Student is Placed Out-of-District

If the resident district places a pupil in an out-of-district placement, the resident district is still responsible to assure that an appropriate IEP is developed, that the pupil is placed in the least restrictive environment, and that due process procedures associated with these responsibilities are followed. It is the responsibility of the providing district, agency, or academy to implement

the IEP, conduct periodic and annual reviews, convene and facilitate the IEP team meeting, and assure that due process procedures associated with these responsibilities are followed.

The annual IEP must be developed jointly by the providing district, agency, or academy and resident district. The resident district may appoint a member of the providing district as its representative. (Minn. R. 3525.0800, subp. 4.)

If the Private School Implements the IEP

Even if a private school or facility implements a child's IEP, responsibility for compliance with this part remains with the public agency and the SEA. (34 C.F.R. § 300.325(c).)

(1) Each parentally placed private school child with a disability who has been designated to receive services under section 300.132 must have a service plan that describes the specific special education and related services that the LEA will provide to the child in light of the services that the LEA has determined, through the process described in sections 300.134 and 300.137, it will make available to parentally-placed private school children with disabilities.

(2) The services plan must, to the extent appropriate —

(i) Meet the requirements of section 300.320, or for a child ages three through five, meet the requirements of section 300.323(b) with respect to the services provided; and

(ii) Be developed, reviewed, and revised consistent with sections 300.321 through 300.324. (34 C.F.R. § 300.138(b).)

When IEP Must be in Effect

At the beginning of each school year, each public agency must have in effect, for each child with a disability within its jurisdiction, an IEP, as defined in section 300.320. (34 C.F.R. § 300.323(a).)

Each public agency must ensure that

(1) 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

(2) 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).)

Transfer Students

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

(1) Adopts the child's IEP from the previous public agency; or

(2) Develops, adopts, and implements a new IEP that meets the applicable requirements in sections 300.320 through 300.324. (34 C.F.R. § 300.323(e).) If a child with a disability (who had an IEP that was in effect in a previous public agency in another State) transfers to a public agency in a new State, and enrolls in a new school within the same school year, the new public agency (in consultation with the parents) must provide the child with FAPE (including services comparable to those described in the child's IEP from the previous public agency), until the new public agency

(1) Conducts an evaluation pursuant to sections 300.304 through 300.306, (if determined to be necessary by the new public agency); and

(2) Develops, adopts, and implements a new IEP, if appropriate, that meets the applicable requirements in sections 300.320 through 300.324. (34 C.F.R. § 300.323(f).)

To facilitate the transition for a child described in paragraph (e) and (f) of this section

(1) The new public agency in which the child enrolls must take reasonable steps to promptly obtain the child's records, including the IEP and supporting documents and any other records relating to the provision of special education or related services to the child, from the previous public agency in which the child was enrolled, pursuant to 33 C.F.R. 99.31(a)(2); and

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

Accessibility and Accountability of IEPs

Teachers

Each public agency must ensure that

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

(2) Each teacher and provider described in paragraph (d) (1) of this section is informed of —

(i) His or her 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. (34 C.F.R. § 300.323(d).)

If changes are made to the child's IEP in accordance with paragraph (a)(4)(i) of this section, the public agency must ensure that the child's IEP Team is informed of those changes. (34 C.F.R. § 300.324(a)(4)(ii).)

Parents

The public agency must give the parent a copy of the child's IEP at no cost to the parent. (34 C.F.R. § 300.322(f).)

The parents of a child with a disability must be afforded an opportunity to participate in meetings with respect to

- (i) The identification, evaluation, and educational placement of the child; and
- (ii) The provision of FAPE to the child. (34 C.F.R. § 300.501(b)(1).)

Annual Review and Revision of IEPs

Review and Revision of an IEP for Students in Public School

Each public agency must ensure that, subject to paragraph (b)(2) and (b)(3) of this section, the IEP team

(1) Reviews the child's IEP periodically, but not less than annually, to determine whether the annual goals for the child are being achieved. (34 C.F.R. § 300.324(b)(1)(i).)

Each public agency must ensure that, subject to paragraphs (b)(2) and (b)(3) of this section, the IEP Team

(ii) Revises the IEP, as appropriate, to address

(A) Any lack of expected progress toward the annual goals described in section 300.320(a)(2), and in the general education curriculum, if appropriate;

(B) The results of any reevaluation conducted under section 300.303;

(C) Information about the child provided to, or by, the parents, as described under section 300.305(a)(2);

(D) The child's anticipated needs; or

(E) Other matters. (34 C.F.R. § 300.324(b)(1)(ii).)

In conducting a review of the child's IEP, the IEP Team must consider the special factors described in paragraph (a)(2) of this section. (34 C.F.R. § 300.324(b)(2).)

A regular education teacher of the child, as a member of the IEP Team must, consistent with paragraph (a)(3) of this section, participate in the review and revision of the IEP of the child. (34 C.F.R. § 300.324(b)(3).)

The district shall ensure that the IEP team reviews the pupil's IEP periodically, but not less than annually to determine whether the annual goals for the pupil are being achieved, and revises the IEP as appropriate to address:

(1) any lack of expected progress toward the annual goals and in the general curriculum, where appropriate;

(2) the results of any reevaluation conducted under part 3525.2710;

(3) information about the pupil provided to, or by, the parents; or

(4) the pupil's anticipated needs and other matters. (Minn. R. 3525.2810, subp. 3(A).)

At least annually, the IEP team must determine a pupil is in need of ESY services if the pupil meets the conditions of item A, B, or C.

A. there will be significant regression of a skill or acquired knowledge from the pupil's level of performance on an annual goal that requires more than the length of the break in instruction to recoup unless the IEP team determines a shorter time for recoupment is more appropriate;

B. services are necessary for the pupil to attain and maintain self-sufficiency because of the critical nature of the skill addressed by an annual goal, the pupil's age and level of development, and the timeliness for teaching the skill; or

C. the IEP team otherwise determines, given the pupil's unique needs, that ESY services are necessary to ensure the pupil receives a free appropriate public education. (Minn. R. 3525.0755, subp. 3.)

Review and Revision of an IEP for Students in Private School

After a child with a disability enters a private school or facility, any meetings to review and revise the child's IEP may be initiated and conducted by the private school or facility at the discretion of the public agency. (34 C.F.R. § 300.325(b)(1).)

If the private school or facility initiates and conducts these meetings, the public agency must ensure that the parents and an agency 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. (34 C.F.R. § 300.325(b)(2).)

Even if a private school or facility implements a child's IEP, responsibility for compliance with this part remains with the public agency and the SEA. (34 C.F.R. § 300.325(c).)

Student is Placed Out-of-District

If the resident district places a pupil in an out-of-district placement, the resident district is still responsible to assure that an appropriate IEP is developed, that the pupil is placed in the least restrictive environment, and that due process procedures associated with these responsibilities are followed.

It is the responsibility of the providing district, agency, or academy to implement the IEP, conduct periodic and annual reviews, convene and facilitate the IEP team meeting, and assure that due process procedures associated with these responsibilities are followed.

The annual IEP must be developed jointly by the providing district, agency, or academy and resident district. The resident district may appoint a member of the providing district as its representative. (Minn. R. 3525.0800, subp. 4.)

Modification of the IEP of a Student with a Disability Who is Convicted Under State Law

(i) Subject to paragraph (d)(2)(ii) of this section, the IEP Team of a student 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 sections 300.320 (relating to IEPs), and 300.112 (relating to LRE), do not apply with respect to the modifications described in paragraph (d)(2)(i) of this section. (34 C.F.R. § 300.324(d)(2).)

Placement Decisions and Least Restrictive Environment (LRE)

Each public agency must ensure that

(i) 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 nondisabled; and

(ii) Special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only if 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. (34 C.F.R. § 300.114(a)(2).)

As defined in this section, every district must ensure the following:

(5) to the maximum extent appropriate, children with a disability, including those in public or private institutions or other care facilities, are educated with children who are not disabled and that special classes, separate schooling, or other removal of children with a disability from the regular educational environment occurs only when and to the extent that the nature or severity of the disability is such that education in regular classes with the use of supplementary services cannot be achieved satisfactorily. (Minn. Stat. § 125A.08(a)(5).)

Each district must ensure that pupils are placed in the least restrictive environment according to part 3525.0400 and Code of Federal Regulations, title 34, section 300.552. (Minn. R. 3525.3010, subp. 2.)

Requirements for Placement in the LRE

In determining the educational placement of a child with a disability, including a preschool child with a disability, each public agency must ensure that —

(a) The placement decision (1) Is made by a group of persons, including the parents, and other persons knowledgeable about the child, the meaning of the evaluation data, and the placement options; and

(2) Is made in conformity with the LRE provisions of this subpart, including sections 300.114 through 300.118. (34 C.F.R. § 300.116(a).)

In determining the educational placement of a child with a disability, including a preschool child with a disability, each public agency shall ensure that

(b) The child's placement

(1) Is determined at least annually;

(2) Is based on the child's IEP; and

(3) Is as close as possible to the child's home. (34 C.F.R. § 300.116(b).)

In determining the educational placement of a child with a disability, including a preschool child with a disability, each public agency must ensure that

(c) Unless the IEP of a child with a disability requires some other arrangement, the child is educated in the school that he or she would attend if nondisabled. (34 C.F.R. § 300.116(c).)

In determining the educational placement of a child with a disability, including a preschool child with a disability, each public agency must ensure that

(d) In selecting the LRE, consideration is given to any potential harmful effect on the child or on the quality of services that he or she needs. (34 C.F.R. § 300.116(d).)

In determining the educational placement of a child with a disability, including a preschool child with a disability, each public agency must ensure that —

(e) A child with a disability is not removed from education in age-appropriate regular classrooms solely because of needed modifications in the general education curriculum. (34 C.F.R. § 300.116(e).)

When planning programs for the education of children with a disability in the regular classroom, school districts are encouraged to consider the size of the regular class and to provide the support services necessary to ensure successful mainstreaming. (Minn. Stat. § 125A.75, Subd. 5.)

Continuum of Alternative Placements

(a) Each public agency must ensure that a continuum of alternative placements is available to meet the needs of children with disabilities for special education and related services.

(b) The continuum required in paragraph (a) of this section must —

(1) Include the alternative placements listed in the definition of special education under 300.38 (instructions in regular classes, special classes, special schools, home instruction, and instruction in hospitals and institutions); and

(2) Make provisions for supplementary services (such as resource room or itinerant instruction) to be provided in conjunction with regular class placement. (34 C.F.R. § 300.115.)

Each district must ensure that a continuum of alternative placements is available to meet the needs of pupils for special education and related services. The continuum must:

A. include instruction in regular classes, special classes, special schools, home instruction, and instruction in schools and hospitals; and

B. make provision for supplementary services, including resource room or itinerant instruction, to be provided in conjunction with regular class placement. (Minn. R. 3525.3010, subp. 1.)

Provision of Nonacademic and Extracurricular Activities

In providing or arranging for the provision of nonacademic and extracurricular services and activities, including meals, recess periods, and the services and activities set forth in section 300.107, each public agency must ensure that each child with a disability participates with nondisabled children in those extracurricular services and activities to the maximum extent appropriate to the needs of that child. The public agency must ensure that each child with a disability has the supplementary aids and services determined by the child's IEP Team to be appropriate and necessary for the child to participate in nonacademic settings. (34 C.F.R. § 300.117.)

Administration of Drugs or Medicine

This section applies only:

- (1) when the parent of a pupil requests school personnel to administer drugs or medicine to the pupil; or
- (2) when administration is allowed by the individual education plan of a child with a disability.

The request of a parent may be oral or in writing. An oral request must be reduced to writing within two school days, provided that the district may rely on an oral request until a written request is received. (Minn. Stat. § 121A.22, Subd. 1.)

For drugs or medicine used by children with a disability, administration may be as provided in the individualized education plan. (Minn. Stat. § 121A.22, Subd. 5.)

Behavioral Intervention Procedures

This policy is intended to encourage the use of positive approaches to behavioral interventions. The objective of any behavioral intervention must be that pupils acquire appropriate behaviors and skills. It is critical that behavioral intervention programs focus on skills acquisition rather than merely behavior reduction or elimination. Behavioral intervention policies, programs, or procedures must be designed to enable a pupil to benefit from an appropriate, individualized educational program as well as develop skills to enable them to function as independently as possible in their communities. (Minn. R. 3525.0850.)

IEP Notice Requirements and Procedural Safeguards

Prior Notice Requirements

Written notice that meets the requirements of paragraph (b) of this section must be given to the parents of a child with a disability a reasonable time before the public agency

- (1) Proposes to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child, or
- (2) Refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child. (34 C.F.R. § 300.503(a).)

When a district proposes or refuses to initiate or change the identification, evaluation, or educational placement of a pupil, or the provision of FAPE to the pupil, the district must serve prior written notice on the parent. The district must serve the notice on the parent within a reasonable, and in no case less than 14 calendar days before the proposed effective date of change or evaluation. If the notice only includes a refusal of a request, it must be served on the parent within 14 calendar days of the date the request was made.

The notice must meet the requirements of Minnesota Statutes, section 125A.091, subdivision 3 and 4. (Minn. R. 3525.3600.)

Contents of Prior Notice

The notice required under paragraph (a) of this section must include

- (1) A description of the action proposed or refused by the agency;
- (2) An explanation of why the agency proposes or refuses to take the action;
- (3) A description of each evaluation procedure, assessment, record, or report the agency used as a basis for the proposed or refused action;
- (4) A statement that the parents of a child with a disability have protection under the procedural safeguards of this part 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;
- (5) Sources for parents to contact to obtain assistance in understanding the provisions of this part;
- (6) A description of other options that the IEP Team considered and the reasons why those options were rejected; and
- (7) A description of other factors that are relevant to the agency's proposal or refusal. (34 C.F.R. § 300.503(b)(1)-(7).)

The notice must also:

A. inform the parents that the school district will not proceed with the initial placement and provision of services as defined in part 3525.0210 without prior written consent of the pupil's parents. (Minn. R. 3525.3600(A).)

The notice must also:

B. inform the parents that except for the initial placement and provision of services, the district will proceed with the proposed placement and provision of services unless the parents object in writing on the enclosed response form or otherwise in writing within 14 calendar days after the receipt of the notice. (Minn. R. 3525.3600(B).)

The notice must also:

C. inform the parents that if they refuse to provide prior written consent for initial evaluation or initial placement or object in writing to any proposal, or if the district refuses to initiate or change

the identification, evaluation, or educational placement or the provision of a free appropriate public education to the pupil, the parent may request a conciliation conference.

The district must provide the parents with a copy of the proposed individual educational program plan as described in part 3525.2810, subpart 1, item A, whenever the district proposes to initiate or change the content of the IEP. (Minn. R. 3525.3600(C).)

Parent Involvement and Consent

Parent Attendance at IEP Meetings

The parents of a child with a disability must be afforded an opportunity to participate in meetings with respect to

- (i) The identification, evaluation, and educational placement of the child; and
- (ii) The provision of FAPE to the child. (34 C.F.R. § 300.501(b)(1).)

Each public agency 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

- (1) Notifying parents of the meeting early enough to ensure that they will have an opportunity to attend; and
- (2) Scheduling the meeting at a mutually agreed on time and place. (34 C.F.R. § 300.322(a).)

Each district shall ensure that the parents of each pupil are members of any group that makes decisions on the educational placement of the pupil. (Minn. R. 3525.3010, subp. 4.)

Notice of IEP Meetings and Subject Matter

(2) Each public agency must provide notice consistent with section 300.322(a)(1) and (b)(1) to ensure that parents of children with disabilities have the opportunity to participate in meetings described in paragraph (b)(1) of this section.

(3) A meeting does not include informal or unscheduled conversations involving public agency personnel and conversations on issues such as teaching methodology, lesson plans, or coordination of service provision. A meeting also does not include preparatory activities that public agency personnel engage in to develop a proposal or response to a parent proposal that will be discussed at a later meeting. (34 C.F.R. § 300.501(b)(2)-(3).)

The notice required under paragraph (a)(1) of this section 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 section 300.321(a)(6) and (c) (relating to the participation of other individuals on the IEP Team who have knowledge or special expertise about the child), and section 300.321(f) (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 Act). (34 C.F.R. § 300.322(b)(1).)

For a child with a disability 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, 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 section 300.320(b); and

(B) That the agency will invite the student; and

(ii) Identifies any other agency that will be invited to send a representative. (34 C.F.R. § 300.322(b)(2).)

Parents of pupils with disabilities have a right to be involved by the school district in the education decision-making process by participating or being afforded the opportunity to participate at each IEP meeting to develop, review, or revise the IEP. At the time of contact, the district shall inform the parents of their right to bring anyone of their choosing to accompany them to the meeting. The district shall inform the pupil's parents about the alternatives and methods of instruction as described in Minnesota Statutes, section 125A.05. (Minn. R. 3525.0700.)

Parent Involvement in Placement Decisions

(1) Each public agency must ensure that a parent of each child with a disability is a member of any group that makes decisions on the educational placement of the parent's child.

(2) In implementing the requirements of paragraph (c)(1) of this section, the public agency must use procedures consistent with the procedures described in section 300.322(a) through (b)(1). (34 C.F.R. § 300.501(c)(1)-(2).)

Facilitating Parent Participation in the IEP Process

A. Alternative Participation When a Parent is Unable to Attend the IEP Meeting

If neither parent can participate in a meeting in which a decision is to be made relating to the educational placement of their child, the public agency must use other methods to ensure their participation, including individual or conference telephone calls, or video conferencing. (34 C.F.R. § 300.501(c)(3).)

If neither parent can attend an IEP Team meeting, the public agency must use other methods to ensure parent participation, including individual or conference telephone calls, consistent with section 300.328 (related to alternative means of meeting participation). (34 C.F.R. § 300.322(c).)

B. Use of Interpreters and Other Actions to Ensure Parent Understanding

The public agency 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. (34 C.F.R. § 300.322(e).)

C. When a Meeting May Be Conducted Without a Parent

A placement decision may be made by a group without the involvement of a parent, if the public agency is unable to obtain the parent's participation in the decision. In this case, the public agency must have a record of its attempt to ensure their involvement. (34 C.F.R. § 300.501(c)(4).)

A meeting may be conducted without a parent in attendance if the public agency is unable to convince the parents that they should attend. In this case, the public agency must keep a record of its attempts to arrange a mutually agreed on time and place. (34 C.F.R. § 300.322(d).)

Parental Consent

A. Definition of Parental Consent

Consent means that

(a) The parent has been fully informed of all information relevant to the activity for which consent is sought, in his or her native language, or other mode of communication;

(b) The parent understands and agrees in writing to the carrying out of the activity for which his or her consent is sought, and the consent describes that activity and lists the records (if any) that will be released and to whom. (34 C.F.R. § 300.9(a)-(b).)

(1) The parent understands that the granting of consent is voluntary on the part of the parent and may be revoked at any time.

(2) If a parent revokes consent, that revocation is not retroactive (i.e., it does not negate an action that has occurred after the consent was given and before the consent was revoked). (34 C.F.R. § 300.9(c).)

B. When Parental Consent is Required

(1) A public agency that is responsible for making FAPE available to a child with a disability must seek to obtain informed consent from the parent of the child before the initial provision of special education and related services to the child.

(2) The public agency must make reasonable efforts to obtain informed consent from the parent for the initial provision of special education and related services to the child. (34 C.F.R. § 300.300(b).)

Parental consent for initial evaluation must not be construed as consent for initial provision of special education and related services.(34 C.F.R. § 300.300(a)(1)(ii).)

The district must not proceed with the initial evaluation of a child, the initial placement of a child in a special educational program, or the initial provision of special education services for a child without the prior written consent of the child's parent. A district may not override the written refusal of a parent to consent to an initial evaluation or reevaluation. (Minn. Stat. § 125A.091, Subd. 5.)

The notice must also:

B. inform the parents that except for the initial placement and provision of services, the district will proceed with the proposed placement and provision of services unless the parents object in writing on the enclosed response form or otherwise in writing within 14 calendar days after the receipt of the notice. (Minn. R. 3525.3600(B).)

C. Private Schools

If the private school or facility initiates and conducts these meetings, the public agency must ensure that the parents and an agency 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. (34 C.F.R. § 300.325(b)(2).)

D. When Parental Consent is Refused

If the parent of a child fails to respond to a request for, or refuses to consent to, the initial provision of special education and related services, the public agency

- (i) May not use the procedures in subpart E of this part (including the mediation procedures under section 300.506 or the due process procedures under sections 300.507 through 300.516) in order to obtain agreement or a ruling that the services may be provided to the child;
- (ii) Will not be considered to be in violation of the requirement to make FAPE available to the child because of the failure to provide the child with the special education and related services for which the parent refuses to or fails to provide consent; and
- (iii) Is not required to convene an IEP Team meeting or develop an IEP under sections 300.320 and 300.324 for the child. (34 C.F.R. § 300.300(b)(3).)

A public agency may not use a parent's refusal to consent to one service or activity under paragraphs (a), (b), (c), or (d)(2) of this section to deny the parent or child any other service, benefit, or activity of the public agency, except as required by this part. (34 C.F.R. § 300.300(d)(3).)

If the parent of a child fails to respond to a request for, or refuses to consent to, the initial provision of special education and related services, the public agency

- (i) May not use the procedures in subpart E of this part (including the mediation procedures under section 300.506 or the due process procedures under sections 300.507 through 300.516) in order to obtain agreement or a ruling that the services may be provided to the child;
- (ii) Will not be considered to be in violation of the requirement to make FAPE available to the child because of the failure to provide the child with the special education and related services for which the parent refuses to or fails to provide consent; and
- (iii) Is not required to convene an IEP Team meeting or develop an IEP under sections 300.320 and 300.324 for the child. (34 C.F.R. § 300.300(b)(3).)

Copies of the IEP to the Parent and the Resident District

The public agency must give the parent a copy of the child's IEP at no cost to the parent. (34 C.F.R. § 300.322(f).)

The district must provide the parents with a copy of the proposed individual educational program plan as described in part 3525.2810, subpart 1, item A, whenever the district proposes to initiate or change the content of the IEP. (Minn. R. 3525.3600 (C).)

Reinstatement of Special Education Services

Pupils who are discontinued from all special education services may be reinstated within 12 months. If data on the pupil's present levels of performance are available and an evaluation had been conducted within three years pursuant to part 3525.2710, the district is not required to document two pre-referral interventions or conduct a new evaluation. (Minn. R. 3525.3100.)

Granting A High School Diploma

Upon completion of secondary school or the equivalent, a pupil with a disability who satisfactorily attains the objectives in the pupil's individual education plan must be granted a high school diploma that is identical to the diploma granted to a pupil without a disability. (Minn. Stat. § 125A.04.)

General Individualized Family Service Plan (IFSP) Requirements

(1) In the case of a child with a disability aged three through five (or, at the discretion of the SEA, a two-year-old child with a disability who will turn age three during the school year), the IEP Team must consider an IFSP that contains the IFSP content (including the natural environments statement) described in section 636(d) of the Act and its implementing regulations (including an educational component that promotes school readiness and incorporates pre literacy, language, and numeracy skills for children with IFSPs under this section who are at least three years of age), and that is developed in accordance with the IEP procedures under this part. The IFSP, may serve as the IEP of the child, if using the IFSP as the IEP is —

- (i) Consistent with State policy; and
- (ii) Agreed to by the agency and the child's parents.

(2) In implementing the requirements of (b)(1) of this section, the public agency 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).)

Each agency or EIS provider who has a direct role in the provision of early intervention services is responsible for making a good faith effort to assist each eligible child in achieving the outcomes in the child's IFSP. However, Part C of the Act does not require that any public agency or EIS provider be held accountable if an eligible child does not achieve the growth projected in the child's IFSP. (34 C.F.R. § 303.346.)

The [Interagency Early Intervention Committee] must develop and implement interagency policies and procedures concerning the following ongoing duties:

(4) assure the development of individualized family service plans for all eligible infants and toddlers with disabilities from birth through age two, and their families, and individual education programs and individual service plans when necessary to appropriately serve children with disabilities, age three and older, and their families and recommend assignment of financial responsibilities to the appropriate agencies;

(5) implement a process for assuring that services involve cooperating agencies at all steps leading to individualized programs. (Minn. Stat. § 125A.30(b)(4)-(5).)

IFSP Team Meetings

Requirements for Meetings

(1) IFSP meetings must be conducted -

(i) In settings and at times that are convenient for the family ; and

(ii) In the native language of the family, or other mode of communication used by the family, unless it is clearly not feasible to do so. (34 C.F.R. § 303.342(d)(1).)

(2) Meeting arrangements must be made with, and written notice provided to, the family and other participants early enough before the meeting date to ensure that they will be able to attend. (34 C.F.R. § 303.342(d)(2).)

IFSP Team Members

(1) Each initial meeting and each annual IFSP Team meeting to evaluate the IFSP must include the following participants:

(i) The parent or parents of the child;

(ii) Other family members, as requested by the parent, if feasible to do so;

(iii) An advocate or person outside of the family, if the parent requests that the person participate;

(iv) The service coordinator designated by the public agency to be responsible for implementing the IFSP;

(v) A person or persons directly involved in conducting the evaluations and assessments in section 303.-321; (vi) As appropriate, persons who will be providing early intervention services under this part to the child or family.

(2) If a person listed in paragraph (a)(1)(v) of this section is unable to attend a meeting, arrangements must be made for the person's involvement through other means, including one of the following:

(i) Participating in a telephone conference call;

- (ii) Having a knowledgeable authorized representative attend the meeting; or
- (iii) Making pertinent records available at the meeting. (34 C.F.R. § 303.343(a)).

Required Content of IFSP

A. Present Level of Development

The IFSP must include a statement of the infant or toddler with a disability's present levels of physical development (including vision, hearing, and health status), cognitive development, communication development, social or emotional development, and adaptive development based on the information from that child's evaluation and assessments conducted under section 303.321. (34 C.F.R. § 303.344(a).)

B. Family Information

With the concurrence of the family, the IFSP must include a statement of the family's resources, priorities, and concerns related to enhancing the development of the child as identified through the assessment of the family under section 303.321(c)(2). (34 C.F.R. § 303.344(b).)

The IFSP must include:

- (2) family information, with the consent of the family. (Minn. Stat. § 125A.32(b)(2).)

C. Major Outcomes

The IFSP must include a statement of the measurable results or measurable outcomes expected to be achieved for the child (including pre-literacy and language skills, as developmentally appropriate for the child) and family, and the criteria, procedures, and timelines used to determine

- (1) The degree to which progress toward achieving the results or outcomes identified in the IFSP is being made; and
- (2) Whether modifications or revisions of the expected results or outcomes, or early intervention services identified in the IFSP are necessary. (34 C.F.R. § 303.344(c).)

D. Early Intervention Services

(1) The IFSP must include a statement of the specific early intervention services, based on peer-reviewed research (to the extent practicable), that are necessary to meet the unique needs of the child and the family to achieve the results or outcomes identified in paragraph (c) of this section, including

- (i) The length, duration, frequency, intensity, and method of delivering the early intervention services;
- (ii)(A) A statement that each early intervention service is provided in the natural environment for that child or service to the maximum extent appropriate, consistent with sections 303.13(a)(8), 303.26 and 303.126, or, subject to paragraph (d)(1)(ii)(B) of this section, a justification as to why

an early intervention service will not be provided in the natural environment. (34 C.F.R. § 303.344(d)(1))

Frequency and intensity mean the number of days or sessions that a service will be provided, and whether the service is provided on an individual or group basis. (34 C.F.R. § 303.344(d)(2)(i).)

E. Environmental Statement

The IFSP must include a statement of the specific early intervention services based on peer-reviewed research (to the extent practicable), that are necessary to meet the unique needs of the child and the family to achieve the results or outcomes identified in paragraph (c) of this section, including—(ii) A statement that each early intervention service is provided in the natural environment for that child or service to the maximum extent appropriate, consistent with sections 303.13(a)(8), 303.26 and 303.126, or, subject to paragraph (d)(1)(ii)(B) of this section, a justification as to why an early intervention service will not be provided in the natural environment. (34 C.F.R. § 303.344(d)(1)(ii).)

Early intervention services means developmental services that—

(8) To the maximum extent appropriate, are provided in natural environments, as defined in section 303.26 and consistent with sections 303.126 and 303.344. (34 C.F.R. § 303.13(a)(8).)

F. Starting Date and Duration of Services

The IFSP must include

- (1) The projected date for the initiation of each early intervention service in paragraph (d)(1) of this section which date must be as soon as possible after the parent consents to the service, as required in sections 303.342(e) and 303.420(a)(3); and (2) The anticipated duration of each service. (34 C.F.R. § 303.344 (f).)

G. Service Coordinator

(1) The IFSP must include the name of the service coordinator from the profession most relevant to the child's or family's needs (or who is otherwise qualified to carry out all applicable responsibilities under this part) who will be responsible for implementing the early intervention services identified in a child's IFSP, including transition services, and coordination with other agencies and persons.

(2) In meeting the requirements in paragraph(g)(1) of this section, the term "profession" includes "service coordination." (34 C.F.R. § 303.344(g).)

The team developing the IFSP under section 125A.32, must select a service coordinator to carry out service coordination activities on an interagency basis. Service coordination must actively promote a family's capacity and competency to identify, obtain, coordinate, monitor, and evaluate resources and services to meet the family's needs. Service coordination activities include:

1. coordinating the performance of evaluations and assessments;

2. facilitating and participating in the development, review, and evaluation of individualized family service plans;
3. assisting families in identifying available service providers;
4. coordinating and monitoring the delivery of available services;
5. informing families of the availability of advocacy services;
6. coordinating with medical, health, and other service providers;
7. facilitating the development of a transition plan at least 90 days before the time the child is no longer eligible for early intervention services or, at the discretion of all parties, not more than nine months prior to the child's eligibility for preschool services, if appropriate;
8. managing the early intervention record and submitting additional information to the local primary agency at the time of periodic review and annual evaluations; and
9. notifying a local primary agency when disputes between agencies impact service delivery required by an IFSP.(Minn. Stat. § 125A.33(a).)

A service coordinator must be knowledgeable about children and families receiving services under this section requirements of state and federal law, and services available in the interagency early childhood intervention system. (Minn. Stat. § 125A.33(b).)

H. Transition to Preschool Services

The IFSP must include the steps and services to be taken to support the smooth transition of the child , in accordance with sections 303.209 and 303.211(b)(6), from part C services to

- (i) Preschool services under Part B of the Act to the extent that those services are appropriate;
- (ii) Part C services under section 303.211; or
- (iii) Other appropriate services. (34 C.F.R. § 303.344(h)(1).)

The steps required in paragraph (h)(1) of this section include

- (i) Discussions with, and training of, parents regarding future placements and other matters related to the child's transition;
- (ii) Procedures to prepare the child for changes in service delivery, including steps to help the child adjust to, and function in, a new setting;
- (iii) Confirmation that child find information about the child has been transmitted to the LEA or other relevant agency, in accordance with section 303.209(b) (and any policy adopted by the State under section 303.401(e)) and, with parental consent if required under section 303.414, transmission of additional information needed by the LEA to ensure continuity of services from the part C program to the part B program, including a copy of the most recent evaluation and assessments of the child and the family and most recent IFSP developed in accordance with sections 303.340 through 303.345; and

(iv) Identification of transition services and other activities that the IFSP Team determines are necessary to support the transition of the child. (34 C.F.R. § 303.344(h)(2).)

1. Transition to r Preschool and Other Programs

The State lead agency must ensure that

(1) If a toddler with a disability may be eligible for preschool services under part B of the Act, the lead agency, with the approval of the family of the toddler, convenes a conference, among the lead agency, the family, and the LEA not fewer than 90 days—and, at the discretion of all parties, not more than 9 months—before the toddler's third birthday to discuss any services the toddler may receive under part B of the Act. (34 C.F.R. § 303.209(c)(1).)

2. Transition Conference for Child Not Eligible for Preschool Services

The State lead agency must ensure that

(2) If the lead agency determines that a toddler with a disability is not potentially eligible for preschool services under part B of the Act, the lead agency, with the approval of the family of that toddler, makes reasonable efforts to convene a conference among the lead agency, the family, and providers of other appropriate services for the toddler to discuss appropriate services that the toddler may receive. (34 C.F.R. § 303.209(c)(2).)

I. Other Services

(1) To the extent appropriate, the IFSP also must —

(1) Identify medical and other services that the child or family needs or is receiving through other sources, but that are neither required nor funded under this part; and

(2) If those services are not currently being provided, include a description of the steps the service coordinator or family may take to assist the child and family in securing those other services. (34 C.F.R. § 303.344(e).)

The IFSP must include:

(6) medical and other services that the child needs, but that are not required under the Individual with Disabilities Education Act, United States Code, title 20, section 1471 et seq. (Part C, Public Law 108-446) including funding sources to be used in paying for those services and the steps that will be taken to secure those services through public or private sources.(Minn. Stat. § 125A.32(b)(6).)

J. Payment Arrangements

The IFSP must include:

(5) payment arrangements, if any. (Minn. Stat. § 125A.32(b)(5)).

K. Signatures

The IFSP must include:

(10) signature of the parent and authorized signatures of the agencies responsible for providing, paying for, or facilitating payment, or any combination of these for early intervention services. (Minn. Stat. § 125A.32(b)(10).)

Implementation of the IFSP

(1) In the case of a child with a disability aged three through five (or, at the discretion of the SEA, a two-year-old child with a disability who will turn age three during the school year), the IEP Team must consider an IFSP that contains the IFSP content (including the natural environments statement) described in section 636(d) of the Act and its implementing regulations (including an educational component that promotes school readiness and incorporates pre-literacy, language, and numeracy skills for children with IFSPs under this section who are at least three years of age), and that is developed in accordance with the IEP procedures under this part. The IFSP, may serve as the IEP of the child, if using the IFSP as the IEP is

- (i) Consistent with State policy; and
- (ii) Agreed to by the agency and the child's parents.

(2) In implementing the requirements of (b)(1) of this section, the public agency 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).)

IFSP Procedural Safeguards

Parent Consent for IFSP

The contents of the IFSP must be fully explained to the parents and informed written consent , as described in section 303.7, must be obtained as required in section 303.420(a)(3), prior to the provision of early intervention services described in the IFSP. Each early intervention service must be provided as soon as possible after the parent provides consent for that service, as required in section 303.344(f)(1). (34 C.F.R. § 303.342(e).)

If a parent does not give consent under paragraph (a)(1), (a)(2), or (a)(3) of this section, the lead agency must make reasonable efforts to ensure that the parent

- (1) Is fully aware of the nature of the evaluation and assessment of the child or early intervention services that would be available; and
- (2) Understands that the child will not be able to receive the evaluation, assessment, or early intervention service unless consent is given. (34 C.F.R. § 303.420 (b).)

IFSP Timelines

If a parent does not give consent under paragraph (a)(1), (a)(2), or (a)(3) of this section, the lead agency must make reasonable efforts to ensure that the parent

(1) Is fully aware of the nature of the evaluation and assessment of the child or early intervention services that would be available; and

(2) Understands that the child will not be able to receive the evaluation, assessment, or early intervention service unless consent is given. (34 C.F.R. § 303.310(a).)

For a child referred to the part C program and determined to be eligible under this part as an infant or toddler with a disability, a meeting to develop the initial IFSP must be conducted within the 45-day time period described in §303.310. (34 C.F.R. § 303.342(a).)

IFSP Periodic Review

(1) A review of the IFSP for a child and the child's family must be conducted every six months, or more frequently if conditions warrant, or if the family requests such a review. The purpose of the periodic review is to determine

(i) The degree to which progress toward achieving the outcomes is being made; and

(ii) Whether modification or revision of the results, outcomes, or early intervention services identified in the IFSP is necessary. (34 C.F.R. § 303.342(b).)

Each periodic review under section 303.342(b) must provide for the participation of persons in paragraphs (a)(1)(i) through (a)(1)(iv) of this section. If conditions warrant, provisions must be made for the participation of other representatives identified in paragraph (a) of this section. (34 C.F.R. § 303.343(b).)

IFSP Annual Review

A meeting must be conducted on at least an annual basis to evaluate and revise, as appropriate, the IFSP for a child and the child's family. The results of any current evaluations and other information available from the assessments of the child and family conducted under section 303.321 must be used in determining the early intervention services that are needed and will be provided.(34 C.F.R. § 303.342(c).)

Interim IFSP

Early intervention services for an eligible child and the child's family may commence before the completion of the evaluation and assessment in section 303.321, if the following conditions are met:

(a) Parental consent is obtained.

(b) An interim IFSP is developed that includes

(1) The name of the service coordinator who will be responsible, consistent with section 303.344(g), for implementing the interim IFSP and coordination with other agencies and persons; and

(2) The early intervention services that have been determined to be needed immediately by the child and the child's family.

(c) Evaluations and assessments are completed within the 45-day timeline in section 303.310.
(34 C.F.R. § 303.345.)