

SPECIAL EDUCATION IN NORTH DAKOTA

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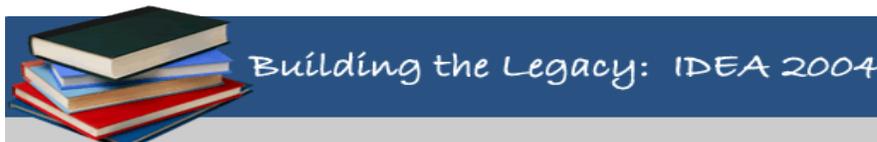
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Guidelines: Individualized Education Program Planning Process



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United States Department of Education, Office of Special Education Programs (OSEP))

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Foreword

On June 4, 1997, the Individuals with Disabilities Education Act (IDEA) was amended through Public Law (P.L.) 105-17. The guiding premise of the 1997 amendments built on the actions, experiences, information, facts and research gathered since enactment of the Education of the Handicapped Act in 1975. The IDEA 2004 emphasizes that an effective education system, now and in the future, must maintain high academic standards and clear performance goals for children with disabilities. Further, these standards and performance goals must be consistent with those required for all students in the educational system. They provide for appropriate and effective strategies and methods to ensure that students with disabilities have maximum opportunities to achieve those standards and goals. Accordingly, the IDEA 2004 provisions relating to evaluation and individualized education programs place greater emphasis on the involvement and progress of all children with disabilities in the general education curriculum.

The IDEA 2004 provides the opportunity for the Department of Public Instruction to review and revise guidelines relating to the education of students with disabilities in North Dakota schools. Input from personnel from all special education units, parents, and other organizations and agencies was gathered and carefully considered to provide a range of perspectives on this guideline document.

Guidelines: Individualized Education Program Planning Process was produced by the Office of Special Education, North Dakota Department of Public Instruction.

Introduction

The IDEA 2004 Reauthorization and the IEP Process

Of the many acronyms used in special education, the most well known is “IEP.” Educators and parents as well as many people in the general public know that if a student has an IEP, an individualized education program, he/she is receiving special education and related services.

Guidelines: Individualized Education Program Planning Process were developed by the North Dakota Department of Public Instruction to assist educators who are developing IEPs for students with disabilities. Changes in the Individuals with Disabilities Education Act (IDEA) resulting from the 2004 reauthorization of the federal special education law, and the publication of accompanying final regulations in 2006 by the U.S. Department of Education, prompted the revision of this document.

As defined in federal regulation 300.22 an individualized education program or IEP means “a written statement for a child with a disability that is developed, reviewed, and revised in accordance with 300.320 through 300.324.” It sounds so simple. Yet the IEP process is the focus of intense work by millions of educators, students and parents across America. A frequent criticism of the IEP process is that it is unnecessarily detailed. However, because of the unique needs of each child with a disability, there is a need to thoughtfully consider the special--*individualized*— needs of that child. The IEP is the process for a thoughtful discussion of those needs and a documentation of the plan for that child to receive a free and appropriate public education.

Guidelines: The Individualized Education Program Process incorporates major themes of the 2004 reauthorization of the IDEA. In this document you will see an increased emphasis on :

- Early intervention;
- Access to the general education curriculum;
- Scientifically based instruction;
- Paperwork reduction;
- Streamlining of the IEP process; and
- Caution related to disproportionality.

Throughout this document, quotes from the IDEA 2004 law, regulations and other supportive documents are included and in some cases, the description of the intent of Congress in making changes to the law. A significant effort has been made at the federal level to make the law and regulations more understandable to parents and school personnel.

Another feature of the IDEA 2004 and the final regulations is an increased relationship between special education and the Elementary and Secondary Education Act (ESEA). The Elementary and Secondary Education Act now reauthorized as the Every Student Succeeds Act (ESSA). Perhaps nowhere is this more evident than in the heightened accountability that is expected. The North Dakota State Performance Plan for Special Education (SPP) is our six-year plan for improving the educational results for all children with disabilities. There are 17 indicators and each indicator detailed in the State Performance Plan contains information such as baseline data, measurable and rigorous annual targets, and improvement activities.

In 2005, the North Dakota Department of Public Instruction (NDDPI) began collecting these data from each of the state's school districts and from parent surveys. This information is used to monitor and continuously improve both state and school district activities thus improving results for all children with disabilities.

The North Dakota Department of Public Instruction is committed to assisting educators and parents work together in the best interest of children and youth who have disabilities. We share a common goal of improving the education of young people who have disabilities so that they can be better prepared for postsecondary education, employment, increased independence, and more fulfilling lives.

Section I THE INDIVIDUALIZED EDUCATION PROGRAM (IEP) PROCESS

The individualized education program, or IEP, is the result of a process that is essential to ensure that individuals with disabilities have appropriate educational planning to accommodate their unique instructional needs, and that these needs are met in an appropriate learning environment. Frequently the term is applied only to the planning document, with limited emphasis given to the process itself. Yet it is vital that the IEP team members fully understand the process that will result in a plan that will guide the education of a child over the course of a full school year.

Sec 300.320

Definitions of individualized education program.

(a) *General.* 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 §§300.320-300.324.

This section of the *Guidelines: Individualized Education Program Process* includes five components:

- an explanation of the purposes and principles underlying the IEP process;
- a description of children and youth who are eligible for the IEP process;
- a brief description of the sequence or “flow” of the process;
- identification of timelines that apply to the IEP process and planning document; and
- a description of the roles and responsibilities of persons who will participate in development, review, and revision of the IEP document.

Purposes and Principles Underlying the IEP Process

The IEP process serves multiple purposes. First, the IEP documents a child’s needs and services and how they affect involvement and progress in the general education curriculum. A simple framework that organizes the IEP process is based on three questions:

- What do we know about the child’s skills? This question is answered through the present levels of academic achievement and functional performance.
- What are we going to do to help the student receive an appropriate education?
- The IEP team addresses this question through the following components: goals, adaptations, least restrictive environment, and special education and related services.
- How will we know if we are succeeding? This is ultimately answered through measurements based on the goals and, when appropriate, short-term objectives of the IEP and other results of the total education experience.

The IEP should tailor the education to the child, not the child to the education.

The second purpose underlying the IEP process is its value in providing access to procedural safeguards. It ensures that parents are informed active members in developing, reviewing and revising the annual educational plan for their child, and in monitoring progress. The third purpose of the IEP process provides a means of decision-making that is efficient and instructionally useful.

These three purposes are grounded in educational and legal principles. Foremost among the underlying principles is the requirement that the appropriate educational placement and the type, amount, and location of services must be based on the child's unique individual characteristics and not on the category of disability. The documentation of the IEP process – the written plan - should be a child-focused, working document used by all team members throughout the duration of the year. Therefore, the process must reflect pertinent information on the child's present levels of academic achievement and functional performance which are obtained from multiple sources including: (a) parent reports; (b) general education-based interventions; (c) the child's interests and abilities; and (d) a comprehensive assessment following a special education referral.

In addition, an essential consideration is the extent to which the child's instructional needs can be met by general education staff in all environments with or without assistance from special educators. Finally, children with disabilities are to be educated with those who do not have disabilities to the maximum extent appropriate, and should attend general education classes unless it is inappropriate and otherwise indicated on the IEP.

***Children and Youth
Who Are Eligible for
the IEP Process***

The Individuals with Disabilities Education Improvement Act (IDEA 2004) requires that a free appropriate public education (FAPE) be made available to all children and youth with a disability, ages 3 through 21.

Sec. 300.17

Free appropriate public education.

Free appropriate public education or FAPE means special education and related services that-

- (a) Are provided at public expense, under public supervision and direction, and without charge;
- (b) Meet the standards of the SEA, including the requirements of this part;
- (c) Include an appropriate preschool, elementary school, or secondary school education in the State involved; and
- (d) Are provided in conformity with an individualized education program (IEP) that meets the requirements of §§300.320-300.324

Sec. 300.306 (c)

Determination of eligibility and educational need.

- (1) In interpreting evaluation data for the purpose of determining if a child is a child with a disability under §300.8, and the educational needs of the child, each public agency must-
 - (i) Draw upon information from a variety of sources, including aptitude and achievement tests, parent input, teacher recommendations, as well as information about the child's physical condition, social or cultural background, and adaptive behavior; and
 - (ii) Ensure that information obtained from all of these sources is documented and carefully considered.
- (2) 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 §§300.320-300.324.

The IDEA 2004 identifies and defines the specific disability categories that make a child eligible. To be eligible for the IEP process, a child must have been identified through the evaluation process as having one or more of the disability categories. This process is described in *Guidelines: Evaluation Process*, North Dakota Department of Public Instruction.

Sec. 300.8

(a) *General.* (1) Child with a disability means a child evaluated in accordance with §§300.304--300.311 as having intellectual disability, a hearing impairment (including deafness), a speech or language impairment, a visual impairment (including blindness), serious emotional disturbance (referred to in this part as “emotional disturbance”), an orthopedic impairment, autism, traumatic brain injury, an other health impairment, a specific learning disability, deaf-blindness, or multiple disabilities, and who, by reason thereof, needs special education and related services.

In addition to the eligibility categories listed above, the IDEA 2004 includes regulatory language that allows states to identify younger children in need of special education who are determined to have "developmental delays". In North Dakota, the term non-categorical delay (NCD) is used, rather than developmental delay (DD), for the purpose of avoiding confusion with the Developmental Disabilities (DD) system in the Department of Human Services. Detailed information regarding the approved state eligibility criteria can be found in the North Dakota *Guidelines: Identification and Evaluation of Students with Non-categorical Delay for ages 3 through 9*.

Sec. 300.8**Child with a disability.**

- (b) Children aged three through nine experiencing developmental delays. Child with a disability for children aged three through nine (or any subset of that age range, including age three through five), may, subject to the conditions described in § 300.111(b), include a child--
- (1) Who is experiencing developmental delays, as defined by the State and as measured by appropriate diagnostic instruments and procedures, in one or more of the following areas: physical development, cognitive development, communication development, social or emotional development, or adaptive development; and
 - (2) Who, by reason thereof, needs special education and related services.

Children Turning Three. A child with a disability transitions from early intervention services to early childhood special education services when the child turns three.

Special Considerations in Eligibility for the IEP Process

Youth That Have Exited. Youth with disabilities who are not yet 21 years of age and have not graduated with a regular high school diploma are eligible for the IEP process. The school district of residence is responsible for identifying, evaluating, and providing services to eligible children and youth in this age group. The IDEA 2004 (300.102(a)(3) clarifies that a regular high school diploma does not include an alternative degree that is not fully aligned with the State's academic standards, such as a certificate or the General Educational Development credential (G.E.D.).

Students who have exited a public or private school program through the receipt of a regular high school diploma or because they have reached the age of 21 are no longer eligible for services from school districts. However, community and state agencies such as the Division of Vocational Rehabilitation, the Division of Developmental Disabilities, Job Service North Dakota, Independent Living Centers, and others may be available to provide adult services to young people with disabilities.

Children That Attend Private or Special Schools. Children and youth with disabilities who attend private schools or other special schools, or are served in residential schools, detention centers, correctional facilities, also remain eligible for services under the IDEA 2004. For additional information on service provided to students attending private schools see <http://www.dpi.state.nd.us/speced/guide/policy/1205paper.pdf> .

Children who are home educated. Children and youth with disabilities who are home educated may still be eligible for services under the IDEA 2004. More information on home education can be found in North Dakota Century Code Chapter 15.1-23 or the *Home Education and Children with Disabilities Informational Paper* can be found at <https://www.nd.gov/dpi/uploads/1211/DPIHomeEducInfoPaper.pdf> .

Youth Incarcerated as Adults. If a young person is incarcerated in an adult correctional facility, the school district of residence may not be required to provide FAPE. That is, FAPE is not required if the person is not identified as having a disability upon entry into the prison and does not have an IEP in place at that time. However, this does not relieve the facility from inquiring about educational services the person was receiving, or contacting school districts to determine whether that person was identified as having a disability.

Sec. 300.324**FAPE requirements for students with disabilities in adult prisons.**

- (d) Children with disabilities in adult prisons
- (1) *Requirements that do not apply.* The following requirements do not apply to children with disabilities who are convicted as adults under State law and incarcerated in adult prisons:
 - (i) The requirements contained in Section 612(a)(16) of the Act and § 300.320(a)(6) (relating to participation of children with disabilities in general assessments).
 - (ii) The requirements in § 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 for early release.
- (2) *Modifications of IEP or placement.*
 - (i) Subject to paragraph (d)(2)(ii) of this section, the IEP Team of a child with a disability who is convicted as an adult under State Law and incarcerated in an adult prison may modify the child's IEP or placement if the State has demonstrated a bona fide security or compelling penological interest that cannot otherwise be accommodated.
 - (ii) The requirements of § 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.

Sequence of the IEP Process

These guidelines provide a logical decision-making sequence for developing the IEP to meet all legal requirements. It is recommended that the process occurs in the following order and the IEP document should reflect this sequence.

1. Present levels of academic achievement and functional performance are written from referral, evaluation, achievement information, and progress in the regular education curriculum. The information should be provided by parents, teachers, the child, and other relevant contributors.
2. Consideration of special factors resulting from the student's needs and the impact these factors have on the student's involvement and progress in the general education curriculum.
3. At least one annual goal is stated for each of the needs identified by the IEP team as a priority for that year. For students participating in the North Dakota Alternate Assessment each goal must also include a description of benchmarks or short-term objectives.
4. The characteristics of services and adaptations necessary to accomplish each goal/objective are determined. Accommodations to participate in the North Dakota State Assessment should be comparable to the adaptations needed to accomplish each goal.
5. A justification of the placement is written consistent with the principle of least restrictive environment, including opportunities to participate and progress in the general education curriculum and other school activities.
6. A description of the special education and related services to be provided.

Secondary Transition IEP sequence:

1. Measurable postsecondary goals based upon age appropriate transition assessment information and the student's preferences and interests is developed or reviewed in relation to:
 - ✓ Education or Training;
 - ✓ Employment; and where appropriate
 - ✓ Independent Living Skills.
2. Present Levels of Academic Achievement and Functional Performance (PLAAFP) are written from referral, evaluation, including age-appropriate transition assessment information, achievement information, and progress in the regular education curriculum. The information should be provided by parents, teachers, the student, and other relevant contributors. The identification of the skills the student possesses and the skills still needed to acquire in relation to the student desired postsecondary goals are critical to the transition planning process.
3. Consideration of special factors resulting from the student's needs and the impact these factors have on the student's involvement and progress in the general education curriculum.
4. A course of study that directly relates to the student's anticipated post school goals and the student's preferences and interests is developed or reviewed.
5. For students who are 17, or who are turning 17 in this IEP term, discuss the Transfer of Rights that will occur at the age of majority. The IEP must include a statement that the student has been informed of the student's rights under IDEA and that the rights will transfer to the student on reaching the age of majority.
6. A coordinated set of strategies/activities that are needed to help the student achieve postsecondary goals in each of the following areas: Instruction, community experiences, employment, adult living, related services, and when appropriate acquisition of daily living skills and functional vocational evaluation. Every activity or strategy identified must directly relate to the student's anticipated post school goals and the student's interests and preferences. Identify primary responsibility for each activity (identify agencies/persons that will provide and pay for services) and the timelines that specify the anticipated dates (school year) for starting and completing each activity. There must be activities identified for the current IEP term.

7. Develop annual IEP goals for special education services. For each measurable postsecondary goal there must be at least one annual goal that will help the student make progress towards the stated postsecondary goal. For students participating in the North Dakota Alternate Assessment each goal must also include a description of benchmarks or short-term objectives.
8. The characteristics of services and adaptations necessary to accomplish each goal are determined. Accommodations to participate in the North Dakota State Assessment should be comparable to the adaptations needed to accomplish each goal.
9. A justification of the placement is written consistent with the principle of least restrictive environment, including opportunities to participate and progress in the general education curriculum and other school activities.
10. A description of the special education and related services to be provided.

IEP Timelines

Specific requirements apply to timelines concerning when and how often an IEP is to be developed or reviewed, including the IEP for an identified child who has transferred from another school.

A meeting to develop the initial IEP for a child must be conducted within *30 calendar days* from the date of the meeting during which it was determined that the child has a disability. This determination will be noted in the Integrated Written Assessment Report (IWAR) prepared by the evaluation team at that meeting.

Sec. 300.323

When IEPs must be in effect.

- (a) *General.* 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 § 300.320.
- (c) *Initial IEPs; provision of services.* 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.

Following the special education unit's policy and procedures, an IEP must be in effect for each eligible child at the beginning of each school year. The IEP must be implemented as soon as possible following the meeting at which the IEP was developed. Exceptions to this are if (1) the meetings occur during the summer or a vacation period, unless the child requires services during that period, or (2) circumstances require a short delay (e.g., arranging transportation). However, there can be no undue delay in providing special education and related services to the child.

Children participating in Part C early intervention programs that have been found eligible for participation in preschool programs assisted under Part B shall experience a smooth and effective transition to those preschool programs. Each school must ensure that the obligation to make FAPE available to each eligible child residing in their district begins no later than the child's third birthday; and an IEP is in effect for the child by his/her third birthday. If a child's third birthday occurs during the summer, the child's IEP Team shall determine the date when services under the IEP will begin.

An IEP meeting must be initiated and conducted *at least once every twelve months*. For example, if an initial IEP was developed on December 3, the subsequent IEP must have been reviewed and revised by no later than December 2 of the following year. However, the IEP may be reviewed more frequently than once every twelve months, if needed.

Sec. 300.324 (b)(1)(i)

(b) *Review and revision of IEPs*—

(1) *General*. 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; and
- (ii) Revises the IEP as appropriate to address—
 - (A) Any lack of expected progress toward the annual goals described in § 300.320(a)(2), and in the general education curriculum, if appropriate;
 - (B) The results of any evaluation conducted under § 300.303;
 - (C) Information about the child provided to, or by, the parents, as described under § 300.305 (a)(2);
 - (D) The child's anticipated needs; or
 - (E) Other matters.

It is important to note that the school district is responsible for determining when it is necessary to conduct an IEP meeting. However, the parents of a child with a disability may request an IEP meeting at any time. For example, if the parents believe the child is not progressing satisfactorily or there is a problem with the current IEP, it would be appropriate for the parents to request an IEP meeting. Or if the parents question the adequacy of services that are provided while their child is suspended for short periods of time, it would be appropriate to convene an IEP meeting.

Similarly, if a child's teacher believes that services are not appropriate for the child, the teacher should follow the school's procedures with respect to either calling a meeting with the parents or requesting that the school district hold another IEP meeting to review the child's IEP. For example, the child's teacher may see a need for increased modification of materials for the child in a specific academic area. In this situation, it would be appropriate for the teacher to request an IEP meeting.

IEP meetings may be conducted at any time during the school year. However, if the IEP meeting is held prior to the beginning of the school year, the team must ensure that the IEP contains the necessary specially designed instruction and supplementary aids and services to ensure that the child's IEP can be appropriately implemented during the next school year. This is particularly critical when the child moves from one school building into another, such as from an elementary school into a middle school.

Sec. 300.324 (a)(6)

Amendments. Changes to the IEP may be made either by the entire IEP team at an IEP 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.

Note:

The history of IDEA makes it clear that there should be as many meetings a year as any one child should need.

The IDEA 2004 allows parents and public agencies to agree to make amendments to a student's IEP without conducting an IEP meeting. It is important that personnel who are responsible for implementing the IEP are informed of these changes as it relates to their responsibilities. Copies of the revised IEP incorporating the amendments must be provided to the parents at their request. Amendments are not to be considered the annual review/revised IEP.

This section allows a parent and a public agency to agree not to convene an IEP team meeting to make changes to the child's IEP, instead, to develop a written document to amend or modify the child's current IEP. This act does not place any restrictions on the types of changes that may be made so long as the parent and the public agency agree. The act does not require the agreement between the public agency and the parent to be in writing.

8/14/06 Federal Register, Vol. 71, No. 156, page 46685.

If the goals, objectives, and characteristics of service are not meeting the child's needs, the case manager is responsible for reconvening the IEP team for review and revision of the IEP. The team will identify alternative strategies to assure achievement of goals by the end of the year.

When a child with an active IEP moves into a school building or school district through transfer (i.e., the custodial parent becomes a resident in a different school district or a different catchment area of the same school district) or open enrollment (either within the same school district or across school district boundaries), the services delineated in that IEP must be continued. If any components to that IEP are questionable, such as placement or service delivery, the school must establish a team and convene a meeting in a timely fashion to address the questions. Revisions of the IEP as in deleting a related service that was designated in the IEP cannot be made without the approval of the IEP team. In other words, a reduction in occupational therapy services from 15 minutes daily to 15 minutes twice a week would necessitate a team meeting. The existing IEP cannot be ignored nor its implementation delayed because it was written elsewhere.

A child with a disability remains eligible for special education:

- until it is determined that a disability no longer exists and/or that the child no longer needs special education services;
- until the child exits services due to graduation with a diploma, or
- until he or she has attained 21 years of age or has not reached the age of 21 before August first of the year in which the individual turns 21.

If a student with a disability drops out of school and later re-enters, the school district must follow requirements consistent with those of an initial evaluation and initial IEP. This is also true if a child with a disability exits special education services through a decision by the IEP team (i.e., is dismissed from special education services) and later experiences academic difficulties.

**Responsibility of the
Local School District****Sec. 300.323****IEP Meetings**

- (d) *Accessibility of child's IEP to teachers and others.* Each public agency must ensure that-
- (1) The child's IEP is accessible to each regular education teacher, special education teacher, related services provider, and any other service provider who is responsible for its implementation; and
 - (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.
- (e) *IEPs for children who transfer public agencies in the same State.* 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 public 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 § 300.320 through § 300.324.
- (f) *IEPs for children who transfer from another State.* If a child with a disability (who had an IEP that was in effect in a previous 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 § 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 § 300.320 through § 300.324.
- (g) *Transmittal of records.* To facilitate the transition for a child described in paragraphs (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 34 CFR 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.

Sec. 300.112

Individualized education programs (IEP). 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 §§ 300.320 through 300.324, except as provided in § 300.300(b)(3)(ii).

Sec. 300.146

Responsibility of SEA. Each SEA must ensure that a child with a disability who is placed in or referred to a private school or facility by a public agency— (a) Is provided special education and related services—

- (1) In conformance with an IEP that meets the requirements of §§ 300.320 through 300.325; and
- (2) At no cost to the parents;

(b) Is provided an education that meets the standards that apply to education provided by the SEA and LEAs including the requirements of this part, except for § 300.18 and § 300.156(c); and

(c) Has all of the rights of a child with a disability who is served by a public agency.

The responsibility of the local education agency, i.e., the school district and/or special education unit of residence is to ensure that requirements for development, review, revision, and monitoring of the IEP are met. This also applies when a child with a disability attends a public or nonpublic school outside the geographic boundaries of the school district or special education unit of residence. When a child attends school outside the school district of residence, it is essential that administrators agree on which entity will carry out specific tasks. For example, while the school district of residence must ensure that an IEP is reviewed annually, the serving school may agree to arrange and convene meetings to develop the IEP and to prepare and distribute final copies of the document. When a child receives services outside the school district of residence, the administrator or designee from the school district of residence must be an active participant in developing, reviewing and revising the IEP for that child.

Sec. 300.325**Private school placements by public agencies.***(a) Developing IEPs.*

- (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 §§300.320 and 300.324.
- (2) The agency must ensure that a representative of the private school or facility attends the meeting. If the representative cannot attend, the agency must use other methods to ensure participation by the private school or facility, including individual or conference telephone calls.

(b) Reviewing and revising IEPs.

- (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.
- (2) 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.

(c) Responsibility. 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.

When parents choose to enroll their child in a private school, either nonsectarian or religiously affiliated, the student does not have the right to receive the special education and related services the child would receive if enrolled in the public school. Parentally placed private school students are entitled to some special education and related services according to a proportionate share of funding based on a consultative process for allocating that proportionate share. A specific set of regulations are applied when children with disabilities are enrolled by their parents in private schools. The term "services plan" is used in place of "IEP" for parentally-placed children in private schools. IEP is an explicit term used in the definition of FAPE (Free Appropriate Public Education), and parentally-placed children with disabilities in religious or other private schools are not entitled to FAPE in connection with their private school placement.

The services plan must ensure that the services are meaningfully related to a child's individual needs. For more information on private school placements please see *IDEA 2004 Students with Disabilities who Attend Private Schools, December 2005 Policy Paper in Education*.

<http://www.dpi.state.nd.us/speced/guide/policy/1205paper.pdf>

Sec. 300.138

Equitable Services provided.

- (b) *Services provided in accordance with a services plan.*
 - (1) Each parentally-placed private school child with a disability who has been designated to receive services under §300.132 must have a services 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 §§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 §300.320, or for a child ages three through five, meet the requirements of § 300.323(b) with respect to the services provided; and
 - (ii) Be developed, reviewed, and revised consistent with §§300.321 through 300.324.
- (c) *Provision of equitable services.*
 - (1) The provision of services pursuant to this section and §§ 300.139 through 300.143 must be provided:
 - (i) By employees of a public agency; or
 - (ii) Through contract by the public agency with an individual, association, agency, organization, or other entity.
 - (2) Special education and related services provided to parentally-placed private school children with disabilities, including materials and equipment, must be secular, neutral, and nonideological.

In addition, the local school district is responsible to initiate and conduct meetings to develop, review, and revise services plans for private school children with disabilities. The school district must also ensure that a representative of the private school attends each meeting.

Sec. 300.137**Equitable Services determined.**

- (a) *No individual right to special education and related services.* No parentally-placed private school child with a disability has an individual right to receive some or all of the special education and related services that the child would receive if enrolled in a public school.
- (b) *Decisions.*
- (1) Decisions about the services that will be provided to parentally-placed private school children with disabilities under Sec. Sec. §§ 300.130 through 300.144 must be made in accordance with paragraph (c) of this section and Sec. 300.134(c).
 - (2) The LEA must make the final decisions with respect to the services to be provided to eligible parentally-placed private school children with disabilities.
- (c) *Services plan for each child served under §§300.130-300.144.* 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 §300.138(b); and
 - (2) Ensure that a representative of the religious or other private school attends each meeting. If the representative cannot attend, the LEA shall use other methods to ensure participation by the religious or other private school, including individual or conference telephone calls

Case Management Responsibilities

Local policies and procedures identify the case manager. The case manager arranges and convenes IEP meetings, maintains contact with parents, gathers information from team members, and prepares and distributes the finalized document. Typically, a special education provider is assigned case management responsibility. However, other persons may fulfill that role, including building administrators, counselors, general education personnel, or related services providers. Supervisors are responsible for monitoring to ensure that required tasks are completed in a timely fashion.

The case manager will inform team members of the upcoming IEP meeting using the Notice of Meeting form. This form identifies the purpose and details of the meeting, as well as the names of persons who have been invited to attend. A copy of the *Parental Rights for Public School Students receiving Special Education Services: Notice of Procedural Safeguards* is provided to parents with the Notice of Meeting Form as required annually.

The case manager, or team meeting facilitator, must ensure that the communication and accessibility needs of all IEP participants are accommodated so they can be active participants in the process. For example, family members may not be proficient in English or may use sign language, necessitating additional services during the IEP meeting. In cases of limited cognitive ability, assistance from trusted others and conducting the discussion at an appropriate level will facilitate understanding and increase participation. Care must be taken to convene meetings in locations that are physically accessible to team members with mobility limitations.

The IDEA 2004 intends that all persons involved in the IEP process be *active* participants. Each person fulfills an important role by bringing and sharing critical information about the child, thoughtfully planning an effective educational program with other team members, and implementing assignments. Special education unit policy and procedures should be followed with regard to participation in the IEP process, and implemented by the assigned case manager.

It is essential that school personnel on the IEP team participate in the development of the IEP for a child. If attendance of any required team member is not possible, the case manager must use alternate methods of ensuring the consideration of that person's input including IEP meeting excusal processes as necessary. This may include receiving written information and/or interviewing the person prior to the IEP meeting or involvement via conference call during the meeting. Similarly, it is critical that the absent team member is informed of his or her responsibilities in implementing the educational program as agreed to by the team. *Not attending the IEP meeting does not relieve the school personnel of responsibility for implementing portions of the IEP assigned to that person.* Each of the child's teachers must be informed of his or her responsibilities related to implementing the child's IEP and the specific accommodations, modifications, and supports that are necessary for the student to participate in the general education curriculum. The intent of the regulation is for regular education teachers to fully understand how to help teach a student with disabilities.

NOTE: Not attending the IEP meeting does not relieve the school personnel of responsibility for implementing portions of the IEP assigned to that person.

The IEP case manager will serve as the lead team member responsible for adherence to federal and state regulations while implementing local procedures within the special education process. In addition, the case manager often fulfills the role of facilitator during the IEP team meeting.

The IEP process is a mechanism to enhance the connection between instruction and improved results for children with disabilities. This goal can be achieved if all members of the IEP team feel a sense of ownership for the process. Merely convening an IEP team does not ensure that a group of people will collaborate in order to achieve success for the child. A team must be committed to working together and also recognize that some procedures are necessary for effective IEP team operation. (Adapted from IEP Connections, Kukic & Schrag, 1998).

An efficient and well-organized IEP team facilitator, whether it is the assigned case manager or another member of the team, will assist the team throughout the IEP process. A suggested IEP Meeting Organizer follows. The IEP Meeting Organizer includes reminders for:

- completion of procedural safeguard requirements before the meeting;
- steps to be followed during the IEP planning process; and
- continuing case management responsibilities following the meeting.

IEP Meeting Organizer***Prior to the Meeting***

- Contact parents regarding a convenient meeting date.
- Obtain parental consent to invite representatives from collaborating agencies to attend IEP meeting.
- Notice of Meeting form sent to parent with copy of procedural safeguards document as necessary.
- Student Notice of Meeting form sent to student if purpose of meeting is transition planning.
- All attempts to contact parent would be documented.
- IEP excusal processes if necessary.
- Collect all data needed for the planning and decision making process.

Steps During the IEP Meeting***Introduction***

- Purpose of meeting.
- Review procedural safeguards.
- Roles and relationships of participants/confidentiality issues.
- Introduce secondary transition planning if appropriate.

Present Levels of Academic Achievement and Functional Performance

- Describe student strengths, preferences, and needs and how they relate to and affect the general education program. Include academic achievement, functional performance, social behaviors, preferences, interests and extracurricular activities. For students with a transition plan, discuss what academic and functional skills the student possesses and what skills he or she must acquire to reach their postsecondary goals. Include information from age appropriate transition assessments.
- Describe how the student's disability affects participation in the general education program. Include student's participation in state and district assessment programs.
- Describe how student's disability affects participation in age appropriate activities.

Considerations of Special Factors

If appropriate, the following items must also be considered and documented:

- Braille instruction training and orientation and mobility training must be considered for the student with visual impairment.
- In the case of a child with limited English proficiency, language needs of the student must be considered as these needs relate to the IEP.
- If the child (other than a child with deafness or hard of hearing) has communication needs that hinder learning, those needs must be addressed.
- If behavior impedes the student's learning, appropriate positive behavior interventions and supports and other strategies to address the behavior must be considered. Strategies or interventions implemented should be documented (placed in adaptations section and/or in a behavior intervention plan (BIP)).

- If the child has a hearing impairment, communication needs must be considered.
- If the child needs assistive technology devices and services, assistive technology to access the general education curriculum must be considered.

Long Range Planning

- Discuss postsecondary goals and transition services needed to assist student in meeting those goals. Required for students age 16 or older.
- Discuss transfer of rights no later than 1 year before student turns 18.

Developing the Annual Plan

- Special education is specially designed instruction to meet the unique needs of a student. To make appropriate decisions regarding services, the IEP team must have an understanding of the general education curriculum, scope and sequence of courses, extracurricular activities, teacher expectations and instructional strategies.
- To complete the annual plan, the IEP team must discuss and answer the question "what supports and program modifications are needed for the student to participate in the general education curriculum?" The IEP team should capitalize on the student's strengths while considering changes to the curriculum and supports the student will need to learn.
- Measurable annual goals will be developed to meet the unique needs of the student.
- In addition to measurable annual goals, short term objectives must also be developed for those students taking North Dakota Alternate Assessment.
- The type and amount for each special education and related service to be provided to the student must be addressed in the IEP as to be clear to all participants and persons involved with the student.

The following items must be discussed and documented for *all* students:

- Strengths of the student, concerns of the parents for enhancing the education of their child, the results of the initial evaluation or most recent evaluation, the communication needs of the student, and whether the student requires assistive technology devices and services.
- Eligibility for the Extended School Year Services must be considered by the IEP team.

Reporting Progress

- Determine how to measure progress on annual goals and objectives utilizing such methods as, but not limited to, curriculum based assessment, systematic observations, general education grades, and performance assessment.
- Decide how regular and periodic progress reports will be communicated to the parent utilizing such methods as, but not limited to, written reports or parent conferences.
- Decide the frequency of the progress reports.

Least Restrictive Educational Environment for Student/Placement

- Decide the proper placement considering the regular education classroom first and only then other options.

After Meeting

- Provide parent with Prior Written Notice of Special Education Action form for summary of accepted and/or rejected actions.
- Give a completed copy of the IEP to the Parents.

***IEP Meeting
Participants***

The specific roles and responsibilities of each required participant are detailed in this section.

Sec. 300.321**IEP Team**

- (a) *General.* The public agency must ensure that the IEP Team for each child with a disability includes-
- (1) The parents of the child;
 - (2) Not less than one regular education teacher of the child (if the child is, or may be, participating in the regular education environment);
 - (3) Not less than one special education teacher of the child, or where appropriate, not less than one special education provider of the child;
 - (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.
 - (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;
 - (6) At the discretion of the parent or the agency, other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate; and
 - (7) Whenever appropriate, the child with a disability.
- (b) *Transition services participants.*
- (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 Sec. 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.
- (c) *Determination of knowledge and special expertise.* 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.
- (d) *Designating a public agency representative.* 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.

Parents The parents of a child with a disability are equal and active participants with school personnel in developing, reviewing, and revising the IEP. Parents play an equal, active role in IEP planning by providing critical information about their child's abilities, interests, performance, and history.

Sec. 300.30(a)

(a) Parent means--

- (1) A biological or adoptive parent of a child;
 - (2) A foster parent, unless State law, regulations, or contractual obligations with a State or local entity prohibit a foster parent from acting as a parent;
 - (3) A guardian generally authorized to act as the child's parent, or authorized to make educational decisions for the child (but not the State if the child is a ward of the State);
 - (4) An individual acting in the place of a biological or adoptive parent (including a grandparent, stepparent, or other relative) with whom the child lives, or an individual who is legally responsible for the child's welfare; or
 - (5) A surrogate parent who has been appointed in accordance with Sec. 300.519 or section 639(a)(5) of the Act.
- (b)
- (1) Except as provided in paragraph (b)(2) of this section, the biological or adoptive parent, when attempting to act as the parent under this part and when more than one party is qualified under paragraph a of this section to act as a parent, must be presumed to be the parent for the purpose of this section unless the biological or adoptive parent does not have legal authority to make educational decisions for the child.
 - (2) If a judicial decree or order identifies a specific person or persons under paragraphs (a)(1) through (4) of this section to act as the "parent" of a child or to make educational decisions on behalf of a child, then such person or persons shall be determined to be the "parent" for purposes of this section.

Parental Revocation of Consent

Supplemental regulations to IDEA 2004 took effect on December 31, 2008. Section 300.300 (b) (4) was revised to require that parental revocation of consent for the continued provision of special education and related services must be in writing and that upon revocation of consent a public agency must provide the parent with prior written notice in accordance with §300.503 before ceasing the provision of special education and related services.

Q. If a parent chooses to stop special education and related services for their child but refuses to sign a Revocation of Consent, what process should be followed by the local education agency to assure all procedural safeguards are in place for the parent and child?

Two Scenarios:

1. **Child continues to attend school and parents will not sign the Revocation of Consent.** – The school district must continue providing services to the child. The district should give notice stating that they will continue to provide services until the parent indicates in writing that they revoke services. The district will not be held in violation thereafter if notice had been given.
2. **Parent removes the child from school resulting in the child not being available for services.** – The district must give notice to the parent that they will not be providing services to the child because the parent is not making the child available to receive services. The District cannot be held liable at some later point in time if the district has provided notice that services would not continue because the parent did not make the child available. 34 CFR § 300.300(b)(4).

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

- the child's needs and appropriate goals;
- the extent to which the child will be involved in the general curriculum and participate in the general education environment and in statewide and district-wide assessments; and
- the services needed to support that involvement and participation and to achieve agreed-upon goals.

Regulations state that if neither parent can be convinced to attend an IEP meeting, the school may conduct the meeting without them. However, the school must use other methods to ensure parent participation and consideration of their input. Regulations allow for alternative methods of participation such as video conferencing, conference calls, etc. Special education unit policy and procedures should be consulted for a description of the nature and number of contacts that must be attempted before determining that parent attendance is not possible, as well as the documentation required.

Additional requirements apply when secondary transition planning is a topic to be discussed at an IEP meeting. Parents are to be informed in advance that transition issues will be discussed at the IEP meeting, thus providing them with the opportunity to prepare for the discussion. They may also want to invite individuals who have knowledge or special expertise regarding the student as he or she transitions into adult life. By knowing that their son or daughter will be invited, parents have an opportunity to discuss transition goals and activities with their child, and to ask school personnel to utilize strategies for maximizing the student's participation in the IEP meeting.

Sec. 300.322**Parent Participation**

- (a) *Public agency responsibility-general.* 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.
- (b) *Information provided to parents.*
- (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 Sec. 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 Sec. 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).
 - (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 Sec. 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.
- (c) *Other methods to ensure parent participation.* 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 Sec. 300.328 (related to alternative means of meeting participation).
- (d) *Conducting an IEP Team meeting without a parent in attendance.* 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.
- (e) *Use of interpreters or other action, as appropriate.* 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.
- (f) *Parent copy of child's IEP.* The public agency must give the parent a copy of the child's IEP at no cost to the parent.

Regular Education Teachers

All regular education teachers currently involved or likely to be involved in the child's educational program must be notified of the IEP meeting. All teachers responsible for implementing the IEP are responsible for participating in discussions about how best to teach the child.

Not less than one regular education teacher must be in attendance at the IEP meeting unless appropriate IEP meeting excusal processes have been followed. This involvement is especially important during the discussion of what and how the child's performance in the classroom, the child's interaction with peers, the least restrictive environment, and the modifications that would allow the child to be served in the least restrictive setting.

Sec. 300.324**Development of IEP.**

- (3) *Requirement with respect to regular education teacher.* A regular education teacher of a child with a disability, as a member of the IEP team, must, to the extent appropriate, participate in the development of the IEP of the child, including the determination of--
- (i) Appropriate positive behavioral interventions and supports and other strategies for the child; and
 - (ii) Supplementary aids and services, program modifications, and support for school personnel consistent with § 300.320(a)(4).

Regular education teachers have expertise in education standards, curriculum and classroom environment. They share expectations specific to their classrooms, as well as methods, materials and accommodations currently used. Additionally, they bring to the IEP team a rich understanding of typical child development and behavior. Regular educators enrich the IEP process by helping the team maintain age appropriate expectations. Consideration should be given to developmental, academic, instructional, emotional, behavioral, and social issues.

In the case of a child whose behavior impedes his/her learning or that of others, the IEP team must address that behavior by considering appropriate positive behavioral interventions, strategies, and supports. The regular education teacher(s) must, to the extent appropriate, participate in discussions about how best to teach the child with such behavior problems and what supports are needed in the general education classroom to assist the child.

The regular education teacher serving on the IEP team should be the teacher who is, or may be, responsible for implementing a portion of the IEP. If a child with a disability has more than one regular education teacher, one of the teachers is required to serve as an IEP team member. However, if the participation of more than one teacher would be beneficial to the child's success in school, it may be appropriate for those teachers to attend as participating members of the team.

If a child has more than one regular education teacher, the district may designate which teacher or teachers will be on the IEP team. In a situation where not all of the child's teachers are IEP team members, the district is strongly encouraged to seek input from all teachers who will not be attending the IEP meeting.

The school should consider various alternatives to fulfill the regular education team member requirement in special circumstances. For a child who is not with a regular education teacher for any portion of the school day, a regular education teacher for the appropriate grade and/or subject area must be involved in the decision-making at the meeting.

For a child who is five years of age and served in a preschool or Early Childhood Special Education (ECSE) program, a kindergarten teacher from the neighborhood elementary school is expected to be a team member. For a child who is younger than five years of age and who is served in a preschool or ECSE program, the team will include a community preschool teacher or childcare provider, Head Start teacher, or similar early childhood educator.

For students who are 18-21 years of age, the role of the regular education representative could be assumed by an adult services provider, employer, guidance counselor, or other persons who are involved in work, community-based experiences, or career counseling. For example, some students spend a greater portion of their school day at a work site in the community. In this instance, the employer or job coach may have more relevant information to share regarding learning needs and progress than a regular educator. Therefore, that person would be considered a knowledgeable team member regarding the community setting. Likewise, depending upon the student's long range goals, a counselor may be the most appropriate person to address postsecondary opportunities and planning and should be part of the students' IEP team.

Not less than one special education service provider with knowledge of the child's needs must attend the IEP meeting. When the child has more than one disability, consideration should be given to including persons with knowledge and training in each area of disability.

The IEP for each child with a disability, regardless of the nature and severity of the disability and the setting in which the child is educated, must address how the child will be involved and progress in the general curriculum.

Special Education and Related Service Providers

Sec. 300.321**IEP team.**

- (3) Not less than one special education teacher of the child, or where appropriate, not less than one special education provider of the child.

Special education and related service providers bring expertise to the team regarding the specialized instruction, adaptations and accommodations needed to help the child benefit from his/her education. They help the team focus on the system of necessary supports that will allow the child to participate in the general education curriculum as much as possible. Further, these persons will help the team build on the child's strengths as compared with the past practice of focusing on limitations imposed by the disability.

The IDEA 2004 does not expressly require that the IEP team include related service personnel as members. However, it is appropriate for those persons with knowledge or expertise regarding the child, including related services personnel, to be included in the IEP meeting. Regulations provide that the IEP team also includes at the discretion of the parent or the agency, other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate.

Sec. 300.321**IEP team.**

- (6) At the discretion of the parent or the agency, other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate; and
- (c) *Determination of knowledge and special expertise.* 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.

***Representative of
the Local Education
Agency***

An LEA representative must attend the IEP meeting or send a designee who is able to act on her or his behalf. Each school district may determine which specific staff member will serve as the school representative in a particular IEP meeting, so long as the individual meets the requirements in §300.321. It is important that the LEA representative have the authority to commit district resources and be able to ensure that whatever services are set out in the IEP will actually be provided. In addition, the administrative representative may serve as the team member who is knowledgeable about the general education curriculum.

Sec. 300.321**IEP team.**

- (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;

Evaluation Personnel

If the team is planning for a child who has been evaluated for the first time, evaluation personnel must also be in attendance. This may include (1) a member of the team who evaluated the child, or (2) an administrator, the child's teacher, or some other person who is knowledgeable about the evaluation procedures used with the child and is familiar with the results. This person must have experience in interpreting evaluation data for the suspected disability area. If more than one disability is determined, persons knowledgeable in each disability area should be included.

Sec. 300.321**IEP team.**

- (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 (6) of this section;

Other Participants

The IEP team may, at the discretion of the parent or school district, include other individuals who have knowledge or special expertise regarding the child. Attendance at the IEP meetings should be limited to those who have a legitimate interest in the child.

In certain situations, the participation of a sibling or peer/friend who can offer emotional support and share information about interests or the generalization of skills is appropriate and desirable. In such cases it is important to discuss and verify confidentiality requirements for the additional person.

Sec. 300.321**IEP team.**

- (c) *Determination of knowledge and special expertise.* 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.

Student Student attendance at IEP meetings is encouraged when appropriate. Students need to be informed of the purpose and role of their IEP team, as well as the protocol of the meeting. By attending the IEP meeting, student benefits include: an understanding of the disability and its educational implications; the experience of teamwork; the opportunity to self-advocate about decisions that affect his or her future; and developing ownership for activities and goals in his or her IEP.

The student, parents, and other IEP team members should cooperatively determine the contribution and duration of student participation during the meeting. The practice of students taking an active role in the IEP meeting encourages professionals and parents to develop strategies to ensure students are given an active role in the planning of their educational program and future. In a student's absence, the team must present, discuss, and document information regarding interests, preferences, and long range planning.

Sec. 300.321**IEP Team**

(7) Whenever appropriate the child with a disability

**Secondary
Transition
Participants**

Student invitation to the IEP meeting is required when the purpose of the meeting will be the consideration of the postsecondary goals of the student and the transition services needed to assist the student in reaching those goals. The student's preferences and interests must always be considered when designing and developing transition services. In most instances the most appropriate person to express those interests and preferences is the student. If the student does not attend the IEP meeting the school must ensure that the student's preferences and interests are considered when the IEP is developed.

Sec. 300.321**IEP Team**

(b) *Transition services participants.*

- (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 § 300.320(b).
- (2) If the student does not attend the IEP meeting, the public agency shall take other steps to ensure that the child's preferences and interests are considered.

Invitation and involvement of representatives from agencies responsible for providing or paying for transition services reflects an understanding that the school alone cannot plan for nor provide everything that a student may need as he or she moves from school into the adult world. Interagency cooperation reinforces the coordination of services among agencies and provides a sense of shared responsibilities to help the student make a successful transition and to reach their desired postsecondary goals. This places responsibility on school personnel to become knowledgeable about the services and policies of local and regional community agencies. Students benefit when agencies interact with the students when they are still in school. Referrals made during the junior year identify the adult service providers responsible to assist the student following high school and assures seamless and timely continued services. These agencies may include: vocational rehabilitation, independent living centers, employment and training, mental health, developmental disabilities, college or university disability services, and others relevant to the individual needs and preferences of the student. The IDEA 2004 requires that parental consent be obtained prior to inviting agency representatives. If the participating agency fails to provide the services agreed upon in the IEP the LEA responsible for the student's education shall, as soon as possible, initiate a meeting for the purpose of identifying alternative strategies to meet the transition objectives.

Sec. 300.321**IEP Team**

(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.

Sec. 300.324**IEP Team**

Development of IEP

(c) *Failure to meet transition objectives.*

- (1) *Participating agency failure.* If a participating agency, other than the public agency, fails to provide the transition services described in the IEP in accordance with § 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.
- (2) *Construction.* 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.

Private school placements by public agencies

If a child with a disability is enrolled in a private school or facility, the public school district must ensure that a representative of the nonpublic school attends each IEP meeting. If the representative cannot attend, the public school district must use other methods to ensure participation by the nonpublic school, including individual or conference telephone calls. For additional information on private school placements see *IDEA 2004 Students with Disabilities who Attend Private Schools, December 2005 Policy Paper in Education*.

<http://www.dpi.state.nd.us/speced/guide/policy/1205paper.pdf>

Sec. 300.325**Private school placements by public agencies.****(a) Developing IEPs.**

- (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 §§300.320 and 300.324.
- (2) The agency must ensure that a representative of the private school or facility attends the meeting. If the representative cannot attend, the agency must use other methods to ensure participation by the private school or facility, including individual or conference telephone calls.

(b) Reviewing and revising IEPs.

- (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.
- (2) 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.

**IDEA Part C
Participation**

For a child who is transitioning from Part C services for children ages birth to three, a Part C representative may be invited to the child's initial IEP meeting. The parents of the child must request their representation at the meeting. Participation of a Part C representative will assist in assuring a smooth transition of services.

Sec. 300.321**IEP Team**

(f) *Initial IEP Team meeting for child 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.

IEP Meeting Excusal

The IDEA 2004 defines two situations and processes to follow when a required IEP team member is unable to attend a student's IEP meeting. The IDEA 2004 states that the attendance of specific IEP team members is required unless parents and the local education agency (LEA) agree or consent in writing to the occasional absence of a team member. The required members of the IEP team that would necessitate excusal if they were unable to attend are:

- General Education Teacher;
- Special Education Teacher;
- LEA Representative; and
- Individual who can interpret the instructional implications of evaluation results. The IDEA 2004 defines the two situations regarding excusal with the following:
 1. The parent and school district may agree in writing to excuse an IEP team member whose area of curriculum or related service is not being modified or discussed at the meeting.
 2. The parent and the school district may consent in writing to excuse an IEP team member whose area of curriculum or related service is being modified or discussed at the meeting, if the member submits input in writing to the IEP team before the meeting.

Sec. 300.321**IEP Team.****(e) IEP Team attendance.**

- (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.

Section II COMPONENTS OF THE IEP PROCESS AND DOCUMENT

This section of the guidelines describes the components of the IEP, sets out the purposes of each component, details any special considerations for the components, and provides examples of how the component might be addressed in an IEP. The organizing questions for the IEP process are repeated here:

- What do we know about the child?
- What are we going to do to help the child receive an appropriate education?
- How will we know if the child is succeeding?

The following concepts that underlie the IEP process are set out in the IDEA 2004:

- (1) the involvement and progress of each child with a disability in the general curriculum including addressing the unique needs that arise out of the child's disability,
- (2) the involvement of parents and students together with general and special education personnel, in making individual decisions to support each student's (child's) educational success, and
- (3) the preparation of students with disabilities for employment and other post-school activities.

Taken together, the questions to consider and the concepts in the IDEA 2004 provide the framework for developing IEPs for children with disabilities. The remainder of this section details how the questions and concepts are implemented in each component of the North Dakota IEP process.

Consideration of Special Factors

To assist team members in the development of an appropriate IEP, a series of questions to consider regarding specific student needs due to special factors are included on the IEP form.

- When the student's behavior impedes his/her learning or the learning of others, the IEP team must consider the use of positive behavioral interventions and supports and other strategies to address that behavior;
- When assessment results indicate the student is a student with limited English proficiency, the IEP team must consider the language needs of the student as those needs relate to the student's IEP;
- When a student is blind or visually impaired the team must provide for instruction in Braille and the use of Braille unless the IEP team determines through evaluation that instruction in Braille or the use of Braille is not appropriate for the student;
- When a student other than a student who is deaf or hard of hearing, has communication needs that hinder learning, these needs must be addressed.
- When a student is deaf or hard of hearing the team must consider the student's language and communication needs and opportunities for direct interaction with others in the child's own language and communication mode; and
- The IEP team must consider assistive technology devices and services for all areas related to the student's academic and functional performance.

Consideration of these special factors is essential in the discussion of present levels of academic achievement and functional performance. IEP team members will be better able to develop meaningful goals and other components of the IEP if these factors that could impede learning are fully considered.

Sec. 300.324**Development of IEP.**

(2) *Consideration of special factors.* The IEP team must -

- (i) In the case of a child whose behavior impedes the child's learning or that of others, consider, the use of positive behavioral interventions and supports, and other strategies, to address that behavior;
- (ii) In the case of a child with limited English proficiency, consider the language needs of the child as those needs relate to the child's IEP;
- (iii) In the case of a child who is blind or visually impaired, 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;
- (iv) Consider the communication needs of the child, and in the case of a child who is deaf or hard of hearing, consider the child's language and communication needs, opportunities for direct communications with peers and professional personnel in the child's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the child's language and communication mode; and
- (v) Consider whether the child needs assistive technology devices and services.

Assistive Technology (AT). The IDEA includes two provisions that define assistive technology devices and services and strongly reinforce the importance of both in improving access to the curriculum and other school offerings for children with disabilities. Consideration should be given to the need for assistive technology as the IEP team completes Section G of the IEP, *Adaptation of Education Services*. The IEP team must consider the student's needs across all areas of his or her present levels of academic achievement and functional performance. To assist the IEP team in documenting the consideration of AT, the IEP team may use the suggested worksheet, *The WATI Assistive Technology Consideration Guide* on the NDDPI website.

Sec. 300.5**Assistive technology device.**

As used in this part, *Assistive technology device* means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve the functional capabilities of a child with a disability. The term does not include a medical device that is surgically implanted, or the replacement of such device.

Sec. 300.6**Assistive technology service.**

As used in this part, *Assistive technology service* means any service that directly assists a child with a disability in the selection, acquisition, or use of an assistive technology device.

The term includes—

- (a) The evaluation of the needs of a child with a disability, including a functional evaluation of the child in the child's customary environment;
- (b) Purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by children with disabilities;
- (c) Selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing assistive technology devices;
- (d) Coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;
- (e) Training or technical assistance for a child with a disability or, if appropriate, that child's family; and
- (f) Training or technical assistance for professionals (including individuals providing education or rehabilitation services), employers, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of that child.

Present Levels of Academic Achievement and Functional Performance

Each child has unique patterns of capabilities and interests that underscore the requirement for individualized evaluation and program planning. The Present Levels of Academic Achievement and Functional Performance (PLAAFP) narrative provides the summary sketch of that unique and highly individual pattern of functioning and serves as the foundation upon which to build succeeding components of the IEP. The PLAAFP narrative answers the question, “What do we know about the child?”

Sec. 300.320**Content of IEP.**

- (a) *General.* 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 §§ 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 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;

Sec. 300.324**Development, review, and revision of IEP.**

- (a) *Development of IEP.*
 - (1) *General.* In developing each child's IEP, the IEP team, must consider -
 - (i) The strengths of the child;
 - (ii) The concerns of the parents for enhancing the education of their child;
 - (iii) The results of the initial or most recent evaluation of the child; and
 - (iv) The academic, developmental, and functional needs of the child.

REMEMBER TO BUILD ON STUDENT STRENGTHS

The PLAAFP section provides the team an opportunity to consider, not only the child's needs, but also the unique strengths, values, preferences, interests, cultural identity, and norms of the child, family, and community. By identifying strengths in an early step of the IEP process, the team will select interventions most likely to bring success. Balancing the strengths and needs of the child and not focusing solely on the disability category will help the IEP team build a meaningful education program for the child.

The term *general education curriculum*:

- refers to the content of the general education curriculum and not to the setting in which it is used;
- could be used in any educational environment along a continuum of alternative placements; and
- is the curriculum adopted by the school district that applies to *all* children.

The PLAAFP includes the following essential features:

- addresses strengths and needs and considers the child's age, ability, cultural and educational background.
- should be understandable by the parents and general educators.
- gives the reader a clear picture of how the student is functioning in all relevant areas.
- determines unique patterns of functioning across settings.
- addresses the concerns of the parents for enhancing the education of their child.
- includes a meaningful interpretation of the most recent evaluation, linking these to the child's typical performance and unique patterns of functioning. It is recommended that standard scores, test names or test scores not be part of the PLAAFP.
- includes how the child's disability affects his/her involvement and progress in the general education curriculum. For a preschool child, this means how the disability affects participation in appropriate activities such as self-care skills, play interactions, etc.
- must address special considerations that impact the child's learning, including behavior, limited English proficiency, visual impairment, communication needs, and assistive technology needs.
- must address the academic, developmental, and functional needs.
- must address, for a student 16 and older, the academic and functional skills the student possesses and the skills needed to achieve his/her postsecondary goals.

Functional needs refer to activities and skills that are not considered academic or related to a child's academic achievement as measured on Statewide Achievement tests. Functional skills are those which significantly affect the quality of life of an individual in a community. *8/14/06 Federal Register, Vol.71, No. 156, page 46661.*

The performance levels should be current brief narrative statements that are developed by all team members during the meeting at which the child's IEP is being initiated or updated. Technical terms, professional jargon, acronyms, and in-depth details should be avoided. The statements should reflect a synthesis of the team's knowledge of the student's total functioning and interest in all performance areas including the home, school, and the community. Anticipated needs, such as those likely to result from deteriorating conditions (e.g., progressive blindness or progress of a muscular disease) should be addressed.

The academic, developmental, and functional needs of the child must be considered. These may include the following:

- performance in the general education classroom
- performance on statewide assessment
- progress monitoring data
- cognitive functioning
- communication status
- motor ability
- sensory status
- health/physical status
- behavior skills (including adaptive behavior, if applicable), ecological factors
- functional skills, community participation
- emotional and social development

Secondary Transition Components

Vocational or occupational potential must be addressed for all students who will be 16 years of age or older during the effective dates of the IEP (or for younger students if the IEP team determines it is applicable). Each of the following aspects of transition listed here must be addressed:

- jobs and job training
- recreation and leisure
- home/independent living
- community participation
- postsecondary training and learning opportunities
- related services

When the PLAAFP section is completed as described above, it will ensure that all team members are communicating what they know about the child's strengths, needs, abilities, and interests and how the student is functioning at home, in school, in the community, and in other relevant environments. When successfully communicated, this information forms the foundation for identifying the child's unique needs which require specialized instructional services, as well as the child's interests and full range of capabilities. This complete picture will be the basis for planning a meaningful educational program.

Secondary Transition Services

Transition services are part of a long-range plan that coordinates the last years of high school and the years immediately following high school. They are an overall description of the services that are needed for the student to achieve his/her desired postsecondary goals. The IEP team must include transition services in the first IEP that will be in effect when the student is 16 years of age. Transition planning may occur earlier if it is deemed appropriate for the student. The IEP team must actively involve the student in developing his/her IEP.

The Transition services planning process must include:

- Appropriate measurable postsecondary goals based upon information from age appropriate transition assessments related to:
 - education or training;
 - employment; and
 - independent living skills (where appropriate).
- A course of study, which is a multi-year description of coursework and educational experiences. It must be updated annually, must be meaningful to the student's future, must motivate the student to complete his or her education, and support post-school outcomes.
- A coordinated set of needed strategies and activities to assist the student in reaching postsecondary goals based on the students strengths, preferences and interests, and includes:
 - Instruction;
 - Related services;
 - Community experiences;
 - Employment;
 - Post-school adult living;
 - Daily living skills (if appropriate); and
 - A functional vocational evaluation (if appropriate).
- Documentation of outside agency participation, if the IEP team determines that another agency other than the LEA, is likely to be responsible for providing or paying for transition services.
- Documentation of the anticipated date of exit from secondary school.
- Procedural safeguard rights associated with the IDEA 2004 transfer to the student at the age of majority. In North Dakota, the age of majority is 18. There are two points in time associated with the transfer of rights:
 - No later than one year before the student turns 18: On the IEP form, the IEP team must document that the discussion with the student and parent(s) regarding the transfer of rights has occurred.
 - When the student reaches the age of majority: The district must provide written notice of the transfer of rights to both the student and the parents. This written notice must be provided at the time the student reaches the age of majority, which may or may not be at the time of the annual review.
- Completion of the Summary of Performance: For any student whose eligibility for special education will terminate due to graduation with a regular diploma, or due to exceeding the age of eligibility, the local education agency shall provide the student with a summary of the student's academic achievement and functional performance, which shall include recommendations on how to assist the student in meeting the student's postsecondary goals.

Sec. 300.43**Transition services.**

- (a) Transition services means a coordinated set of activities for a child with disability that—
- (1) Is designed to be within a results-oriented process, that is focused on improving the academic and functional achievement of the child with a disability to facilitate the child's movement from school to post-school activities, including postsecondary education, vocational education, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation;
 - (2) Is based on the individual child's needs, taking into account the child's preferences and interests; and includes--
 - (i) Instruction;
 - (ii) Related services;
 - (iii) Community experiences;
 - (iv) The development of employment and other post-school adult living objectives; and
 - (v) If appropriate, acquisition of daily living skills and provision of a functional vocational evaluation.
- (b) Transition services for students with disabilities may be special education, if provided as specially designed instruction, or related services, if required to assist a student with a disability to benefit from special education.

Annual Goals, Short-Term Objectives, and Characteristics of Services

The IDEA 2004 includes a provision that the IEP must include measurable short-term objectives for students taking the North Dakota Alternate Assessment based on alternate achievement standards. Short-term objectives are not required for all other students. The annual goals together with the short-term objectives and characteristics of services answer the following questions:

- What are we going to do to help the student receive an appropriate education? The IEP team addresses this question through the following components: goals, short-term objectives, characteristics of services, adaptations, and special education and related services.
- How will we know if we are succeeding? This is ultimately answered through measurements based on the goals and short-term objectives of the IEP and other results of the total education experience.

Annual goals and short-term objectives are reviewed at least annually. This review provides a mechanism for determining whether the child is progressing given the special education services provided, and whether the placement and services are appropriate to the child's special learning needs. These requirements provide a way for the child's teacher(s) and parents to track the child's progress in special education.

Annual Goals

Sec. 300.320**Definition of individualized education program.**

- (2)(i) A statement of measurable annual goals, including academic and functional goals designed to
- (A) Meet child's needs that result from the child's disability to enable the child to be involved in and make progress in the general education curriculum and
 - (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;

Essential features of annual goals are provided below.

- Annual goals are based on the needs addressed in the PLAAFP and flow from that description.
- Annual goals are selected with an awareness of the student's unique skills, interests, and strengths.
- Annual goals set expectations for the student; they state what the student can reasonably accomplish within a 12-month period of time.
- Annual goals are a means of gauging progress and change in knowledge, skill, or behavior over time.
- Annual goals identify the behavior or skill being addressed, the desired ending level of achievement, and the intent or purpose for accomplishment.
- Annual goals describe how the child will be involved in and progress in the general curriculum.
- When a student has many needs identified in the PLAAFP, the IEP team may decide to prioritize annual goals and work on a manageable number during the upcoming 12-month period.
- Annual goals for youth with transition plans must include goals which support postsecondary plans.

Goals are related to the unique needs of the child, therefore they should be specific and not applicable to every other student in the class. For example, "*Mary will pass the eighth grade*" applies to every student in the eighth grade and is not unique to Mary's individual needs. Therefore, meaningful goals written on an annual basis that are unique to the student and are reasonably attainable within one year will reflect progress and change each year. The same goals should not be repeated year after year.

Goals in the IEP should enable the student to be involved in and make progress in the general education curriculum. Teams should consider both academic and functional goals when appropriate. For example, if a student with a learning disability is functioning several grades below indicated ability in reading and has a specific problem with word recognition, the IEP goals would be directed toward (1) closing the gap between the student's indicated ability and current level of functioning, and (2) helping the student increase the ability to use word attack skills effectively or to find some other approach to increase independence in reading.

In many cases, it is possible to address problem areas by looking to the child's strengths and using these strengths as a vehicle for addressing concerns. This is particularly true in addressing behavioral concerns. Such strengths-based approaches are effective means for dealing with social-emotional or behavioral problems.

Components

Goals must be behavioral, student-based, and lead to a less restrictive environment.

Four primary components of a goal are:

- the behavior or skill being addressed,
- the desired ending level of achievement,
- the intent or purpose for accomplishment, and
- characteristics of services (only for goals not requiring short term objectives)

The first component in a goal, the *behavior or skill*, refers to the specific instructional needs in terms of the *student*, e.g.:

- computational skills,
- word recognition skills,
- language skills,
- social skills,
- eating skills,
- functional motor skills, or
- job-related skills.

The second component of a goal, *desired ending level of achievement*, should be stated in terms of measurable performance that is an attainable level of achievement for the child. The goal statement should include the student's expected level of growth.

The third component of the goal is *the intent or purpose of the behavior*. The intent clarifies why it is important for the child to demonstrate the behavior or skill. Establishing intent also focuses the team on prioritizing goals most appropriate to the child's overall functioning.

The fourth component of the goal is the *characteristics of services*. Each goal must also include a description of where, how, and by whom the services will be delivered, unless the goal includes short-term objectives that will include this information.

Examples of goals illustrating four components:

Megan will improve her written work from a simple sentence structure to writing a paper on a teacher assigned science topic using compound and complex sentences. This will allow her to complete her grade level assignments independently. Megan's science teacher will evaluate progress through daily assignments.

In order to improve math skills, Michael will compute math problems in the 5th grade classroom that require one or two digit regrouping, with 80% accuracy over 10 consecutive trials. This activity will be evaluated through daily assignments by Michael's math teacher. (Mathematics grade 5 standard Benchmark 4)

Susan will engage in three verbal exchanges with peers during art activities in Mrs. Anderson's class to improve socialization skills. Progress will be evaluated weekly by Mrs. Anderson through weekly observation charts.

Examples of goals more relative to postsecondary goals include:

Given a task analysis for bagging groceries, while at the community job site, Steven will practice the task semi-weekly and complete it (a) without breaking items, (b) without ripping bags on 90% of occasions by April 2, 2016. This activity will be monitored and evaluated by the job coach working with Steven.

Jodi will improve her reading comprehension scores by one grade level through daily instruction in the English classroom, using high-interest reading materials such as the newspaper, teen magazines, and young adult women's magazines, school approved websites, and short stories for adults by April 2, 2016. Jodi's English teacher will evaluate progress through daily grades.

Sec. 300.320 (a)(2)(ii)

For children with disabilities who take alternate assessments aligned to alternate achievement standards a description of benchmarks or short-term objectives.

Once the IEP team has developed measurable annual goals for a student, the team can (1) develop measurable, intermediate steps (short-term objectives) that will enable families, students, and educators to monitor progress during the year, and, if appropriate, to revise the IEP consistent with the student's instructional needs, and (2) develop strategies and services that will be most effective in realizing those goals.

Short-term Objectives or Benchmarks

The IDEA 2004 includes a provision that the IEP must include a description of benchmarks and short-term objectives for students taking the North Dakota Alternate Assessment based on alternate achievement standards. Short-term objectives are not required for all other students. Short-term objectives are measurable, intermediate steps between the student's present levels of educational performance and the student's goals. They serve as references for measuring progress toward meeting goals.

Essential features of short-term objectives are:

- intermediate steps that describe how progress toward meeting annual goals will be measured.
- attainable within a year, with most target dates within a shorter time span.
- characteristics of services under which behavior will be performed, the specific behaviors to be performed, criteria for attainment, evaluation procedures, and schedules for measuring progress.
- typically sequenced developmentally, incrementally, or by level of proficiency. Because of the sequencing, short-term objectives associated with a specific annual goal often begin at different times.

Short-term objectives *are not* curriculum or daily lesson plans.

An IEP Team may decide it is appropriate to include short-term objectives for a student who is not taking the North Dakota Alternate Assessment on an individual student basis. The number of short-term objectives required for each goal is a decision made by IEP teams. Typically, each annual goal requires more than one short-term objective. However, this is not always the case. An exception to this occurs when the goal is for maintenance of skills. Examples of this include maintaining properly articulated speech sounds in generalized settings after the child has consistently demonstrated the skill with the speech-language pathologist, or continuing to demonstrate appropriate workplace skills after reasonable proficiency has been shown.

In some respects, short-term objectives are similar to objectives used in daily classroom lesson plans. For example, both kinds of objectives are used to describe what a given child is expected to accomplish in a particular area within some specified time period and to determine the extent to which the child is progressing toward those accomplishments.

In other respects, however, objectives in IEPs are different from those used in lesson plans, primarily in the amount of detail they provide. Short-term objectives provide general milestones for determining progress toward meeting the annual goals. These IEP objectives should be projected to be accomplished over an extended period of time (e.g., a school quarter, semester, or a normal reporting period).

On the other hand, the objectives in classroom lesson plans deal with more specific outcomes that are to be accomplished on a daily, weekly or monthly basis. Classroom lesson plans generally include details not required in an IEP, such as the specific methods, activities, and materials (e.g., use of flash cards) that will be used to accomplish the objectives.

Short-term objectives may be sequenced either (1) *developmentally* (e.g., grasp the ball, throw the ball using correct arm movements, step into the throw, achieve a designated accuracy, reach a designated distance); (2) *incrementally* in terms of time (e.g., writing a paragraph of 2-5 word sentences by November, 5-7 word sentences by February, and full paragraphs by May); or (3) by *level of proficiency* (e.g., from 75% to 90%; 4 correct out of 5 attempts). It is important to remember that because they are sequenced, *objectives will not all begin on the date the IEP becomes effective*; some will begin only after other objectives have been accomplished. For this reason, projected initiation dates and schedules are included to assist team members in assessing and documenting progress. Consequently, it is essential to refer to the IEP throughout the school year to assess and document progress, and note initiation of new objectives.

Components

Each short-term objective must have five main components. They are:

1. *Conditions* or circumstances under which the behavior is to be performed. These have traditionally been the "Given a 10 word spelling list . . ." type statements.
2. *Performance* of specific behaviors, which are simply statements of what the student is expected to do. These behaviors need to be measurable and observable.
3. *Criteria* for attainment or level of performance statements, which generally address how well the student is expected to perform the behavior. Some measure of accuracy, standard of performance or correctness of the behavior must be included in the objective.
4. *Evaluation* procedures for determining whether the short-term objectives are being met. Examples of procedures include: observation by various service providers, classroom teachers or parents; tallies or checklists; tests; or self-report.
5. *Schedule* for determining whether objectives have been met. Progress toward short-term objectives or benchmarks must be reviewed on at least an annual basis. Many schools routinely use a quarterly or semester progress check, although the nature of the objective should guide the schedule. For example, it may be necessary in some cases to do daily or weekly checks because of the behaviors involved.

Some examples of objectives containing the 5 component parts are:

When given a writing assignment of five sentences or more, Amanda will write at least two compound sentences. This task will be performed in seventh grade English and social studies, and products will be collected three times during the fall semester (September, October, and November) by the classroom teachers.

Given a microswitch properly secured to the headrest of her chair, Rachel will select three activities that she prefers from the school's work-based curriculum with 90% accuracy by October 15, 2016. Performance will be evaluated by the Work Experience Coordinator twice weekly.

Given mathematical terminology, Bill will identify the correct terms when adding, subtracting, multiplying, and dividing with 80% accuracy in 9 out of 10 trials beginning September 27, 2016 through December 20, 2016. This skill will be performed in the 8th grade math classroom. Performance will be evaluated through weekly grades by the 8th grade math teacher. (Math grade 8 standard, benchmark 1)

Considerations Regarding Related Services

There are some additional considerations regarding the relationship between goals and related services. *Related services* are specially designed developmental, corrective, or supportive services that are necessary for the student to benefit from special education. Some examples of related services are occupational therapy, physical therapy, transportation, nursing and counseling. Related services can be provided only when necessary to meet an identified educational need and the goals related to that need.

During adaptive PE class, Ellen will move around in her various environments by creeping from one room to another on 5 out of 6 trials. This will give her more independence in moving about the home and is a precursor to walking. Progress will be evaluated by the physical therapist through daily charting.

During scheduled story time in the 1st grade classroom, Tom will sit for five minutes without physical support to demonstrate improvement of his balance. This activity will be monitored and charted by the paraprofessional working with Tom. Progress will be evaluated by the physical therapist.

Characteristics of Services

When a goal (and objective, when required) has been developed, the next step is to determine the characteristics of the services. The discussion regarding characteristics of services considers where and how the services will be delivered and by whom (position or relationship to the student). The IEP Team must consider if that which is being addressed in the goal will carry over to the general education curriculum. It is helpful for the team to think through a series of questions regarding *each goal*. It is important in consideration of the least restrictive environment that the questions are asked in the following sequence:

1. Can the performance specified in this goal be met in general education activities *without accommodation or modification*? If no, why not?
2. Can the performance specified in this goal be met in general classroom activities *if appropriate accommodations or modifications are made*? If the answer is yes, what types of accommodations or modifications are necessary and what special education services, if any, are needed?
3. Can the performance specified in this goal be met if the content difficulty is altered OR if specially designed instruction is provided?
4. Can the performance specified in this goal be met if supportive training related to the disability is provided (e.g. functional communication training, orientation and mobility, fine/gross motor development, etc.)?

Based on the answer to each of the above questions, a discussion must occur regarding the description of the services that will best match the student's needs and characteristics. These summary descriptions of the characteristics of services when taken together become the basis for establishing the least restrictive environment(s) in which the student will receive special education and related services if these services are necessary. Specifics of the services will be summarized on the IEP in Section J, Special Education and Related Services.

Periodic Review of Services

Parents are involved in decisions regarding their child's educational progress, including the child's progress in the general curriculum as well as progress toward the annual goals. Parents must receive regular reports of the child's progress in subjects or curricular areas for which the child is not receiving special education. In addition, parents must also receive a periodic review of the child's progress toward the annual goals and the extent to which that progress is sufficient to enable the child to achieve the goals by the end of the year. At the time of the periodic review, the recommended practice is to use a form that includes the student's goals and the documented progress related to each goal. The periodic report schedule is determined by the IEP team and documented in the IEP.

The periodic review includes a description of the student's progress toward meeting each goal. The review must utilize the same measurement criteria specified in the goals. It should clearly specify how the student's performance at the time of the review is different from the performance observed at the time the IEP was written, addressing any lack of expected progress toward annual goals. While an IEP team meeting is not required for a periodic review, a meeting may subsequently be requested by parents to discuss the results.

Sec. 300.320

Definition of individualized education program

(a)(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;

Adaptation of Educational Services

Section G of the IEP addresses adaptations of educational services, accommodations, modifications, supports, and other adjustments that enable the student to participate in the general curriculum and other school offerings as fully as possible. Some of the information in this section may be related to the descriptions of the characteristics of services for the goals in Section F of the IEP; however, the entry here is intended to be a summary of accommodations, supports and adjustments required across goals. The adaptations listed must be based on peer reviewed research to the extent practicable. Peer reviewed research generally refers to research that is reviewed by qualified and independent reviewers to ensure that the quality of the information meets the standards of the field before the research is published. Consideration must also be given to the special factors identified in the IEP section D.

Sec. 300.320**Definition of individualized education program**

- (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 to enable the child-
- (i) To advance appropriately toward attaining the annual goals;
 - (ii) To be involved in and make progress in the general education curriculum in accordance with paragraph (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;

Sec. 300.42**Supplementary aids and services.**

Supplementary aids and services means aids, services, and other supports that are provided in regular education classes, other education-related settings, and in extracurricular and nonacademic settings, to enable children with disabilities to be educated with nondisabled children to the maximum extent appropriate in accordance with §§ 300.114 through 300.116.

Adaptations that are needed for the student to meet his/her goals should be described in Section G of the IEP. In addition, accommodations for inclusion of the student in general education settings should be identified in the IEP. It is also important to note which staff position(s) will be responsible for implementing each adaptation. Participation of the regular education teacher is required for determination of appropriate positive behavioral interventions and strategies for the child, as well as determination of supplementary aids and services, program modifications, and supports for school personnel.

Examples of adaptations of educational services statements are listed below.

Susan will have a paraprofessional with her whenever she is in regular classes. The paraprofessional will encourage Susan's participation and emphasize independence whenever possible. Susan needs an electric wheelchair (transported with her from home), an accessible table with her class in the lunchroom, a mechanical arm with spoon for eating, and a desk accessible to her wheelchair in the classroom.

Andrea's goals in the behavioral areas require a peer tutor for additional support to take part in regular classroom activities.

Brett uses sign language and requires an interpreter in all classes.

Scott has a reading comprehension level significantly below grade level and needs classroom materials modified so that the reading material is being presented at a level Scott can understand.

Emily has a visual impairment and requires a video enlarger to enable her to read printed material. Copies of classroom handouts need to be in dark black print, not lighter ink.

Tim has a speech impairment and requires an augmentative communication device.

Billie needs her total curriculum presented with visual cues and testing needs to be done orally.

Participation in District-wide and Statewide Assessments

All students must be included in North Dakota accountability systems. This includes students with disabilities. Increasing the participation of students with disabilities provides a measure of their progress in the general education curriculum as well as accurate data from which changes in instructional practices can be made to better meet their needs.

ND State Assessment Participation Options

Federal and State law require that all students participate in the State Testing System. In North Dakota a student will participate under one of these three general options:

1. ***North Dakota State Assessment (NDSA):***
Most students will participate in the NDSA under standard conditions and following instructions read to them by the test administrator from the *Test Directions* document. Within standard conditions, students complete the NDSA as provided.
2. ***North Dakota State Assessment (NDSA with approved accommodations):***
Some students will participate in the NDSA with the aid of accommodations. Accommodations are allowed for students who have an IEP.
3. ***North Dakota Alternate Assessment:***
Students with significant cognitive disabilities, who are served under IDEA, will participate in the state assessment system by using the North Dakota Alternate Assessment (NDAA).

The **NDAA** is for students with significant cognitive disabilities. It is aligned to North Dakota State Standards in English/language arts and mathematics. If a student meets the criteria for the NDAA, he/she will take the NDAA for the three core subject areas (English language arts/literacy, math and science).

Students taking the NDAA require extensive, direct instruction and substantial supports to achieve measurable gains. These students learn academic content aligned to grade level content standards, but at a reduced depth, breadth, and complexity.

Assessment Decisions

Decisions regarding which assessment option a student will participate in will be made annually by the student's IEP team, and will be based on the student's curriculum, present levels of academic achievement, functional performance, and learning characteristics. Decisions cannot be based on program setting, category of disability, percentage of time in a particular placement or classroom, or any considerations regarding a school's Adequate Yearly Progress (AYP) designation.

If the NDAA is selected, decisions must be made on the North Dakota Alternate Assessment criteria. The IEP team must answer yes to each of the following questions:

1. Does the student have a significant cognitive disability (intellectual functioning and adaptive behavior)?
2. Is the student primarily being instructed (or taught) using alternate achievement standards?
3. Does the student require extensive direct individualized instruction and substantial supports to achieve measureable gains in the grade-and-age appropriate level?

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Definition of individualized education program.

- (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;
- (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 State or district-wide 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;

Assessment Documentation

The IEP Team decisions must be documented in the student's IEP and must be specific enough to direct educators in carrying out the intent of these Team decisions. This information should be documented in Section G of the student's annual IEP.

Documentation for the NDSA with accommodations is required for specific assessment accommodations related to each subject. Documentation for the NDAA requires justification for why a student cannot take the general assessment (34 CFR 300.320).

See the NDAA website for additional information and requirements
<http://www.dpi.state.nd.us/speced1/educators/alternate/index.shtm>.

Assessment Accommodations

While the majority of students with disabilities can take the NDSA under standard conditions, some students will need accommodations. The purpose of an accommodation is to help each student show what he/she knows and can do and to lessen the impact of the disability. The intent of the accommodation is to provide equal footing, not to give an unfair advantage over other students.

Accommodations used during testing must match those accommodations identified in Section G of the student's IEP. These accommodations allow students to access and complete the NDSA in a manner that provides consistent accessibility and allows these students to demonstrate what they know and are able to do.

For purposes of reporting school accountability in North Dakota, the **use of any unapproved accommodation or modification will result in the designation of the student as a non-participant in the state's assessment system** and will remove the student's score from both the numerator and denominator when calculating the percentage of students who are proficient. IEP teams are advised to exercise discretion and consider the consequences of assessing a student with accommodations that invalidate the NDSA score.

Description of Activities With Students Who Are Not Disabled

Interactions with peers who are not disabled must be specified in Section H of the IEP in the areas of physical education, program options, and nonacademic and extracurricular activities.

This section describes the IEP team's consideration of a broad range of educational options that go beyond the core content subjects. These options offer the student a balanced educational program that includes development in areas that often have life-long benefits (e.g., social skills, vocations, or physical health). They are important additions to the content subjects that are the focus of the core curriculum. The sections that follow describe the issues that the IEP team members need to consider as they plan the student's participation in physical education, program options, and nonacademic and extracurricular areas.

Physical Education (PE)

In Section H, the IEP team will indicate the type of physical education program in which the student will participate using the following guidelines:

1. *General physical education with students who are not disabled.* If a student with a disability can participate fully in the regular physical education program without any special modifications to compensate for the student's disability, it would not be necessary to describe the physical education program in the IEP. On the other hand, if some modifications to the general physical education program are necessary for the student to be able to participate in that program, those modifications must be described in the IEP.
2. *Specially designed physical education.* If a student with a disability needs a specially designed physical education program, that program must be addressed in all applicable areas of the IEP (e.g., present levels of academic achievement and functional performance, goals, and services to be provided).

If a student with a disability is educated in a separate facility, the physical education program for that student must be described or referenced in the IEP. Option 1 and 2 apply in that setting as well. For example, if a student is in a separate facility that has a standard physical education program (e.g., a residential school for the deaf), and if it is determined on the basis of the student's most recent evaluation that the student is able to participate in that program without any modifications, then the IEP need only note such participation. On the other hand, if special modifications to the physical education program are needed for the student to participate, those modifications must be described in the IEP.

Sec. 300.108**Physical education.**

- (a) *General.* Physical education services, specially designed if necessary, must be made available to every child with a disability receiving FAPE, unless the public agency enrolls children without disabilities and does not provide physical education to children without disabilities in the same grades.
- (b) *Regular physical education.* Each child with a disability must be afforded the opportunity to participate in the regular physical education program available to nondisabled children unless—
 - (1) The child is enrolled full time in a separate facility; or
 - (2) The child needs specially designed physical education, as prescribed in the child's IEP.
- (c) *Special physical education.* If specially designed physical education is prescribed in a child's IEP, the public agency responsible for the education of that child shall provide the services directly or make arrangements for those services to be provided through other public or private programs.
- (d) *Education in separate facilities.* The public agency responsible for the education of a child with a disability who is enrolled in a separate facility must ensure that the child receives appropriate physical education services in compliance with this section.

**Other Educational
Program Options
Within the School
Setting**

The IEP process helps to ensure that students with disabilities will have opportunities to participate with students who are not disabled in educational program options, including art, music, trade and industrial arts, family and consumer science, physical education and vocational education. The list of program options is not exhaustive and could include any program or activity in which students without disabilities participate.

This implies that the team will not only discuss current options, but sequentially plan strategies to make more options available to the student. The deliberations of the team, including all current options discussed and new options to be developed must be documented. This documentation should also address the steps the team will take to make program options available, as well as the necessary accommodations and modifications needed to ensure accessibility and an equal opportunity for participation in those activities including specific responsibilities of team members.

Sec. 300.110

Program options.

The State must ensure that each public agency takes steps to ensure its children with disabilities have available to them the variety of educational programs and services available to nondisabled children in the area served by the agency, including art, music, industrial arts, consumer and homemaking education, and vocational education.

**Nonacademic and
Extracurricular
Services and
Activities**

The same planning strategies and documentation used for other educational program options within the school setting are required for nonacademic and extracurricular services and activities including supplementary aids and services determined by the child's IEP team to be appropriate and necessary. It is important to note responsibilities of team members. The IEP team must ensure that each child with a disability participates with children without disabilities in extracurricular services and activities to the maximum extent appropriate to the needs of that child.

Children with disabilities must be provided nonacademic services in as integrated a setting as possible. This requirement is especially important for children whose educational needs necessitate their being away from children without disabilities during most of each day. To the maximum extent appropriate, children in residential settings are also to be provided opportunities for participation with children without disabilities.

Sec. 300.107**Nonacademic services.**

The State must ensure the following:

- (a) Each public agency shall take steps, including the provision of supplementary aids and services determined appropriate and necessary by the child's IEP Team, to provide nonacademic and extracurricular services and activities in the manner necessary to afford children with disabilities an equal opportunity for participation in those services and activities.
- (b) Nonacademic and extracurricular services and activities may include counseling services, athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by the public agency, referrals to agencies that provide assistance to individuals with disabilities, and employment of students, including both employment by the public agency and assistance in making outside employment available.

Least Restrictive Environment (LRE)

The IDEA 2004 provisions for least restrictive environment govern the IEP team's decision regarding which of several educational environments is appropriate for a specific child with a disability.

LRE

- Is mandated
- Is individualized
- Is a presumption of education with nondisabled peers
- Is a continuum of services
- May change across time

Each school district or public agency must ensure that:

1. To the maximum extent appropriate, students with disabilities—including students in public or private institutions or other care facilities—are educated with students who are nondisabled; and
2. Special classes, separate schooling, or other removal of students with disabilities from the regular education environment occurs only if the nature and severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

In addition, 34 CFR§300.115 requires that each school district or public agency provide a continuum of alternative placements to meet the needs of students with disabilities. LRE becomes the most inclusive point on the continuum where a student's IEP can be satisfactorily implemented with the provision of supplementary aids and services.

The LRE decision is last of a series of decisions made at the IEP team meeting. It is made after goals and objectives are developed, and instructional accommodations and/or modifications are identified.

The team must always remember that **special education placement is not a place**, but rather a set of services and the type of environment/location where those services will be provided that will allow the student to progress in the general education curriculum.

Many factors go into the LRE decision: the ability to focus; the type of skills needed to learn; the individually designed instruction needed; IEP requirements; amount of direct instruction needed; the setting most likely to help the child achieve goals; the school facilities needed to support learning; and, other education issues unique to each child.

Choosing the appropriate LRE is important to ensure that the student receives instruction needed to allow the student to progress. The LRE is not any specific placement. Rather, it is the most appropriate placement for a child that is chosen from a range of options. The placement:

- is a setting(s) where the IEP can be implemented;
- is a flexible arrangement to meet the child's individual needs; and
- can range from a separate classroom or school all day, or part of the day, to all day in a regular classroom with appropriate supportive services.

LRE always begins with the general education classroom. For preschool students, it begins where the student was before he/she was identified with a disability (i.e. home, daycare or regular education preschool).

In Section I of the IEP form, Least Restrictive Environment Justification, the team explains the options the team considered and explains why the learning environment cannot be changed to enable the child the opportunity to participate in that setting if the option was rejected. The team will consider the following questions for each placement option:

- What accommodations, modifications, and adaptations does the individual student require?
- Can these accommodations, modifications, and adaptations be provided in this placement option?
- Is there a potential detriment to the individual if served in this placement option?
- How will the individual's participation in this placement option impact the other students?

Based on its deliberation over these questions, the IEP team documents the decisions made regarding:

1. The setting chosen as the least restrictive environment for an individual student; and
2. The team's justification for the removal from the general education by noting efforts that have been made and the needs of the student.

Sec. 300.114 (2)

LRE requirements.

- (2) Each public agency must ensure that
- (i) To the maximum extent appropriate, children with disabilities, including children in public and 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

Environmental Setting

The IEP team needs to determine the Environmental Setting in which the child with disabilities will receive the majority of his or her education. The definitions of these two terms are set by the data collection process prescribed by the U.S. Department of Education's policy regarding Child Count on December 1st of each year. The options are not intended to hinder the team's creativity, but to serve as a summary statement about where the child with a disability spends most of his or her day. Once the IEP is completed, the IEP team would select the Environmental Setting the student will be in on December 1st of the IEP.

Descriptions of Federal Child Count Environmental Settings are provided in Section III of this document.

Online Learning:

Online learning opportunities and the number of students with and without disabilities engaging in online learning are increasing rapidly. Because the educational environments of students with disabilities must be reported, it can be challenging to correctly determine the educational environment for such students who are engaged in online learning. When determining the educational environment of individual students with disabilities taking online courses, consider using the resource: *Online Learning and IDEA Educational Environments (Ages 6-21) Determining Educational Environments for Students with Disabilities* on the IDEA Data Center website www.ideadata.org.

LRE Justification

The purpose of the LRE discussion is to consider the continuum of educational environments and document decisions made by the IEP team regarding the environment in which the child will receive most of his/her education. The discussion and statements must be individualized, not derived from a checklist or a set of generic phrases, and must be based on the specific instructional needs, and the plan to address these needs, identified in other sections of the IEP. If the team agrees that the IEP for a student with disabilities cannot be satisfactorily implemented in the general education classroom, even with the provision of supplementary aids and services, the team must "justify" the removal from general education by noting what efforts have been made that were not successful. For a preschool student, if the team agrees that the IEP cannot be implemented where the student was before the student was identified with a disability (i.e. daycare, home, regular education preschool), the team must "justify" the removal of the child from that setting. When the IEP team identifies what supplementary aids and services, including earlier interventions, have been attempted without satisfactory outcomes, then it has justified the placement decision on the continuum of alternative placements.

In the majority of cases, children with disabilities can receive all or most of their education in the general education classroom. Each child's IEP team must fully consider ways to remove obstacles to educating the child with disabilities in less restrictive settings before proceeding to more restrictive options. However, the IEP team may decide that an individual student cannot be educated satisfactorily in the general education classroom, even when appropriate aids and services are provided. The IEP team must then consider other placement options.

Sec. 300.116**Placements.**

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 §§300.114-300.118;
- (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;
- (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;
- (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; and
- (e) A child with a disability is not removed from education in age-appropriate regular classrooms solely because of needed modifications in the general curriculum.

The school district must have other placements available to the extent necessary to ensure that the student's IEP can be implemented. The IEP team decides which of these other placements is best for the student, given the student's individual needs and the importance of being educated, to the maximum extent appropriate, with students who do not have disabilities. As stated in regulation 300.116(e) "A child with a disability is not removed from education in age-appropriate regular classrooms solely because of needed modifications in the general curriculum."

Sec. 300.115**Continuum of alternative placements.**

- (a) Each public agency shall 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 (instruction in regular classes, special classes, special schools, home instruction, and instruction in hospitals and institutions); and
 - (2) Make provision for supplementary services (such as resource room or itinerant instruction) to be provided in conjunction with regular class placement.

Sec. 300.320**Definition of individualized education program.**

- (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;

Harmful Effect

As a part of the decision making regarding LRE, the team will discuss and document potential harmful effects of a placement on the child or the quality of services the child needs. A situation does not have a harmful effect if actions taken can prevent or diminish the effect.

The following questions can be used to guide the decision regarding potential harmful effects. These questions are by no means an exhaustive listing of those that might be considered in the determination of harmful effect. If there is no harmful effect, the answers to the following questions should always be no.

- Will there be a detrimental effect on the child's social relationships if he does not attend his neighborhood school?
- Will this placement be detrimental to the family relationship?
- Will the student be stigmatized or feel excluded from the general education setting as a result of this placement?
- Will this placement diminish the student's access to and participation in the general education curriculum?
- Will this placement result in the loss of instructional time during transition periods?
- Will this placement significantly reduce the incidental learning opportunities that occur in the general education setting?
- Will the education of other students be significantly impaired by the provision of services to the student in the general education setting even if the necessary supplementary aids and services are provided?

Examples of LRE justifications:

School Aged

Inside regular class 80 percent or more of the day:

The general education classroom, with supplementary aids and services, is appropriate for (student) to meet his academic and social needs.

Inside the regular class no more than 79 percent of the day and no less than 40 percent of the day:

The general education classroom, with supplementary aids and services, is inappropriate because (student) lacks the skills necessary for participating independently and successfully in a large group. The resource room is appropriate because it will provide an educational program to provide direct instruction at the student's instructional level and learning rate.

Inside the regular class less than 40 percent of the day:

The general education classroom, with supplementary aids and services, is inappropriate because instruction with peer tutoring and accommodations in the general education setting affected his/her self-esteem. (Student) requires more intense instruction on concepts and additional practice. The resource room is inappropriate because it does not meet (student's) needs. Even with modifications to the curriculum and one to one reteaching of skills, he/she could not maintain the pace and level of learning. She needs an alternate curriculum that focuses on functional concepts. The self-contained classroom is appropriate to meet all of (student's) needs.

He/she requires a more functional curriculum and practical daily experiences that will lead to greater future independence.

Homebound hospital:

The general education classroom, with supplementary aids and services, and the resource room are inappropriate because (student's) intensive medical and rehabilitative needs cannot be met in these settings. These settings do not allow for sufficient room or privacy for his/her needs to be met. Separate school setting and residential facility do not allow sufficient medical and rehabilitative services. In the home/hospital setting, (student's) medical, rehabilitation and therapy needs can be met. Educational services can also be provided in this setting as the student's energy and strength allow.

Separate school:

The general education classroom, with supplementary aids and services, was inappropriate for (student) because he/she was unable to maintain appropriate behaviors, which resulted in negative attention. The general education and resource room were inappropriate because of the difference in the classroom schedules, structures and pace of learning were not conducive to meet the needs of the student. (Student) was unable to maintain appropriate behaviors within the self-contained setting within the public school. Even though the student was in a controlled environment, the student posed a risk of injury to other students. The separate day school is appropriate because (student) needs an educational environment which provides intensive therapy and highly structured environment to learn appropriate behavior, learn coping techniques and incorporate these skills in his/her daily routine.

Preschool

Early Childhood setting more than 10 hours per week:

(Student) stays at home with mom/dad every day. Home based services are inappropriate for (student) at this time because of her/his need for structure, academic reinforcement and peer to peer modeling. A setting of regular education preschool more than 10 hours daily with pull out services for language and academics will provide her/him the skill practice, repetition and guided instruction he/she needs. This placement provides peers to model language skills and usage.

Early Childhood setting less than 10 hours per week:

Early childhood, less than 10 hours per week, is appropriate because (student) is in a preschool head start program, where the majority of children are typically developing, for 9 hours per week and receives all special education services in another location.

Separate Class:

Early childhood less than 10 hours or more than 10 hours is inappropriate because (student) needs immediate feedback when working on developmental skills and behaviors. The separate class is appropriate because (student) can receive a highly structured program, which includes peer models. He/she can receive the immediate feedback when working on his/her goals and behaviors.

Separate School:

Early childhood less than 10 hours, more than 10 hours, separate school and separate classroom are inappropriate because (student) has intensive medical needs (Student) attends a private day school specifically for children with disabilities. (Student) resides with his/her parents/guardians, however, educational needs are best met at a school as this private school is able to meet (Student)'s educational and medical needs.

Residential Facility:

Early childhood less than 10 hours, more than 10 hours, separate school and separate classroom are inappropriate because (student) has intensive interventions for medical and rehabilitative needs. In the residential facility, (student) medical and rehabilitative needs can be met.

Home:

(Student) stays at home with mom/dad where parent(s) provide many opportunities for developmental growth within their daily activities. Home based services are appropriate for (student) to meet her/his language needs.

Service Provider Location:

Parent(s) prefer that (student) does not attend a preschool until the child is at least 4 years old. At this time parent(s) provide many opportunities for developmental growth within their daily activities at home. Because (student's) developmental growth, except articulation, are on target separate classroom or school are inappropriate. Home placement is inappropriate because of distraction from his/her siblings within that setting. The service provider location will provide a quiet environment with fewer distractions, which is needed in order for (student) to acquire his/her articulation sounds.

Statements That Represent Instructional Need

- Student needs a combination of large and small group instruction.
- Student needs multiple instructional methods and repetitive teaching strategies to acquire and maintain skills.
- Student needs direct strategy instruction with the opportunity to apply these skills in the general classroom/curriculum.
- Student needs skill practice, repetition and guided instruction in the assigned goal area(s).
- Without small group assistance, student may not develop skills needed to be successful in the general education classroom.
- Student lacks the skills necessary for participating independently and successfully in the large group setting.
- Student needs an individualized program tailored to learning style and needs additional practice to master skills.
- Student needs direct instruction to attain the identified goal(s).
- Student needs extended support in managing his/her behavior.
- Student requires small group instruction with repetition and immediate feedback to responses in the goal area(s).
- Student has need for consistency and behavioral monitoring throughout the day.
- Student needs a more intense behavioral intervention program.

- Student needs a setting that provides a therapeutic intervention, immediate feedback for all behaviors, and consistency in programming across the entire day.
- Student needs immediate intervention to process inappropriate behavior.
- Student needs an alternate curriculum in a highly structured setting.
- Student needs an alternate setting to address transition goal(s).
- Student needs direct instruction with an opportunity to apply these skills in the general curriculum/classroom.
- Students developmental needs require direct instruction.
- Student needs more structure and small group instruction.
- Student needs specialized instruction with skill practice, repetition, and guided instruction in assigned goal area(s).
- This placement provides guided activities to stimulate growth in developmental areas.
- This placement provides learning opportunities in developmental areas as identified in the goal(s).
- This placement provides peers to model language skills and usage.
- Student needs extended support in developing study and organizational skills.
- Student needs an educational program tailored to the student's instructional level and learning rate.

***LRE Considerations
for Students
Receiving Early
Childhood Special
Education Services***

LRE requirements apply to all preschool children with disabilities who are entitled to receive free appropriate public education (FAPE). The least restrictive environment continuum for preschool-aged children with disabilities includes those early childhood settings designed primarily for children without disabilities. These environments allow children with disabilities to participate in appropriate activities and opportunities that support children achieving age-relevant abilities and skills.

The school must ensure that each child's placement is in the LRE in which the unique needs of that child can be met, based upon the child's IEP and meets all of the other requirements of the law.

***Special Education
and Related
Services***

Section J summarizes the decisions made about direct and indirect services across all goals into concise descriptions of the services the child will receive. Prior to this point, the team will have discussed and documented the characteristics of the services along with development of the goals. For example, the IEP may state that a student with a vision impairment requires advanced Braille instruction including the use of assistive technology, consultation services regarding the student's vision impairment, orientation and mobility services, and rehabilitation counseling to address future vocational options. This example includes both special education and related services to address the educational needs related to the student's disability. The IEP team must discuss, determine and document the specific service, the amount of time the service will be provided, the starting date for each service, the anticipated duration, the service provider's job title, and where the service is to be provided. Breaks in the school year, such as summer vacation, are not included as part of the normal school year.

Sec. 300.320**The IEP 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 to enable the child—
- (i) To advance appropriately toward attaining the annual goals;
 - (ii) To be involved and make progress in the general 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;

Sec. 300.320**The IEP 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.

Related Services

Some students require related services to achieve their IEP goals. The list of related services is not exhaustive and may include other developmental, corrective, or supportive services if they are required to assist a child with a disability to benefit from special education and receive free appropriate public education. The complete listing and description of related services identified in the IDEA 2004 are included in <https://sites.ed.gov/idea/>

Service providers may vary. In some cases, services might be provided by persons from varying professional backgrounds and with a variety of position titles, depending upon licensure and/or certification requirements in North Dakota. For example, counseling services might be provided by social workers, psychologists, or guidance counselors. Occupational therapy, however, must be provided by a licensed occupational therapist or certified occupational therapy assistant.

Each related service defined under the IDEA 2004 may also include appropriate administrative and supervisory activities that are necessary for program planning, management, and evaluation.

The IDEA 2004 added interpreting services and school nurse services. Interpreting services were added to the examples of related services in recognition of the critical importance to children who are deaf or hard of hearing. Interpreting services are based on the individual language needs of the child and include oral transliteration services, cued language transliteration services, sign language transliteration and interpreting services, and transcription services, such as communication access real-time translation (CART), C-Print, and TypeWell; and special interpreting services for children who are deaf-blind.

School health services and school nurse services mean health services that are designed to enable a child with a disability to receive FAPE as described in the child's IEP. School nurse services are services provided by a qualified school nurse. School health services are services that may be provided by either a qualified school nurse or other qualified person.

Related services do not include a medical device that is surgically implanted (e.g. cochlear implants), the optimization of that devices' functioning (e.g., mapping), or the maintenance or replacement of that device. In the case of a cochlear implant, "mapping" and "optimization" refer to adjusting the electrical stimulation levels provided by the cochlear implant that is necessary for long-term post surgical follow-up of a cochlear implant. Mapping a cochlear implant and the costs associated with mapping, such as transportation costs and insurance copayments, are not the responsibility of the school district. These services (and costs) are incidental to a particular course of treatment chosen by the child's parents to maximize the child's functioning and are not necessary to ensure that the child is provided access to education regardless of the child's disability, including maintaining health and safety while in school.

However, the school must provide any related services that the IEP team determines is appropriate and is responsible for monitoring and maintaining medical devices that are needed to maintain the health and safety of the child (including breathing, nutrition, or operation of other bodily functions) while a student is transported to and from school or is at school. This means that the school is responsible for providing routine checks of the external components of a surgically implanted device to make sure it is functioning properly. The exclusion of mapping as a related service is not intended to deny a student with a disability assistive technology (e.g., FM system), proper classroom acoustical modifications, educational support services or routine checking to determine if the external component of a surgically implanted device is working. The exclusion of mapping as a related service does not exclude the student from related services (e.g. speech and language services) that are necessary for the child to benefit from special education services. (Source: CFR § 300.34(b); CFR Analysis of Comments and Changes, pages 46569 and 46570)

Sec. 300.34**Related services**

- (a) *General.* As used in this part, the term related services means transportation and such developmental, corrective, and other supportive services as are required to assist a child with a disability to benefit from special education, and includes speech-language pathology and audiology services, interpreting services, psychological services, physical and occupational therapy, recreation, including therapeutic recreation, early identification and assessment of disabilities in children, counseling services, including rehabilitation counseling, orientation and mobility services, and medical services for diagnostic or evaluation purposes. Related services also include school health services and school nurse services, social work services in schools, and parent counseling and training.
- (b) Exception; services that apply to children with surgically implanted devices, including cochlear implants.
- (1) Related services do not include a medical device that is surgically implanted, the optimization of that device's functioning (e.g., mapping), maintenance of that device, or the replacement of that device.
- (2) Nothing in paragraph (b)(1) of this section—
- (i) Limits the right of a child with a surgically implanted device (e.g., cochlear implant) to receive related services (as listed in paragraph (a) of this section) that are determined by the IEP Team to be necessary for the child to receive FAPE.
- (ii) Limits the responsibility of a public agency to appropriately monitor and maintain medical devices that are needed to maintain the health and safety of the child, including breathing, nutrition, or operation of other bodily functions, while the child is transported to and from school or is at school; or
- (iii) Prevents the routine checking of an external component of a surgically-implanted device to make sure it is functioning properly, as required in Sec. 300.113(b).

Transportation

Typically, children with disabilities receive the same transportation services as children without disabilities. A school must provide transportation as a related service if it is required to assist the child with a disability to benefit from special education. This includes transporting a preschool-aged child to the site at which the school provides special education and related services to the child, if that site is different from the site at which the child receives other preschool or childcare services. In determining whether to include transportation in a child's IEP, the IEP team must consider how the child's disability affects the child's need for transportation, including determining whether the child's disability prevents the child from using the same transportation provided to children without disabilities, or from getting to school in the same manner as children without disabilities. The school must ensure that any service is provided at public expense with no cost to the parent and that the child's IEP describes the transportation arrangement.

Even if a child's IEP team determines that the child does not require transportation as a related service, Section 504 of the Rehabilitation Act of 1973 requires that the child receive the same transportation provided to children without disabilities. If a school transports children without disabilities, it must transport children with disabilities under the same terms and conditions. For some children with disabilities, transportation may be achieved by providing needed accommodations such as lifts and other equipment adaptations on regular school transportation vehicles. However, if a child's IEP team determines that a student does not need transportation as a related service, and the school transports only those children whose IEPs specify transportation as a related service, and does not transport children without disabilities, the school would not be required to provide transportation to a child with a disability.

Sec. 300.34

(16) *Transportation* includes—

- (i) Travel to and from school and between schools;
- (ii) Travel in and around school buildings; and
- (iii) Specialized equipment (such as special or adapted buses, lifts, and ramps), if required to provide special transportation for a child with a disability.

Length of Day

An explanation or justification is required when it is determined by the team that a student's needs dictate a school day that deviates from the normal school day for peers who are not disabled. For example, some children will require a shortened school day because they have health conditions that result in poor stamina. In these cases, there may be legitimate reasons for allowing something other than the school day required for children without disabilities. A school day could also be lengthened to provide support services beyond the regular school day.

Extended School Year

The Individuals with Disabilities Education Improvement Act of 2004 provides that all students with disabilities are entitled to a free appropriate public education (FAPE). For some students with disabilities special education and related services may be required in excess of the regular school year in order to receive FAPE.

Extended School Year (ESY) services must be provided to a child with a disability if the child's IEP team determines, on an individual basis, that services are necessary for the child to receive FAPE.

Courts have identified two different standards that districts must use to determine whether a student needs ESY services:

1. *Regression-recoupment analysis*: ESY services are necessary when a child will experience significant regression in the absence of an educational program and the time it will take to relearn the skills is excessive.
2. *Significantly jeopardized analysis*: ESY services are necessary when progress made during the regular school year will be significantly jeopardized during extended school breaks.

Extended school year services support the student in maintaining the skills and progress on IEP goals acquired, during the school year. ESY is not to introduce or gain new skills.

In addition to the regression-recoupment analysis, the key factors to consider in making ESY services decisions should include, but are not limited to the following:

- Degree of regression suffered in the past.
- Exact time of past regression.
- Ability of parents to provide educational structure at home.
- Child's rate of progress.
- Child's behavioral and physical problems.
- Availability of alternative resources.
- Ability of child to interact with nondisabled children.
- Areas of child's curriculum that need continuous attention.
- Child's vocational needs.
- Whether requested services are extraordinary for the child's condition, as opposed to an integral part of a program for populations of students with the same disabling condition.

Sec. 300.106**Extended school year services.****(a) General.**

- (1) Each public agency shall ensure that extended school year services are available as necessary to provide FAPE, consistent with paragraph (a)(2) of this section.
- (2) Extended school year services must be provided only if a child's IEP team determines, on an individual basis, in accordance with §§300.320-300.324, that the services are necessary for the provision of FAPE to the child.
- (3) 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.

(b) Definition. As used in this section, the term extended school year services means special education and related services that—

- (1) Are provided to a child with a disability—
 - (i) Beyond the normal school year of the public agency;
 - (ii) In accordance with the child's IEP; and
 - (iii) At no cost to the parents of the child; and
- (2) Meet the standards of the SEA.

Once the IEP team has made the decision about ESY services for the student they are required to complete Section J of the IEP and include justification to support the decision made.

Section III

Instructions for Completing the IEP Form

The Department of Public Instruction developed within TIENET three separate IEP forms for use with students of different ages. The forms are as follows:

- Individualized Education Program – Early Childhood Special Education (Ages 3-5)
- Individualized Education Program (Ages 6-15)
- Individualized Education Program – Secondary Transition (Ages 16-21)

The following instructions are intended to be a quick reference guide for filling out early childhood and the school age IEP forms. The underlying principles that guide the IEP process are explained in greater detail in Section I of these guidelines.

This section does not include instructions and explanations for those items on the form that are assumed to be self-explanatory.

A. Student Information

Date of IEP Meeting. Enter the date when the planning meeting actually took place. This should be the date to which parents mutually agreed and of which they were notified. If more than one planning conference took place, enter the date of the latest meeting. The meeting must be within 12 months of the previous annual review or, if the meeting is for initial planning, it must be within 30 calendar days from the date it is determined the child has a disability.

Grade. Select the grade in which the student is enrolled. For students age 5 and under, enter "PK (preschool/kindergarten)." For students whose same age peers have typically graduated, continue to enter Grade 12 until this student graduates or exits the school program.

Age. Student age will automatically be calculated and entered by the TIENET system.

Race/Ethnicity. The Race/Ethnicity categories are populated in TIENET from District Enrollment data on STARS. If there are changes to the race at the annual IEP meeting, changes must be made by the district in STARS.

Hispanic/Latino - A person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race. Refers to Hispanic and/or Latino.

American Indian or Alaska Native - A person having origins in any of the original peoples of North and South America (including Central America) and who maintains tribal affiliation or community attachment. (*Does not include persons of Hispanic/Latino ethnicity.*)

Asian - A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent. This includes, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam. (*Does not include persons of Hispanic/Latino ethnicity.*)

Black or African American - A person having origins in any of the Black racial groups of Africa. (Does not include persons of Hispanic/Latino ethnicity.)

Native Hawaiian or Other Pacific Islander - A person having origins in any of the original peoples of Hawaii, Guam, Samoa, or the Pacific Islands. (Does not include persons of Hispanic/Latino ethnicity.)

White - A person having origins in any of the original peoples of Europe, the Middle East, or North Africa. (Does not include persons of Hispanic/Latino ethnicity.)

Two or more races - A person having origins in two or more of the five race categories listed immediately above. (Does not include persons of Hispanic/Latino ethnicity.)

Student's Primary Language and Communication Mode. Enter the communication mode and primary language the student uses for communication. The purpose of gathering this information is two-fold: (1) to determine whether assessment measures need to be conducted in a language other than English or otherwise adapted; and (2) to alert members of the IEP team to a possible language difference that may affect the student's achievement and which should be considered in planning any instructional intervention. Consider the student's age and how long English has been spoken.

A student whose primary language is not English may or may not currently be receiving English Learner (EL) services. A student's native language might also be entered here as sign language if the student's mode of communication is signing.

Primary Language Spoken at Home. Enter the language spoken by the primary caregivers in the home in which the student resides. Any discrepancy between the native language of the student and the native language of the home should be noted and considered in completing the IEP (e.g., an adopted child from another country; a student who uses sign language and parents who do not).

Current Address. Enter the address where the student lives.

Serving School- this field must match the school which is serving that student at the current time. For example, if a student is placed in a residential facility, the residential facility needs to change the serving school to that facility or school building to match where the student is currently being educated. A school building, and not a district, needs to be tied to each student except when the student attends private school or is home educated.

District of Residence - this field must match the city where the student's parent(s) are currently residing. As a case manager you may not have rights in TIENET to pick the district of residence if it is outside of your unit. You would need to contact the State and have them select the appropriate city.

Resident School Building (Plant) - this field must match the school building that the student would attend if the student was attending his/her resident school building. If the student has had his/her rights transferred to him/her, then this field must match where the student is residing, which may or may be different from where his/her parent(s) is residing. A student who is in foster care is considered part of the school district where the student's foster parent is living.

On the cover page of the IEP, the IEP team needs to determine if any of the following are applicable and check the box.

Transferred within district- this box would be checked if the home school location is different than serving school location. An example of this would be if a student's home school location was Jefferson Elementary but the district has an Autism program at Washington so the student is being served at Washington Elementary.

Open-enrolled-this box would be checked if an application of open enrollment has been completed and approved by a district other than the resident district. **Open enrollment is not allowed for preschool aged children.**

Agency-placed- this box would be checked if a decision has been made by an agency other than the school district to place the child in a foster home, relative care, residential facility, or some other setting for a purpose other than education.

B. Parent/Guardian Information

Name of Parent. Enter each parent in a separate parent section. This information will automatically be transferred to the team member section. In this way, the user will be able to identify the attendance status of each individual parent.

Home Telephone Number. Enter the telephone number(s) for the home of the parent(s).

Other Telephone Number. Enter another telephone number where at least one of the parents can be reached during the day.

Email address. Enter the email address for the parent(s).

Other. It is necessary to differentiate between a guardian, a surrogate parent, and a foster parent. At times there may be another individual attending the IEP in the parent's place. That individual is identified here. On TIENET, a dropdown box is provided to select the individual attending as parent.

Further information regarding surrogate parents, guardians, and foster parents is included in North Dakota *Guidelines: Surrogate Parent*.

C. IEP Information

IEP Case Manager. Enter the name of the person who has the responsibility to coordinate the instructional related, and/or support services specified in the student's IEP.

Email Address. Enter the email address for the case manager.

Telephone Number. Enter the number where the IEP Case Manager can be reached or a message can be left during the working day.

IEP Type. Check whether the IEP is initial or annual review/revision. An *initial* IEP is the first IEP written for a student. It is differentiated here from annual review/revised IEPs for the purpose of highlighting the required differences in due process procedures.

Primary/Secondary Disabilities. Identify the student's *primary disability*, that most impacts their education.

Secondary disabilities should be indicated to assure that all appropriate personnel attend the team meeting and that all unique needs are addressed.

The 12 disability categories used in North Dakota are: Autism, Deaf-Blindness, Emotional Disturbance, Hearing Impairment (including Deafness), Intellectual Disability, Non-Categorical Delay, Other Health Impairment, Orthopedic Impairment, Speech-Language Impairment, Specific Learning Disability, Traumatic Brain Injury, and Visual Impairment (including Blindness).

Date of Last Comprehensive Individual Assessment Report. Enter the date the last evaluation was completed in which all areas of possible special education need were evaluated and eligibility determined and documented on the most current Integrated Written Assessment Report or Student Profile. This is the date from which the need for the next comprehensive three year reevaluation is determined. Evaluations may occur more frequently, depending on the needs and age of the student.

List Names of All Team Members. List all team members who are involved with the planning or provision of the services to the student, along with their titles, even if they did not attend the meeting. For example, a teacher should indicate grade level or content area; an administrator should indicate principal, director of special education, etc. For those required participants that will not be in attendance, an Excusal of Required IEP Team Member(s) must be completed prior to the IEP meeting. The IEP excusal process is explained in Section I of these guidelines.

In situations in which the student is the resident of another district, teams are reminded that they must invite a representative of the resident district to participate in the IEP decision making regarding the child.

A detailed discussion of IEP team members, including their roles and responsibilities, is included in Section I of these guidelines.

D. Present Levels of Academic Achievement and Functional Performance

The team will write a summary of the student's unique patterns of functioning. This summary of present levels of academic achievement and functional performance (PLAAFP) will lay a foundation for the subsequent components of the IEP. The performance levels should be brief narrative statements that summarize the discussion of the student's total functioning. These statements should (a) address significant strengths and deficits, (b) be understandable by the parents and general educators, and (c) give the reader a clear picture of how the student is functioning in all relevant areas at the time the IEP is being initiated or updated.

For this section of the IEP, it is necessary to provide only narrative summary information. Avoid technical terms, professional jargon and in-depth detail. Do not write a list of standard scores and test names or acronyms. Detailed information from formal assessments will be reported elsewhere (i.e., the Integrated Written Assessment Report).

Prepare the PLAAFP based on the following considerations:

- The strengths of the child and the concerns of the parents for enhancing the education of their child;
- The results of the initial or most recent evaluation(s) of the child; and
- As appropriate, the results of the child's performance on the ND State Assessment or district-wide assessments.

A more detailed description of the process for developing the present levels of academic achievement and functional performance part of the IEP is given in Section II of these guidelines.

E. Considerations of Special Factors

The IEP team must consider the special factors resulting from the student's needs and the impact these factors have on the student's involvement and progress in the general education curriculum.

A more detailed description of the considerations of special factors part of the IEP is given in Section II of these guidelines.

F. Annual Goals, Short-Term Objectives, Characteristics of Services, and Periodic Review of Services

ND Content Standards Reference: The team has the option to select information from the ND Content Standards. The general curriculum is derived from the standards, and the ND State Assessments measure a child's performance on those standards. In using standards as the basis of IEP decision making, teams target their efforts to providing the needed instruction and supports so that the student with a disability is able to achieve the same expectations that schools hold for all students. The grade or course standards and benchmarks, along with a district or schools general curriculum expectations, serve as a guiding framework for constructing goals in the IEP. The ND Content Standards serve as a tool for identifying the expectations for a given student.

Annual Goals

Using the present levels of academic achievement and functional performance as the basis, select and develop one or more annual goals. For each goal, include four components:

- the behavior or skill being addressed;
- the desired ending level of achievement;
- the intent or purpose for accomplishment; and
- characteristics of services (only for goals not requiring short-term objectives)

A more detailed description of the annual goals part of the IEP is given in Section II of these guidelines.

Characteristics of Services. For *each* goal or objective, describe the characteristics of services. Use the following questions to assist in developing this description. For students who are participating in the North Dakota Alternate Assessment, characteristics of services are included in the objectives. An IEP team may decide it is appropriate to include short-term objectives for a student who is not taking North Dakota Alternate Assessment.

- Can the performance specified in this goal/objective be met in general education activities *without modification or adaptation*? If no, why not?
- Can the performance specified in this goal/objective be met in general classroom activities *if appropriate modifications are made*? If yes, what types of modifications are necessary and what special education services are needed?
- Can the performance specified in this goal/objective be met if the content difficulty is altered **or** if specially designed instruction is provided?
- Can the performance specified in this goal/objective be met if supportive training related to the disability is provided (e.g., functional communication training, orientation and mobility, fine/gross motor development, etc.)?

Periodic Review of Services. State how frequently the student's progress will be reported to parents. The progress reports must include information on progress in the general curriculum as well as progress toward the annual goals.

Progress Toward Goal: The periodic review includes a description of the student's progress toward meeting each goal. The review must utilize the same measurement criteria specified in the goals. It should clearly specify how the student's performance at the time of the review is different from the performance observed at the time the IEP was written, addressing any lack of expected progress toward annual goals.

Short-Term Objectives. For those children taking the North Dakota Alternate Assessment, prepare two or more objectives. For each objective, include five components:

- specific behavior to be performed and the conditions or circumstances under which it is to be performed;
- criteria for attainment or level of performance statements which generally address how well the student is expected to perform the behavior;
- evaluation procedures;
- schedule for determining whether objectives have been met; and
- characteristics of services.

Sequence short-term objectives, as appropriate.

Refer to Section II for more information.

G. Adaptation of Educational Services

Summarize the accommodations, supports and adjustments required across goals. Items that should be included in this section are: use of paraprofessionals to assist the student; modification of curriculum, grading, test taking (including district-wide or statewide assessment), note-taking; assistive technology devices; care and monitoring of auditory aids; and other appropriate matters.

The Individuals with Disabilities Education Improvement Act of 2004 (IDEA 2004) requires states to address the critical difficulty in obtaining accessible textbooks for students with print disabilities by adopting a new digital format, the National Instructional Materials Accessibility Standard (NIMAS). NIMAS is a new provision in IDEA 2004 that was designed to maximize access to the general education curriculum for students who are blind or visually impaired, or who have other print disabilities. For more information, refer to NDDPI website for additional information. <https://www.nd.gov/dpi/uploads/131/FAQ.pdf>

Participation in District-wide and North Dakota State Assessments. Check the appropriate box to indicate how the student will participate in district-wide and North Dakota State Assessments. The team should consider the next testing window when making this determination on the current IEP. The team must provide justification for not participating in district or North Dakota State Assessments and why the North Dakota Alternate Assessment is appropriate.

Refer to Section II for more information.

H. Activities with Students who are not Disabled and Participation in Academic and Nonacademic Activities

Interactions with peers who are not disabled must be specified on the IEP in the areas of physical education, nonacademic and extracurricular activities, and program options.

Physical Education (PE). Indicate the type of PE program in which the student will participate using the following guidelines.

1. *Regular Physical Education (PE) with students who are not disabled.* If a student with a disability can participate fully in the regular PE program without any special modifications to compensate for the student's disability, it would not be necessary to describe the PE program in the IEP. On the other hand, if some modifications to the regular PE program are necessary for the student to be able to participate in that program, those modifications must be described in the IEP.
2. *Adaptive/Specially Designed Physical Education (PE).* If a student with a disability needs a specially designed PE program, that program must be addressed in all applicable areas of the IEP (e.g., PLAAFP, goals and objectives, and services to be provided).

A thorough explanation of physical education considerations for students in residential schools and separate facilities is provided in Section II of this guideline.

Program Options. Indicate the educational program options in which the student will be participating with nondisabled peers. The deliberations of the IEP team, including current options discussed and new options to be developed, must be documented. Examples of educational program options include art, music, industrial arts, consumer education, family and consumer science, physical education and vocational education.

Nonacademic and Extracurricular Services and Activities. Indicate other program options in which the student will be participating with students who are nondisabled in the school setting for nonacademic and extracurricular services and activities. Some examples of these include athletics, school sponsored clubs, school plays, school yearbook or newspaper staff. Each IEP team may consider other activities unique to the school.

I. Least Restrictive Environment (LRE)

Complete this section indicating team decisions regarding setting, justification for options selected, and harmful effect.

Environmental Setting. Check the appropriate Environmental Setting.

Definitions of Educational Environments for Children Ages 6-21:

- Inside the regular class 80 percent or more of the day. *Unduplicated* total who were inside the regular classroom for 80 percent or more of the school day. (These are children who received special education and related services outside the regular classroom for less than 21 percent of the school day). This may include children with disabilities placed in
 - regular class with special education/related services provided within regular classes;
 - regular class with special education/related services provided outside regular classes;
 - regular class with special education services provided in resource rooms.

- Inside the regular class no more than 79 percent of the day and no less than 40 percent of the day. *Unduplicated* total who were inside the regular classroom between 40 and 79% of the day. (These are children who received special education and related services outside the regular classroom for at least 21 percent but no more than 60 percent of the school day.) Do not include children who are reported as receiving education programs in public or private separate school or residential facilities. This may include children placed in:
 - resource rooms with special education/related services provided within the resource room; or
 - resource room with part-time instruction in a regular class.

- Inside the regular class for less than 40 percent of the day. *Unduplicated* total who were inside the regular classroom less than 40 percent of the day. (These are children who received special education and related services outside the regular classroom for more than 60 percent of the school day). Do not include children who are reported as receiving education programs in public or private separate school or residential facilities. This category may include children placed in:
 - self-contained special classrooms with part-time instruction in a regular class; or
 - self-contained special classrooms with full-time special education instruction on a regular school campus.

- Separate School. *Unduplicated* total who received education programs in public or private separate day school facilities. This includes children with disabilities receiving special education and related services, at public expense, for greater than 50 percent of the school day in public or private separate school. This may include children placed in:
 - public and private day schools for students with disabilities;
 - public and private day schools for students with disabilities for a portion of the school day (greater than 50 percent) and in regular school buildings for the remainder of the school day; or
 - public and private residential facilities if the student does not live at the facility.

- Residential Facility. *Unduplicated* total who received education programs and lived in public or private residential facilities during the school week. This includes children with disabilities receiving special education and related services, at public expense, for greater than 50 percent of the school day in public or private residential facilities. This may include children placed in:
 - public and private residential schools for students with disabilities; or
 - public and private residential schools for students with disabilities for a portion of the school day (greater than 50 percent) and in separate day schools or regular school buildings for the remainder of the school day.

Do not include students who received education programs at the facility, but do not live there.

- Homebound/hospital. *Unduplicated* total who received education programs in homebound/hospital environment includes children with disabilities placed in and receiving special education and related services in:
 - hospital programs, or
 - homebound programs.

Do not include children with disabilities whose parents have opted to home-educate them and who receive special education at the public expense.

- Correctional facilities. *Unduplicated* total who received special education in correctional facilities. These data are intended to be a count of all children receiving special education in:
 - short-term detention facilities (community-based or residential), or correctional facilities.
- Parentally Placed in Private Schools. *Unduplicated* total who have been enrolled by their parents or guardians in regular parochial or other private schools and whose basic education is paid through private resources and who receiving special education and related services at public expense from a local educational agency or intermediate educational unit under a service plan. Include children whose parents chose to home-educate them, but who receive special education and related services at the public expense. Do not include children who are placed in private schools by the LEA.

Environmental Setting. Check the appropriate Environmental Setting.

Definitions of Educational Environments for Children Ages 3-5:

The educational environment categories below distinguish between children participating in regular early childhood programs (A & B), in special education programs (C), or in neither a regular early childhood program nor a special education program (D). In addition, the reporting categories distinguish where children receive the majority of their special education and related services.

Use the following decision rules to determine the appropriate educational environment category for reporting each 3 through 5-year old. Please note that the order of the categories as listed on the table for reporting children with disabilities ages 3-5 does *not* reflect a continuum from least to most restrictive. Selection of the appropriate reporting category involves a multi-stage process, as follows.

1. The first factor to consider is whether the child is attending a Regular Early Childhood Program, as defined below.

Regular Early Childhood Program. A Regular Early Childhood Program is a program that includes a majority (at least 50 percent) of nondisabled children (i.e., children not on IEP's). This category may include, but is not limited to:

- Head Start;
- kindergartens;
- preschool classes offered to an eligible pre-kindergarten population by the public school system;
- private kindergartens or preschools; and
- group child development center or child care.

If the child is attending a Regular Early Childhood Program, s/he is to be reported within either Row Set A (A1 or A2) or Row Set B (B1 or B2), as directed below. If the child does not attend a Regular Early Childhood Program at all, skip to instruction #2, below.

Row set **A** is for reporting children attending a Regular Early Childhood Program **at least** 10 hours per week.

If the child attends a Regular Early Childhood Program **at least** 10 hours per week, refer to the criteria listed under instruction #3 below, titled 'Reporting Special Education and Related Services Environment,' to identify which of categories A1 or A2 best represents the environment in which the child receives the majority of hours of special education and related services.

Row set **B** is for reporting children attending a Regular Early Childhood Program **less than** 10 hours per week.

If the child attends a Regular Early Childhood Program less than 10 hours per week, refer to the criteria listed in instruction #3 below, titled 'Reporting Special Education and Related Services Environment,' to identify which of categories B1 or B2 best represents the environment in which the child receives the majority of hours of special education and related services.

2. If the child is NOT at all attending a Regular Early Childhood Program as defined above, the child is to be reported within either Row Set **C** or Row Set **D**. Such children would be either 'Attending a Special Education Program' (row C1, C2, or C3), OR 'Attending Neither a Regular Early Childhood Education Program Nor a Special Education Program' of any kind, in which case the child would be receiving special education and related services either at Home (row D1) or in a Service Provider Location or some Other Location (row D2).

If the child attends a Special Education Program, as defined below, report the child in row C1, C2, or C3.

Special education program. A Special Education Program includes less than 50 percent nondisabled children (i.e., children not on IEP's). Special education programs include, but are not limited to:

- special education classrooms in
 - regular school buildings;
 - trailers or portables outside regular school buildings;
 - child care facilities;
 - hospital facilities on an outpatient basis;
 - other community-based settings;
- separate schools; and
- residential facilities.

Report the child in one of the three bulleted environments listed just above, even if the child also receives special education services in the home (row D1) or in the service provider location or some other location (row D2).

If the child attends neither a Regular Early Childhood Program nor a Special Education Program as defined above, the child is to be reported in either row D1 or D2, dependent upon whether the child receives special education and related services at home (row D1) or in the service provider location or some other location (row D2), as respectively described below:

- (D1) Home. If the child attends **neither** a Regular Early Childhood Program **nor** a Special Education Program, the next factor to consider is whether the child receives some or all of his/her special education and related services in the home.

Report the child in this category (D1), even if the child also receives special education and related services in a service provider location or some other location that is not in any other category (D2).

- (D2) Service Provider location or some other location not in any other category. If the child attends neither a Regular Early Childhood Program nor a Special Education Program and does not receive any special education and related services in the home, report the child in row D2.

3. Reporting Special Education and Related Services Environment

If you report that a child attends a Regular Early Childhood Program, you must also select the category that best represents the environment in which the child receives the majority of hours of special education and related services and the number of hours that the child spends in the Regular Early Childhood Program each week.

The educational environment categories are as follows:

- Row A1. The child is receiving the **majority** of hours of special education and related services in the **Regular Early Childhood Program** (and the child attends a Regular Early Childhood Program at least 10 hours per week).
- Row A2. The child is receiving the **majority** of hours of special education and related services in some **other location** (and the child attends a Regular Early Childhood Program at least 10 hours per week).
- Row B1. The child is receiving the **majority** of hours of special education and related services in the Regular Early Childhood Program (and the child attends a Regular Early Childhood Program less than 10 hours per week).
- Row B2. The child is receiving the majority of hours of special education and related services in some **other location** (and the child attends a Regular Early Childhood Program less than 10 hours per week).

If you report that a child attends a Special Education Program, you must also select the category that best represents the specific type of special education program that the child attends. These programs include:

- Row C1. Separate class. A child who receives special education program in a class with less than 50% nondisabled children. (Do not include children who also attended a regular early childhood program. These children should be reported in columns A1, A2, or A3.)

Row C2. Separate school. A child who receives education programs in public or private day schools designed specifically for children with disabilities. (Do not include children who also attended a regular early childhood program. These children should be reported in columns A1, A2, or A3.)

If you report that a child attends neither a Regular Early Childhood Program nor a Special Education Program, you must select the category that best represents the specific environment in which the child receives the majority of hours of special education and related services. These environments include:

Row D1. Home. A child who receives special education and related services in the principal residence of the child's family or caregivers, and who attended **neither** a Regular Early Childhood Program **nor** a Special Education Program provided in a separate class, separate school, or residential facility. Include children who receive special education both at home and in a service provider location or some other location that is not in any other category (row D2). The term caregiver includes babysitters.

Row D2. Service provider location or some other location that is not in any other category. A child who receives all of their special education and related services from a service provider or some other location that is **not** in any other category, and who attended **neither** a Regular Early Childhood Program **nor** a Special Education Program provided in a separate class, separate school, or residential facility. For example, speech instruction provided in:

- private clinicians' offices,
- clinicians' offices located in school buildings, and hospital facilities on an outpatient basis.

LRE Justification. In Section I the IEP team must document why the options selected in determining the environmental setting are the most appropriate and least restrictive. The statements must be individualized and based on the needs of the student. If in the course of the IEP, the student is going to attend preschool and kindergarten there needs to be a LRE justification for both school age and preschool.

See Section II of this document for a more thorough explanation.

Harmful Effect. Check either "Yes" or "No" to document the team's decision regarding whether there is potential harmful effect to the student in the placement selected by the team. If the team answers "yes" it must document the concern on the IEP form and explain what will be done to minimize the harmful effect.

J. Special Education, Related Services and/or Agency Transition

Enter the specifics of services to be provided, including what service, when, for what duration, by whom (job title), and where. It is imperative to provide accurate information, particularly for students who are served under contract to another school district.

Services **Service.** Enter the specific service that will be provided. This may include special education instructional services (directly provided to the student, or indirectly provided to the student via consultation or training to other personnel), or related services.

Related services means transportation and such developmental, corrective, and other supportive services as are required to assist a child with a disability to benefit from special education. It includes speech-language pathology and audiology services, interpreting services, psychological services, physical and occupational therapy, recreation, including therapeutic recreation, early identification and assessment of disabilities in children, counseling services, including rehabilitation counseling, orientation and mobility services, medical services for diagnostic or evaluation purposes, school health and school nurse services, social work services in schools, and parent counseling and training.

Minutes. State the actual minutes and frequency (i.e. daily, weekly, monthly) of all indirect as well as direct services that will be provided. For example, if a special education teacher works directly with a student for ten hours per week and consults with the classroom teachers one hour each week, the amount of service shown on the IEP is ten hours of direct SLD services and one hour of consultation per week.

When services are provided on less than a weekly basis, they must be reported in a manner that clearly conveys the intent of the schedule. For example, if services are to be provided for 60 minutes every other week, this should be clearly stated on the IEP; *do not* calculate a weekly average of 30 minutes per week in this case. To further clarify services in this example, “every other week” is preferable to “the first and third Monday of the month”, since some months have more than four Mondays.

Starting Date. Enter the specific date (month, day *and* year) on which the service will begin. It is possible that some services may be initiated after others.

Duration. Enter the amount of time needed for the identified service.

Service Provider. Identify the job title for each separate service, e.g., speech-language pathologist, SLD Teacher.

Location of Services. Identify the building name and room (as a room number or environment, such as general education classroom, lunchroom, gymnasium, vocational center, etc.)

Length of School Day. When it is determined by the team that a student's needs dictate a school day that deviates from the normal school day for peers who are not disabled, an explanation or justification is required. On the IEP form, check the sentence that best describes the length of the student's school day. If the team determines that the student will attend for a shorter or longer school day than his/her peers, it must explain why this is necessary.

Extended School Year. An annual IEP applies to the *normal school year* (as defined by individual school district calendars) and typically does not include breaks and summer vacation. If individual needs of the student require programming during school holidays, for an entire twelve-month period, or an extended school year, the IEP must state specifically those additional time periods.

Check the sentence in this section of the IEP form that reflects the team's decision about extended school year services. If the team determines that additional data must be collected before a decision is made, a date for the next team meeting must be recorded on the form. The team's justification for its decision regarding ESY must be documented.

ESY must be considered for *every* student for whom an IEP is written, regardless of the disability.

<https://www.nd.gov/dpi/SchoolStaff/SpecialEd/SpecialEducationStateGuidelines/>