

The IEP Process:
Frequently Asked Questions

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Rhode Island Department of Elementary and Secondary Education

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A. DEVELOPMENT OF THE IEP



1. How is the IEP developed?

Once a student has been designated as a student with a disability **and** is eligible for special education and related services under IDEA 2004, the school district must conduct a meeting to develop an Individualized Education Program (IEP). This meeting must occur within 15 school days of determining that the student needs special education and related services.

For a professional development module on IEP meetings go to *Module 14: Meetings of the IEP Team* at <http://www.nichcy.org/Laws/IDEA/Pages/module14.aspx>

2. When must the IEP be in effect?

According to *RI Board of Regents for Elementary and Secondary Education Regulations Governing the Education of Children with Disabilities* the IEP must be in effect as soon as possible following development of the IEP, but no later than 10 school days. As soon as the IEP is developed the school district will provide the parents of the child with written notice of the action it will take. Within a reasonable time, which is defined in RI as ten school days, the IEP will be implemented.

§300.323(c)

(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 15 school days of a

determination that the child needs special education and related services; and

(2) As soon as possible following development of the IEP, but not later than ten (10) school days, special education and related services are made available to the child in accordance with the child's IEP.

§300.503 Prior notice by the public agency; content of notice

(a) *Notice.* Written notice that meets the requirements of paragraph (b) of this section must be given to the parents of a child with a disability within a reasonable time (ten school days) before the public agency —

(1) Proposes to initiate or change the identification, evaluation or educational placement of the child or the provision of FAPE to the child; or

(2) Refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child.

(b) *Content of notice.* The notice required under paragraph (a) of this section must include —

(1) A description of the action proposed or refused by the agency;

(2) An explanation of why the agency proposes or refuses to take the action;

(3) A description of each evaluation procedure, assessment, record or report the agency used as a basis for the proposed or refused action;

(4) A statement that the parents of a child with a disability have a protection under the procedural safeguards of this part and, if this notice is not an initial referral for evaluation, the means by which a copy of the description of the procedural safeguards can be obtained;

(5) Sources for parents to contact to obtain assistance in understanding the provisions of this part;

(6) A description of other options that the IEP Team considered and the reasons why those options were rejected; and

(7) A description of other factors that are relevant to the agency's proposal or refusal.

(c) *Notice in understandable language.*

(1) The notice required under paragraph (a) of this section must be —

(i) Written in language understandable to the general public; and

(ii) Provided in the native language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so.

(2) If the native language or other mode of communication of the parent is not a written language, the public agency must take steps to ensure —

(i) That the notice is translated orally or by other means to the parent in his or her native language or other mode of communication;

(ii) That the parent understands the content of the notice; and

(iii) That there is written evidence that the requirements in paragraph (c)(2)(i) and (ii) of this section have been met.

IEP Team Members



3. Who must be present at the IEP meeting?

The individuals who must be present at the meeting to develop the student's IEP are:

1. The parent(s) of the student;
2. Not less than one of the student's regular education teachers (if the child is, or may be participating in the regular education environment);
3. Not less than one of the student's special education teachers, or where appropriate not less than one special education provider of the child
4. A representative of the public agency (i.e., school district)
5. An individual who can interpret the implications of evaluation results (may be also filling the role of 2, 3, or 4)
6. Other individuals who have knowledge or special expertise regarding the student (at the discretion of the parent or school district). This includes related service providers as appropriate. An individual with knowledge of second language acquisition, including English Language Proficiency Standards and Assessments must be invited if the student is an English Language Learner.
7. The student must be invited if the purpose of the meeting is to discuss transition services and needs.

For a professional development module on The IEP Team go to *Module 12* at <http://www.nichcy.org/Laws/IDEA/Pages/module12.aspx>

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 if 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 and has the authority to commit those resources;
- (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 §300.320(b).
- (2) If the student does not attend the IEP Team meeting, the public agency must take other steps to ensure that the student'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.

4. What are the roles and responsibilities of the parents of the student?

The parents of a child with a disability are expected to be equal participants along with school personnel in developing, reviewing, and revising the IEP for their child. This is an active role in which the parents provide critical information regarding the strengths and needs of their child and express their concerns and suggestions for enhancing the education of their child. Though parents are expected to be equal partners at the IEP meeting, writing IEPs or participating at IEP meetings is a new experience for many families. Information could be shared with parents

For more information on using interpreters, refer to the RIDE brochure *Holding Meetings Related to Special Education with Interpreters and Culturally and Linguistically Diverse Families and Students* available at www.ritap.org/iep/content/RIDE-brochure.pdf

throughout the evaluation process and prior to IEP notification, regarding what will be discussed at the meeting, questions to consider, Transition Questionnaires etc. This would enhance parents' readiness to share their wishes (i.e., goals) for their child, as well as to contribute to the determination of the child's needs and present levels of performance. Please remember that all information sent to parents must be in their native language. Districts must arrange for interpreters for parents when necessary.

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 ten (10) school days prior to the meeting to ensure that they will have an opportunity to attend (the parent may agree to waive the ten (10) day notice requirement in order to expedite the IEP Team meeting); 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 §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 §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 at age 14, or younger, if deemed appropriate by the IEP Team, the notice must (i) Indicate –

(A) That a purpose of the meeting will be the consideration of postsecondary goals and transition services for the child, in accordance with §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 §300.328 (related to alternative means of parent participation).

(d) *Conducting an IEP 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 have 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 at 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 and not later than ten (10) calendar days after —

- (1) An IEP has been developed for the child; and
- (2) After the receipt of a request for a copy of the IEP.

5. What are the roles and responsibilities of the regular education teacher?

The regular education teacher of the child with a disability has a very important role at IEP Team meetings. The teacher brings the knowledge of the general education curriculum that is necessary for the IEP Team to create an individualized program for the child that emphasizes access to and progress in the general education curriculum. This knowledge includes information on academic and behavioral expectations for the child's age appropriate grade level, data on the child's performance on state/district assessments, classroom data, information on positive behavioral interventions and supports, and curriculum methods and materials and how they might be adapted when needed to meet the individual needs of the child with a disability. Finally, the regular education teachers have familiarity with the assessments that are used in the general curriculum that could be used to determine the student's present levels of academic achievement or functional performance as well as to monitor the student's progress.

The importance of the regular education teacher attending the IEP meeting was reinforced in the *Federal Register*, Monday, August 14, 2006 which stated:

...a regular education teacher is a required member of an IEP Team if the child is, or may be, participating in the regular education environment. In such cases the regular education teacher would be expected to attend each IEP Team meeting, unless the regular education teacher has been excused from attending a meeting pursuant to §300.321(e) and §614(d)(1)(C) of the Act.... (p. 46669)

300.324 Development, review, and revision of IEP

(a) *Development of IEP — ...*

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

- (i) Appropriate positive behavioral interventions and supports and other strategies for the child; and
- (ii) Supplementary aids and services, program modifications and supports for school personnel consistent with §300.320(a)(4).

6. What are the roles and responsibilities of the special education teacher?

The special educator on the IEP Team can be either the student's special education teacher, or the student's special education service provider, such as a speech therapist, if the related service is considered specially designed instruction. In Rhode Island that would be speech and language services provided by the speech and language therapist for children through the age of 8, if the speech and language therapist is the child's primary provider as opposed to a related service provider. If the student is being considered for special education for the first time, the role of the special education teacher should be filled by the person who is, or will be, responsible for implementing the IEP. If this is not known a teacher qualified to provide special education in the child's area of suspected disability could be used. A special education provider may substitute for a special education teacher when there is no special education teacher or if the State and local officials determine that there is an appropriate circumstance when a special education provider could substitute for a special education on the IEP Team. (See *Federal Register*, Monday, August 14, 2006, p. 46670)

7. What are the roles and responsibilities of the representative of the public agency?

The representative of the public agency could be the special education director, a building principal, or another representative of the LEA. Each district may determine the specific staff person who will serve as its representative in a particular IEP meeting, so long as the person meets the following criteria:

- (a) Is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children with disabilities;
- (b) is knowledgeable about the general curriculum; and
- (c) is knowledgeable about the availability of resources of the public agency and has the authority to commit those resources.

(See RI Regs. 300.321(a)(4))

Since the decision about the type of services the student needs to attain his/her IEP goals are made at the IEP meeting, **it is inappropriate to recess an IEP meeting** so another administrator or policy maker who was not at the meeting can approve or determine the type of placement/services, or the amount of services. Occupational therapists, physical therapists, school psychologists, social workers, guidance counselors, adaptive physical education teachers, and speech and language therapist for children 9 years of age or older, cannot be the agency representative, since they are not qualified to provide or supervise the provision of specially designed instruction according to an interpretation of the Rhode Island Department of Elementary and Secondary Education. The services they provide, such as counseling or physical therapy, are considered related services, not specially designed instruction. Special education teachers could serve as the agency representative, since they provide specially designed instruction, if they meet the other criteria.

8. Who can fulfill the role of the individual who can interpret the instructional implications of evaluation results?

The individual who fulfills this role must be able to translate the evaluation results available on the child, such as results of state, district and school assessments, data from previous interventions and progress monitoring, class-work, observations, and results of most recent evaluations, to name a few, into appropriate instruction. This instructionally relevant information will be used for determining present levels of academic achievement and functional performance, measurable annual goals, specially designed instruction, supplementary aids and services, program modifications and supports to school personnel. This individual may also be filling the role of regular education teacher, special education teacher, agency representative, or another individual who has knowledge or special expertise, if s/he can interpret the instructional implications of the evaluation results.

9. Who else can attend the IEP meeting?

At the discretion of the parent or the agency, other individuals who have knowledge or special expertise regarding the child, including related service providers as appropriate can attend the IEP meeting. For children who are English Language Learners this would also include an individual with knowledge of second language acquisition including English Language Proficiency Standards and Assessments.

...the determination of the knowledge or special expertise of these individuals must be made by the party (parent or public agency) who invited the individual to be a member of the IEP Team.... (Federal Register, Monday, August 14, 2006, p. 66670)

10. When is it required for the child with a disability to attend his/her IEP meeting?

...Generally, a child with a disability should attend the IEP Team meeting if the parent decides that it is appropriate for the child to do so. If possible, the agency and parent should discuss the appropriateness of the child's participation before a decision is made, in order to help the parent determine whether or not the child's attendance would be helpful in developing the IEP or directly beneficial to the child, or both.

Until the child reaches the age of majority under State law, unless the rights of the parent to act for the child are extinguished or otherwise limited, only the parent has the authority to make educational decisions for the child under part B of the Act, including whether the child should attend an IEP Team meeting. (Federal Register, August 14, 2006, p. 46671).

Children 14 years of age **must be invited** to attend their IEP meetings. Student participation in the IEP can be a significant step in assisting students to become their own advocates. As students prepare for the move from school to adult life they will need opportunities to practice the skills necessary in situations where self advocacy will be important. Naturally, this is not accomplished by simply inviting the student to the IEP

meeting. **Prior to the IEP** meeting the student should be engaged in activities designed to engage the student in the IEP process and to be a full participant in the meeting.

These include:

- reviewing assessment information, especially career/vocational assessments
- examining academic progress
- participating in long range planning (student centered planning such as MAPS)
- establishing post-school goals in employment, education, independent living and community participation
- exploring post high school education & training programs
- researching options available through adult service agencies

One of the most effective practices at the IEP meeting to encourage the student's participation is to have the student share his/her thoughts first in the discussions.

11. Who must be invited to the IEP meeting, if post-school goals are to be discussed at the IEP meeting?

At age 14, or younger if the purpose of the meeting will be the consideration of post-school goals, the student must be invited to attend his or her IEP meeting. This is critical because the IEP Team must begin the conversation of the student's long-range goals, (i.e., what the student expects to be doing after they exit public education) and how, through participation in a program of studies and transition services, the student will be prepared to reach his/her goals. While students may not have a specific career goal at age 14, it is important that they explore the options available to them and begin the goal setting process. This is why early career exploration, (visits to colleges, job shadowing, tours, project-based learning, etc.) is important in middle school and should continue in high school. It is also critical that they take the courses that will keep options open to them. The IEP Team becomes an important support in assisting the student in designing a program of studies that will allow him/her access to postsecondary options. Researching and exploring these options become an important part of transition.

An IEP Team may consider initiating transition planning before age 14 for students who may be at risk of dropping out or need assistance with drawing connections between learning and their desired post school goals. If the student does not attend his or IEP meeting, the school district must take the necessary steps to ensure that the student's preferences and interests have been considered. Beginning at 14 years of age and continuing until the student graduates or reaches the age of 21, the IEP Team must begin to formulate the linkages with post-secondary education, training and/or adult services. Getting adult service agencies to attend IEP meetings may be difficult, but it is important for the school district to establish and maintain communication with the agencies to ensure a smooth transition for students. Families and students also play an important role in this

process by returning applications for adult services and keeping appointments. The IDEA has specific steps a school district must follow if an agency commits to services but does not follow through. The school district must reconvene the IEP Team and develop an alternative strategy to meet the student's needs.

12. How can the IEP Team ensure that parents are represented on the IEP Team?

The importance of the parental participation on the IEP Team — and, indeed, parent participation in the education of their child — is strongly underscored by many of IDEA's provisions, especially those relating to the notice the public agencies must provide to parents in advance of every IEP meeting (*NICHCY, Module 12, p.12-8*). When it is determined who will be at the meeting, the school district must notify parents at least ten (10) school days prior to the IEP meeting. The meeting should be held at a time and place that has been mutually agreed upon by the parents and the district. The notice of the meeting must indicate the purpose, time, and location of the meeting and who will be in attendance. The school district also must inform the parents of the right of the parents to invite other individuals who have knowledge, or special expertise regarding the child, including related services personnel as appropriate to be members of the IEP Team.

If the parents do invite another individual to attend the IEP meeting, it is helpful to inform the LEA.

13. How can districts encourage the participation of parents who represent culturally and linguistically diverse backgrounds?

In order to increase the participation of parents from culturally and linguistically diverse backgrounds it is critical to communicate with the parents in a language and form that they understand. Both oral and written translation should be provided by trained personnel. Communication that is regular and ongoing helps parents understand the U.S. education process and their role as parents. While written notice is accepted as the norm in U.S. schools, it may be more culturally appropriate to initiate parent contact via phone or a visit. Culturally appropriate resources should be offered to parents. Parents may also need provisions for childcare, transportation, and/or alternate meetings days and times.

For additional information on engaging families from culturally and linguistically diverse backgrounds please refer to http://nccrest.org/Briefs/PractitionerBrief_BuildingCollaboration.pdf

14. Can the IEP Team hold an IEP meeting without the parent present?

Being actively involved in developing their child's IEP is a parent's right and a parent's choice.... (NICHCY, Module 12, p. 12-8).

Each school district must take steps to ensure that one or both of the child's parents are present at the IEP Team meeting. These steps include notifying the parent of the meeting at least ten (10) school days prior to the meeting and scheduling the meeting at mutually agreed on time and place. If neither parent can attend an IEP meeting, the school district must use other methods to ensure parent participation such as individual or conference telephone calls. If the school district is unable to convince the parents that they should attend and have afforded parents every opportunity to participate, the school district may conduct a meeting without the parent in attendance. In such a case the LEA must have records of attempts to arrange a mutually agreed on time and place, such as records of phone calls, copies of correspondence, and detailed records of visits made to the parent's home or place of employment. (Refer to RI Regulation §300.322)

For more information on how school districts can better engage families in the IEP process please refer to:

Improving Relationships and Results: Building Family School Partnerships, NCSEAM

www.accountabilitydata.org/Family%20involvement.htm

PTA National Standards for Family School Partnerships
www.PTA.org/partnerships

15. If a student with a disability has several regular education teachers, must all of them attend the IEP meeting?

The regulations require that not less than one regular education teacher of the child attend the IEP meeting. The language of the regulations certainly allows the participation of more than one regular education teacher. However, it does not require their attendance. If the participation of other teachers would be helpful to developing an IEP to enable the student with a disability to be involved in and make progress in the general curriculum, it would be appropriate to invite them. If the teachers do not attend, the IEP Team is encouraged to seek input from those teachers.

However, even if all the teachers do not participate, the school district must make sure that each of the child's teachers have access to the child's IEP and has been informed of his or her specific responsibilities related to implementing the IEP as well as the specific accommodations, modifications and supports that must be provided to the child. Even if a guidance counselor is certified as a regular education teacher, s/he cannot fill the role of regular education teacher at the IEP meeting. This role must be filled by the child's regular education teacher.

300.323(d) *Accessibility of the 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

16. If the student with a disability is in a substantially separate program and/or does not have a regular education teacher, must a regular education teacher attend?

The regulations state that a regular education teacher must attend if the child is, or may be, participating in the regular education environment. One could argue that if a child with a disability is in a substantially separate program he/she will not be participating in the regular education environment. But to do so would be determining the child's placement before the IEP Team meets to discuss the child's needs and to develop the IEP. In addition regular education teachers are particularly familiar with the general education curriculum. Their presence helps ensure that the IEP Team will consider the student's opportunity to be involved with and make progress in the general curriculum. The regular education teacher can provide valuable information on the specific curriculum areas to be addressed as well as modifications and accommodations that could be made for the student. Therefore, a regular education teacher should participate as a member of the IEP Team for a student with a disability, who is in a substantially separate program.

17. Must a regular education teacher attend an IEP meeting for a preschool child?

As noted above, the regular education teacher has familiarity with the general education curriculum. For preschool children this would include the Rhode Island Early Learning Standards in addition to the assessments used, and the positive behavioral supports and interventions that would be appropriate in the general education preschool setting. More importantly the regular education teacher brings knowledge of the age appropriate expectations for preschoolers. Although a special education teacher is certified as a general education teacher, that is not his/her role on the IEP Team nor in "integrated" or substantially separate preschool settings. Therefore a preschool teacher whose role is that of a regular educator should be represented on the IEP Team. This would also be the case for preschool children who are receiving speech only services.

18. If a student with a disability has need for related services, must a related service provider attend the IEP meeting?

The regulations do not specifically require that the IEP Team include related services personnel. However they do note that individuals who have knowledge or special expertise regarding the child, including related services providers, as appropriate, could attend at the discretion of the parent or school district. Therefore if the parents or school district believe the related service provider has special expertise regarding the child, s/he should be invited. Since speech and language therapy is considered specially designed instruction in Rhode Island for children up to the age of 9, the speech therapist could attend the IEP

meeting as the child's special education teacher/special education provider for a child up to the age of 9 who requires speech and language therapy as his or her special education services.

19. What can the IEP Team do if a parent of a child with a disability under the age of majority (18) does not want that child to attend his or her IEP meeting and post-school goals are going to be discussed?

Prior to the age of 14 children with disabilities can attend their IEP meeting if appropriate. However, a child 14 years of age or older or any child for whom post-school goals and transition services needed to reach those goal would be considered *must be invited* to attend his/her IEP meeting. However,

...only the parent has the authority to make educational decisions for the child under Part B of the Act, including whether the child should attend an IEP Team meeting. (Federal Register, August 14, 2006 p. 44671).

Thus the parents of a child 14 years of age or older could decide that it would not be appropriate for their child to attend his/her IEP meeting, although this would be a rare occurrence. If the child 14 years of age or older, or any child for whom post-school goals and transition services are to be discussed does not attend his/her IEP meeting, the school district must ensure that the child's preferences and interests are considered. There is a section on page 2 of the Secondary IEP form for the IEP Team to document how the student's preferences and interests were obtained.

20. Can required members of the IEP Team be excused from attending the meeting?

A required member of the IEP Team can be excused from an IEP meeting if the school district and the parent of the child with a disability agree in writing that the attendance of the individual is not needed because the individual's area of curriculum or related services is not being modified or discussed. If the meeting will involve a modification or discussion of the individual's area of the curriculum or related services, the individual may be excused if the parent consents in writing to the excusal and the individual submits in writing to the parent and the IEP Team his or her input into the development of the IEP prior to the meeting. Individuals are encouraged to refer to their district procedures to document whether the attendance of an IEP member is not necessary or an IEP member is excused.

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 IEP Team, input into the development of the IEP prior to the meeting.

21. Can parents or LEAs bring their attorneys to IEP meetings?

The parent or LEA may invite individuals to the IEP meeting if they have expertise or knowledge regarding the child that is pertinent to developing the IEP. If an attorney happens to have this type of relationship and wishes to contribute to the IEP process, this may be considered to be appropriate. Such a presence may, however, appear threatening to the other party and hinder the open atmosphere of sharing that is desirable at IEP meetings. The determination of the knowledge or special expertise shall be made by the parents or the school district. *(See also RI Regs §300.321(c))*

Evaluation Teams/IEP Teams



22. What is the relationship between the team of qualified professionals, known as the Evaluation Team, who determined the child eligible for special education services and the IEP Team?

If the child has been referred for special education for the first time the team of qualified professionals and the parent of the student referred for an evaluation will determine if the student should be evaluated for special education and what additional information would be needed to determine if the child is a student with special needs and requires specially designed instruction. The team of qualified professionals will include the members of the IEP Team, including the parent, as well as other qualified individuals as appropriate, and are known as the *Evaluation Team*. When considering a referral of a student who is culturally and linguistically diverse it is important that the Evaluation and IEP Team include an individual, such as the building or district ELL coordinator or the ESL bilingual teacher, who can interpret:

- Language Proficiency information from the Home Language Survey
- WIDA Access Placement Test results
- Access assessment results
- Native language literacy information for students who have had native language instruction in their home country or in U.S. schools
- Assessment of English Proficiency including information on the language most likely to yield accurate information

The information on the child's language proficiency will be essential in determining the language of the evaluations. The student may need assessment in both the native language and in English to obtain a full understanding of what the child knows and can do. In addition when conducting the evaluations the child may be assessed in English, but responds in the native language as well as English. The dual language response must be factored into the overall evaluation conclusions of what the child knows and can do when the report is constructed.

If the Evaluation Team including the parent determine during the review that sufficient and culturally and linguistically appropriate interventions have not been attempted and documented, the Evaluation Team, including the parent may request additionally information before determining whether the child requires an evaluation.

The information requested by the Evaluation Team will be helpful in determining what if any additional evaluations will be required in determining if the child is a child with a disability and requires special education and related services.

All of the information gathered prior to the referral as well as the evaluations requested by the evaluation team will be particularly critical to the Evaluation Team and to the IEP Team in determining:

- the student's strengths and needs
- what interventions, accommodations and modifications have or have not been effective and to what degree and intensity
- if all reasonable accommodations have been implemented through regular education services
- parental involvement throughout the process
- strengths and needs in first language vs. English as well as need for native language support
- effect of culture on behavior interactions.

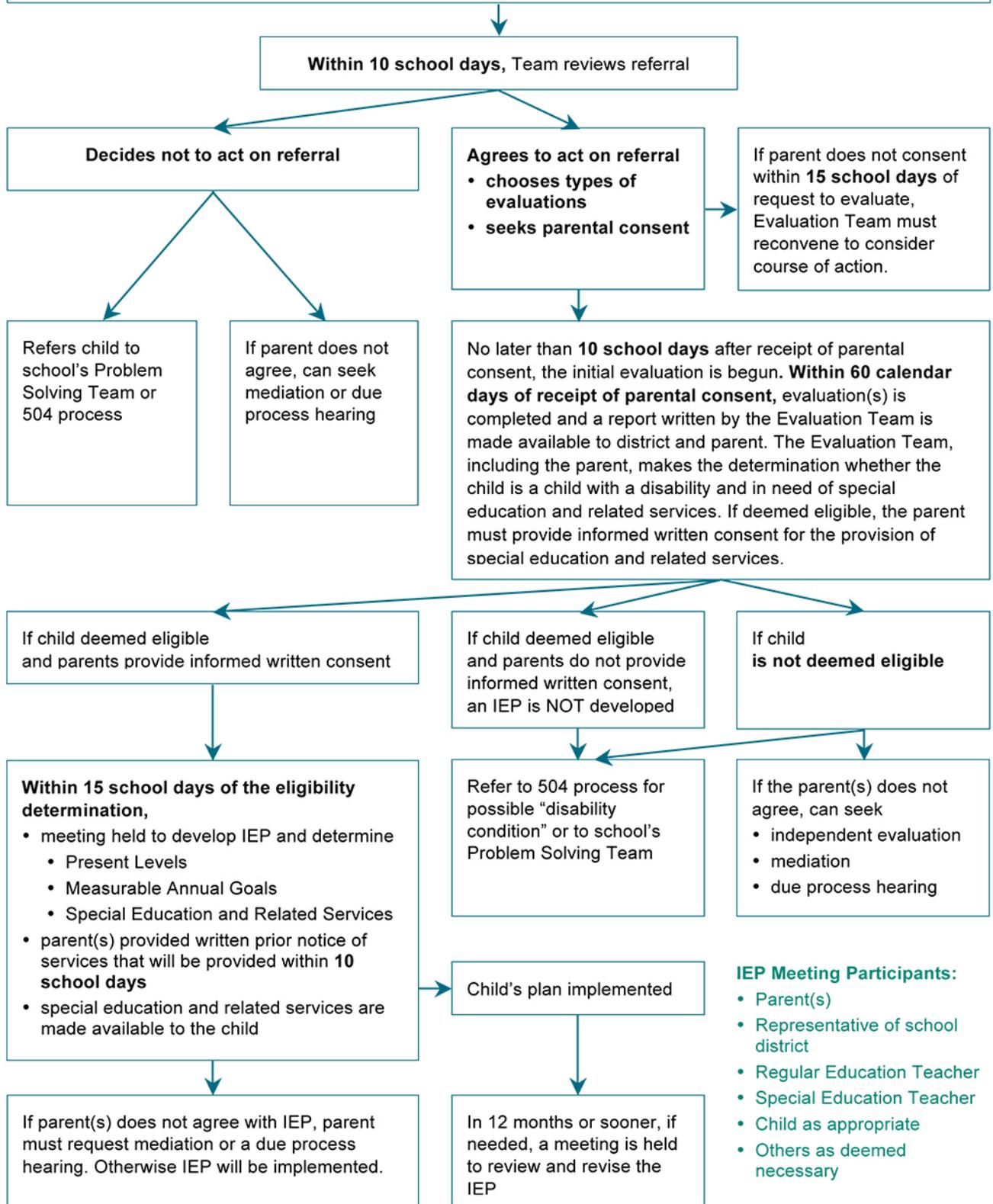
Once the requested information has been gathered the Evaluation Team including the parent will determine whether the child is a child with a disability and the educational needs of the child. At this point the team of qualified professionals will obtain from the parents informed written consent for special education services. If the parent does not provide his/her informed written consent the process stops. If the parent does provide his/her informed written consent for special education services, the team of qualified professionals will develop a report and share it with the IEP Team. The IEP Team must then meet and develop an IEP for the student within 15 school days of the eligibility determination. The process for initial evaluation and the IEP development is outlined in the following flow chart.

The school district shall document a history of the child's response to scientific, research based interventions before referring the student for a special education evaluation. This process does not prohibit direct referral for a special education evaluation at any time by a parent or school district representative.

The IEP Process

Child referred to Evaluation Team including parent for possible special needs

Evaluation Team includes qualified personnel, who meet state approved or recognized certification or licensing in relevant areas, and the parent



300.301 Initial evaluations...

(c) *Procedures and timeframe for initial evaluation.*

(1) Each public agency must ensure that;

(i) Within ten (10) school days of the receipt of a referral for special education services a team of qualified professionals and the parent that includes the individuals described in §300.321 and other qualified professionals, as appropriate, known as the *Evaluation Team*, meet to determine if a special education evaluation is needed.

(ii) The initial evaluation shall commence no later than ten (10) school days after the receipt of parental consent to conduct such an evaluation. If the parent does not notify the public agency within five (5) school days of their consent to evaluate, the team must document its efforts to obtain consent. If the public agency has not obtained parental consent to evaluate within fifteen (15) school days of the request to evaluate, the Evaluation Team must reconvene to consider what action the public agency will take including, (as appropriate) the requirements described in §300.300(a).

(iii) A full individual initial evaluation is conducted before the initial provision of special education and related services.

(2) Within sixty (60) calendar days of receipt of parental consent to an initial evaluation:

(i) The child is evaluated; and

(ii) A written report of the Evaluation Team is made available to the public agency and parent(s); and a team of qualified professionals and the parent(s) of the child meet as an eligibility team to determine whether the child is a child with a disability and in need of special education and related services.

(3) If determined eligible under this part, an IEP meeting is conducted and an IEP is developed and special education and related services are made available to the child in accordance with an IEP within fifteen (15) school days of the eligibility determination.

(4) If it is determined that an initial evaluation is not needed, the evaluation team shall consider referring the student's case back to general education for appropriate action.

300.300 Parental consent...

(b) *Parental consent for services.*

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

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

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

(i) May not use the procedures in subpart E of this part (including the mediation procedures under §300.506 or the due process procedures under §§300.507 through 300.156) in order to obtain agreement or a ruling that the services may be provided to the child.

(ii) Will not be considered to be in violation of the requirement to make FAPE available to the child because of the failure to provide the child with the special education and related services for which the parent refuses to or fails to provide consent; and

(iii) Is not required to convene an IEP Team meeting to develop an IEP under §§300.320 and 300.324 for the child.

(4) If, at any time subsequent to the initial provision of special education and related services, the parent of the child revokes consent in writing for the continued provision of special education and related services, the public agency —

(i) May not continue to provide special education and related services to the child, but must provide prior written notice in accordance with §300.503 before ceasing the provision of special education and related services;

(ii) May not use the procedures in subpart E of this part (including the mediation procedures under §300.506 or the due process procedures under §§300.507 through 300.516) in order to obtain agreement or a ruling that the services may be provided to the child;

(iii) Will not be considered to be in violation of the requirement to make FAPE available to the child because of the failure to provide the child with further special education and related services; and

(iv) Is not required to convene an IEP Team meeting or develop an IEP under §§300.320 and 300.324 for the child for further provision of special education and related services....

300.304 Evaluation procedures.

(a) *Notice.* The public agency must provide notice to the parents of a child with a disability, in accordance with §300.503, that describes any evaluation procedures the agency proposes to conduct.

(b) *Conduct of evaluation.* In conducting the evaluation, the public agency must —

(1) Use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the child, including information provided by the parent, that may assist in determining —

(i) Whether the child is a child with a disability under §300.8; and

(ii) The content of the child's IEP, including information related to enabling the child to be involved in and progress in the general education curriculum (or for a preschool child, to participate in appropriate activities);

(2) Not use any single measure or assessment as the sole criterion for determining whether a child is a child with a disability and for determining an appropriate educational program for the child; and

(3) Use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors.

(c) *Other evaluation procedures.* Each public agency must ensure that —

(1) Assessments and other evaluation materials used to assess a child under this part —

(i) Are selected and administered so as not to be discriminatory on a racial or cultural basis;

(ii) Are provided and administered in the child's native language or other mode of communication and in the form most likely to yield accurate information on what the child knows and can do academically, developmentally, and functionally, unless it is clearly not feasible to so provide or administer;

(iii) Are used for the purposes for which the assessments or measures are valid and reliable;

(iv) Are administered by trained and knowledgeable personnel; and

(v) Are administered in accordance with any instructions provided by the producer of the assessments;

(vi) Assessments are selected and administered so as best to ensure that if an

assessment is administered to a child who is learning English as a second language, the assessment results accurately reflect the child's aptitude or achievement level or whatever other factors the test purports to measure, rather than reflecting the child's linguistic difference, in accordance with §300.173.

(2) Assessments and other evaluation materials include those tailored to assess specific areas of educational need and not merely those that are designed to provide a single general intelligence quotient.

(3) Assessments are selected and administered so as best to ensure that if an assessment is administered to a child with impaired sensory, manual, or speaking skills the assessment results accurately reflect the child's aptitude or achievement level or whatever other factors the test purports to measure, rather than reflecting the child's impaired sensory, manual, or speaking skills (unless those skills are the factors that the test purports to measure).

(4) The child is assessed in all areas related to the suspected disability, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities;

(5) Assessments of children with disabilities who transfer from one public agency to another public agency in the same school year are coordinated with those children's prior and subsequent schools, as necessary and expeditiously as possible, consistent with §§300.301(d)(2) and (e), to ensure prompt completion of full evaluations.

(6) In evaluating each child with a disability under §§300.304 through 300.306, the evaluation is sufficiently comprehensive to identify all of the child's special education and related service needs, whether or not commonly linked to the disability category in which the child has been classified.

(7) Assessment tools and strategies that provide relevant information that directly assists persons in determining the educational needs of the child are provided.

23. What happens if, after considering the referral the Evaluation Team, including the parent, determines that the student does not require an evaluation for special education?

If the Evaluation Team, including the parent determines that the student does not require an evaluation for special education, it should notify the parent within 10 school days and it should consider one of the following options:

1. Forward the team's findings to the school's Problem Solving Team
2. Forward the team's findings to the district's 504 Team.

Often the student has been referred because s/he is experiencing learning and or behavior problems in the classroom. The Problem Solving Team may provide the teacher with additional support if warranted including providing information on reducing language demands of content and cultural contexts for instructional planning. Also, if the Evaluation Team determines that the student does not require an evaluation, it should be aware that the student might be considered "disabled" under Section 504 and refer the student to the district's 504 process for consideration. As noted in the flow chart in question IV.1., if the parent does not agree with the Evaluation Team's decision not to evaluate, s/he can request mediation and/or a due process hearing to resolve the disagreement. The Evaluation Team should inform parents of this right when stating its decision not to evaluate.

24. What is the role of the parent on the Evaluation Team?

Parents are essential partners on the Evaluation Team, as they are on the IEP Team. They should be encouraged to participate and assisted to participate fully. They are not merely invited as a courtesy or to be informed by the professionals on the team, but often have valuable information that the rest of the team needs to consider. This might include either written or anecdotal information about a student's history and development, including school and linguistic history, as well as information about a student's performance at home and other environments. Parents can share results of relevant medical and/or clinical assessments that may have already been performed outside of school. Additionally parents often have a keen awareness of their child's strengths. Teams should specifically ask families to share this kind of information, which could help inform the decision of the team, and must always consider the information the parents bring. Teams must ensure that parents understand why they are sharing this information and their role on the team. Schools must understand that parents may interpret learning difficulties differently.

For more information on how school districts can better engage families in the IEP process please refer to

Improving Relationships and Results: Building Family School Partnerships, NCSEAM
www.accountabilitydata.org/Family%20involvement.htm

PTA National Standards for Family School Partnerships
www.PTA.org/partnerships

25. Can the Evaluation Team determine services?

No. The Evaluation Team and the parent may only discuss **options** for special education services. This may be beneficial in helping the parent to make a decision regarding informed written consent for special education and related services. A parent must provide informed written consent before the IEP Team can meet and develop the IEP. The actual decisions regarding the type and amount of special education services are made at the meeting held to develop the IEP at which the parent must be a participant. They will be made after a discussion of the child's present levels of performance, a determination of goals and then and only then can final decisions be made about the special education and related services needed to meet those goals.

26. Why is the information provided by the team of qualified professionals, known as the Evaluation Team, and the parent important to the IEP Team?

The IEP must be developed as an internally consistent document. This means that the assessment data provided by the Evaluation Team, as well as information provided by the IEP Team members, serve as the basis for developing the student's present levels of academic achievement and functional performance. These in turn serve as the basis for establishing the student's annual goals, short term objectives or benchmarks, and the supplementary aids and services needed to meet those goals in the least restrictive environment. **Only after those components have been determined can the IEP meeting**

participants determine the special education and related services necessary for the child to attain the defined goals and objectives. In addition the IEP meeting participants will determine the extent to which the student with a disability will be able to participate in regular education programs, the dates for the beginning of services, frequency, location, and duration of services and program modifications.

27. Can a district combine the team meeting to determine the need for special education and the IEP meeting?

A school district may, after a child is determined by the Evaluation Team and the parent to be a child with a disability and in need of special education and related services, continue in the same meeting to develop an IEP for the child. However, the school district must ensure that the meeting 1) meets all the requirements regarding eligibility decisions; 2) meets all the requirements regarding meetings to develop IEPs including ensuring that all participants work together in the development of the IEP; and 3) that the parent has provided informed written consent prior to the development of the IEP.

28. What should the team consider in developing the student's IEP?

No single factor determines the development of the IEP content. Rather a combination of information from a variety of sources will be used to determine the student's present levels of academic achievement and functional performance as well as post-school goals where appropriate. These sources include student's outcomes on previous IEP goals if this is not the child's first IEP, initial or most recent evaluations of the student, data from previous interventions and progress monitoring, classroom/district/state assessments, portfolios, vocational evaluations, work products, observations, tests results provided by the family member, the student, the classroom teacher and other professionals.

300.324 Development, review, and revision of the 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.

(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.

B. CONTENT OF THE IEP



29. What must be included in the IEP?

According to the *RI Board of Regents for Elementary and Secondary Education Regulations Governing the Education of Children with Disabilities*, the following must be included in the Individualized Education Program:

- Present levels of academic achievement and functional performance
- Measurable annual goals
- Benchmarks or short term objectives
- How the child's progress towards annual goals will be measured
- How the child's parents will be periodically informed of progress toward annual goals
- Special education and related services and supplementary aids and services
- Extent, if any, to which the child will not participate with non-disabled children in the regular class
- A statement of any individual appropriate accommodations on State or district-wide assessments or a statement of why that regular assessment is not appropriate for the child and why the particular alternate assessment is appropriate for the child
- Projected date for the beginning of services and modifications as well as frequency, location, duration of services and modifications
- Beginning at age 14 appropriate measurable post-secondary goals

For a professional development module on Content of the IEP go to Module 13 at <http://www.nichcy.org/Laws/IDEA/Pages/module13.aspx>

- Beginning at age 14 a statement of the needed transition services
- Beginning from the child's 17th birthday, a statement must be included that documents that the student has been informed of rights transferred to him or her upon reaching age 18.

300.320 Definition 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 through 300.324, and must include —

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

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

(ii) For preschool children, as appropriate, how the disability affects the child's participation in appropriate activities;

(2)(i) A statement of measurable annual goals, including academic and functional goals and short-term objectives, aligned, where applicable, to the child's personal literacy and/or individual learning plan designed to —

(A) Meet the child's needs that result from the child's disability to enable the child to be involved in and progress in the general 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 (in accordance with paragraph (2)(i) of this section);

(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;

(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:

(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 or district-wide assessments consistent with §612(a)(16) of the Act; and

(ii) If the IEP team determines that the child must take an alternate assessment instead of a particular regular State or 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; and

(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.

(b) *Transition services.* For a child with a disability, beginning at age fourteen (14), or younger if determined appropriate by the IEP Team, and updated annually, thereafter, the IEP must include —

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

(2) The transition services (including courses of study) needed to assist the child in reaching those goals.

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

Transition



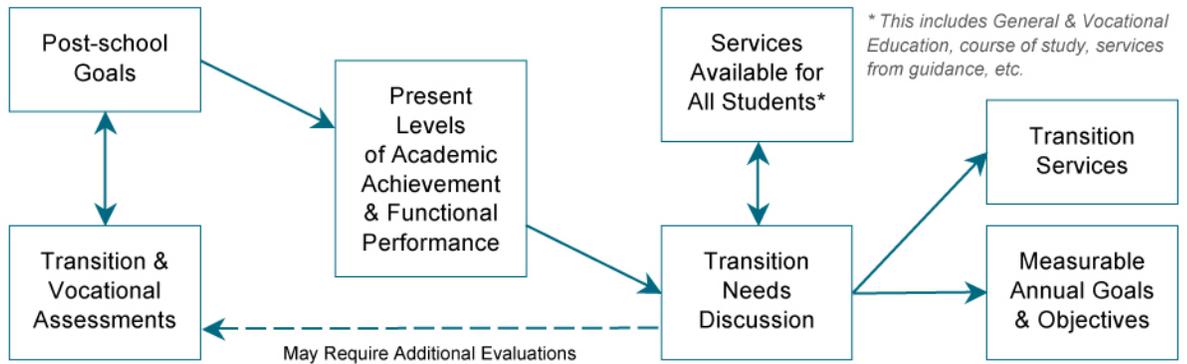
30. What is transition and how does it relate to the IEP?

Transition is not a document but a process that becomes documented in the IEP. The transition process is intended to:

- Engage the student, family and educators in thinking about the student's plans for the future
- Identify the student's strengths, preferences and interests through age appropriate transition assessments
- Understand how the student is currently performing in relation to his/her future plans
- Provide instruction, related services, community experiences, career exploration, work experience and adult living experiences while in school to prepare for the student's future plans
- Assist in formulating linkages with agencies & services students may need after high school
- Ensure that every student is involved and makes progress in the general education curriculum.

The intended outcome is that every child is successful once they exit school. The IEP process provides an effective vehicle for facilitating student's transition outcomes, An emerging model for effective transition planning in the IEP is provided in the following chart:

IEP Process for Transition



As outlined in the chart, effective transition planning involves the following steps:

- 1. Identify the student's measurable post-school goals in education and training, employment and where appropriate independent living.**

This can be facilitated through formal student centered planning or transition assessment (several commercial products are available) or informally through student and parent questionnaires, discussions with students, brainstorming, etc. The assessments used and the goals developed are then documented on the IEP.

For more information on transition go to

http://www.ride.ri.gov/Special_Populations/Programs_Services/Secondary_Transition/Secondary%20Transition%20Services.aspx

- 2. Describe/discuss the student's present level of academic achievement and functional performance in the transition areas related to the post-school goals.**

This discussion will help the team sort out the activities and services available through school and community that will aid the student in reaching the post-school goals. This will also assist the student and family in thinking about the opportunities and experiences the student may pursue outside of school to reach the goals.

- 3. Determine whether the post-school goals will be addressed through an IEP measurable annual goal, a transition service, or a course of study.**

The IEP Team will sort the services needed to meet the child's post-school goals in one of three categories:

- the services needed to reach the measurable post-school goals that require specially designed instruction and thus would have a measurable annual goal;

If the IEP Team determines that the post-school goals require specially designed instruction and thus a measurable annual goal, the IEP Team will define the student's baseline (current measurable performance level for that

goal), the goal itself, including a measurable criteria, how progress towards the goal will be measured, short term objectives as well as defining the special education or related services needed to meet the goal. For some children the annual goals will be closely aligned with their academic goals. For others, the goals may be more focused on functional skills

- b. the services needed to reach the post school goals can be met through courses available in the general education curriculum referred to as a course of study;

If the IEP Team determines that the post-school goals can be met through a course or program of study it will identify the course(s) or program, e.g., college prep courses, core courses, personal finance course, etc. It is important for members of the IEP Team to become familiar with the resources available through the general education curriculum and their availability. Or

- c. the services needed to reach the post-school goals that will be provided through transition services.

If the IEP Team determines that the post-school goals can be met through transition services other than special education, related services or courses of study it will identify the services required, specify who will be responsible for ensuring that the services are implemented, i.e., general education or special education, family, student or another agency. If an outside agency does not follow through in providing the service, the IEP Team must reconvene, determine if the service is still required and if so, determine another way to meet the need.

Transition planning is most effective when all parties are active in the planning and implementation of activities to connect students with their desired future. The school documents its responsibilities in the IEP document. Supporting students and family in the process with honest dialogue and good information allows the responsibility for achieving the students successful outcomes to be a shared responsibility.

Please refer to the *IEP Guidebook* and the sample IEPs at www.ritap.org/IEP/publications/publication.html for examples of transition assessments, post-school goals, transition services and examples of IEPs for students 14 years of age or

300.39 Special education...

(3) *Specially defined instruction* means adapting, as appropriate to the needs of an eligible child under this part, the content, methodology, or delivery of instruction —

- (i) To address the unique needs of the child that result from the child's disability; and
- (ii) To ensure access of the child to the general curriculum, so that the child can meet the educational standards within the jurisdiction of the public agency that apply to all children....

300.43 Transition services.

(a) *Transition services* means a coordinated set of activities for a child with a 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 strengths, preferences and interests; and

(3) 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 functional vocational evaluation.

(b) *Transition services for children with disabilities* may be special education, if provided as specially designed instruction, or related services, if required to assist a child with a disability to benefit from special education.

(RI Regs. p. 24)

300.324 Development, review and revision of the 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.

300.320 Definition of individualized education program

(b) *Transition services.* For a child with a disability, beginning at age fourteen (14), or younger if determined appropriate by the IEP Team, and updated annually, thereafter, the IEP must include —

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

(2) The transition services (including courses of study) needed to assist the child in reaching those goals.

31. Must the IEP for every 14 year old student with a disability regardless of the student's skill levels, include measurable postsecondary goals relating to education, employment and training?

Yes. Under §300.320(b), the IEP for each child with a disability, must, beginning not later than the first IEP to be in effect when the child turns 14, or younger if determined appropriate by the IEP Team, and updated annually thereafter, include: (1) appropriate measurable postsecondary goals based upon age appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills; and (2) the transition services (including courses of study) needed to assist the child in reaching those goals. This requirement applies, whether or not the child's skill levels related to training, education, and employment are age appropriate. The IEP Team must, however, develop the specific postsecondary goals for the child, in light of the unique needs of the child as determined based on age appropriate transition assessments of the child's skills in these areas.

32. May community access skills be included in the IEP as independent living skills?

(adapted from OSERS Q & A document available at <http://idea.ed.gov/explore/view>)

It depends. The IEP Team must determine whether it is necessary to include appropriate measurable postsecondary goals related to independent living skills in the IEP for a particular child, and — if so — what transition services are needed to assist the child in reaching those goals. Under §300.43, “transition services” are defined as “a coordinated set of activities for a child with a disability” “to facilitate movement from school to post-school activities,” and include among other activities, “independent living, or community participation.” Based on the assessment of the student’s independent living skills, the IEP Team would need to determine whether transition services in the form of community access skills are necessary for the child to receive a free appropriate public education (FAPE). If so, those skills must be reflected in the transition services in the child’s IEP.

33. What are age appropriate transition assessments?

Transition assessment is an ongoing process of collecting and reviewing information on a student’s strengths, needs, preferences and interests as they relate to the child’s transition from the world of school to the student’s post-school activities in education and training, employment, and where appropriate independent living. Best practice would suggest that a continuum of transition assessments begin before the child reaches the age of 14, but if they haven’t they must begin at age 14. The assessments must be designed for students 14 years of age or older. They can take a variety of formal and informal forms such as formal achievement tests, self determination scales, social skills inventories, interest inventories, structured interviews, situational assessments at work or home, and vocational assessments. The purpose of the assessments is to inform the student’s post-school goals in education and training, employment, and where appropriate independent living. Then as part of the IEP process the IEP Team will determine the program of studies, transition services and IEP annual goals and services needed to support the student in reaching his/her post-school goals. The assessments thus form the foundation for the student’s IEP.

300.46 Vocational evaluation.

Vocational evaluation is a strength based, student centered process, by which information is obtained to assist students in designing individualized education and vocational services to reach their career goals. This includes the use of formal and

informal methods to collect information, including: Interest inventories, student interviews, parent interviews, skill and aptitude tests, on-campus and off-campus situational assessments, work samples, vocational evaluations, performance in career related courses and other methods. Vocational evaluation is an on going process, not a single test or procedure. The results of Vocational evaluation are shared at IEP meetings and the information obtained through the Vocational evaluation should be infused into designing the student's educational services and developing appropriate, measurable post secondary goals.

34. If an IEP Team chooses to address transition before age 14 (for example, at age 13) are the same standards required?

(adapted from OSERS Q & A document available at www.idea.ed.gov/explore/view)

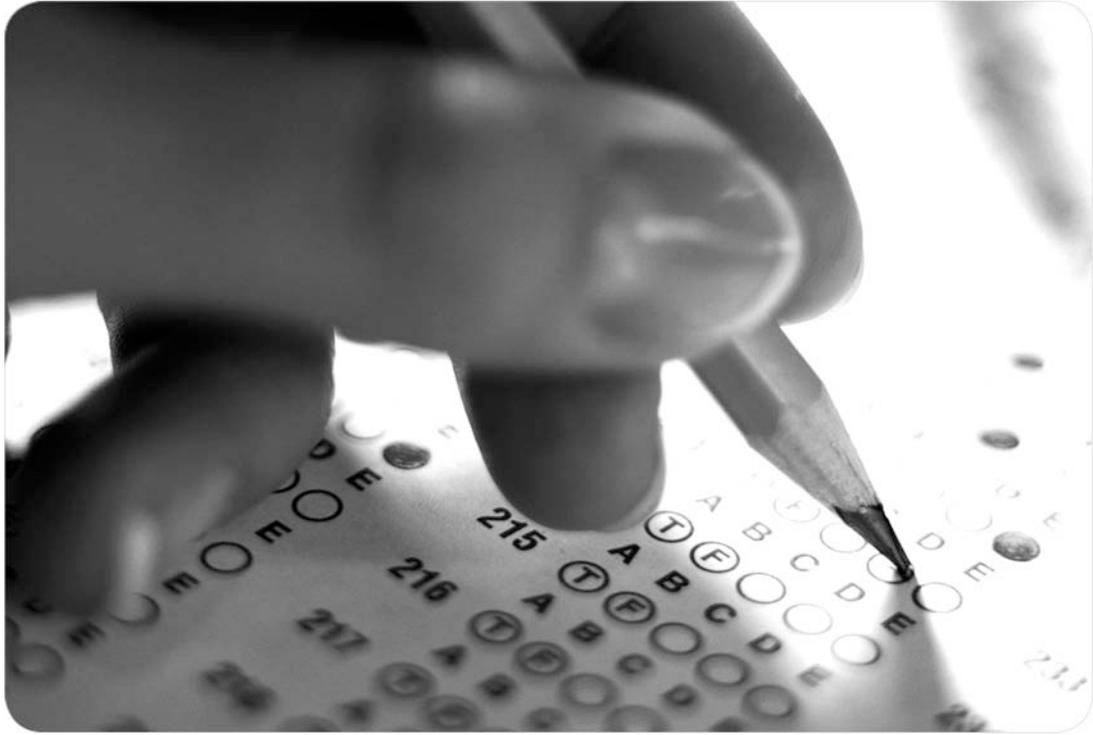
Yes. The regulations provide, at §300.320(b), that beginning not later than the first IEP to be in effect when the child turns 14, or younger if determined appropriate by the IEP Team, and updated annually, thereafter, the IEP must include — (1) Appropriate measurable postsecondary goals based upon age appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills; and (2) The transition services (including courses of study) needed to assist the child in reaching those goals. If the IEP Team for a particular child with a disability determines that it is appropriate to address the requirements of §300.320(b) for a child who is younger than age 14, then the IEP for that child must meet the requirements of §300.320(b).

35. Section 300.320(b)(1) requires that appropriate postsecondary transition goals be measurable. Must we measure goals once a student has graduated or has aged out?

(adapted from OSERS Q & A document available at <http://idea.ed.gov/explore/view>)

There is no requirement for public agencies to measure postsecondary goals once a child is no longer eligible for FAPE under Part B of the Act. Under §300.101, FAPE must be made available to all children residing in the State in mandatory age ranges. However, the obligation to make FAPE available does not apply to children who have graduated from high school with a regular high school diploma (§300.102(a)(3)) or to children who have exceeded the mandatory age range for provision of FAPE under State law (§300.102(a)(2)). When a child's eligibility for FAPE pursuant to Part B terminates under these circumstances, in accordance with §300.305(e)(3), the local educational agency (LEA) must provide a "summary of the child's academic achievement and functional performance, which shall include recommendations on how to assist the child in meeting the child's postsecondary goals." However, this provision does not require the LEA to provide services to the child to meet these goals.

Present Levels of Academic Achievement and Functional Performance



36. What are present levels of academic achievement and functional performance?

The present levels of academic achievement and functional performance provide the IEP Team with an opportunity to describe how the child's disability affects the child's involvement and progress in the general education curriculum (i.e., the same curriculum as for nondisabled children). In the comment section of the Federal Register for August 14th, 2006 the Department of Education made this statement regarding **academic achievement**.

Please refer to the *IEP Guidebook* and the sample IEPs at www.ritap.org/IEP/publications/publication.html for examples of present levels of academic achievement and functional performance.

“Academic achievement” generally refers to a child’s performance in academic areas (e.g., reading or language arts, math, science, and history). We believe the definition could vary depending on a child’s circumstance or situation, and therefore, we do not believe a definition of “academic achievement” should be included in these regulations. (p. 46662).

In considering how the disability impacts the child's involvement and progress in the general curriculum the impact is usually most challenging in the basic academic areas of reading, writing, and math. Therefore, in Rhode Island it is expected that IEP Teams would minimally discuss how the disability impacts those basic academic areas in the present level of academic achievement section of the IEP. Present levels of academic achievement should be aligned to the appropriate age/grade level standards such as Grade Level and Grade Span Expectations (GLEs/GSEs). For students who are assessed using the

alternate assessment system the appropriate standards would be the Alternate Assessment Grade Span Expectations. If the student will be participating in the alternate assessment system, the student must meet all the criteria on the *Participation Criteria for the Rhode Island Alternate Assessment System (RIAA)*. This decision is made by the IEP Team. If the student is an English Language Learner, the IEP Team should also consider how the disability impacts the student's performance on the World-Class Instructional Design and Assessment (WIDA) English Language Proficiency (ELP) standards.

In the comment section of the Federal Register for August 14th, 2006 **functional** is defined as skills or activities that are not considered academic or related to a child's academic achievement and are often used in the context of routine activities of everyday living. (p. 46661). These would include: communication with peers or adults (e.g., turn taking, asking for help, sharing information), activities of daily living; (e.g., eating, dressing, toileting), social skills (e.g., using appropriate tone of voice, tolerating frustration, curbing aggression), and environmental access and mobility (e.g., going from one classroom to another).

For preschool children present levels refer to how the child's disability affects the child's participation in **appropriate activities**. Appropriate activities in this context means activities that are "suitable" or "fitting" for a particular person, condition, occasion, or place. (*Federal Register, Vol. 71, No 156, Monday, August 14, 2006, p. 46661.*) In Rhode Island the standards that address the expectations for preschool children in appropriate activities are the Early Learning Standards (ELS). These standards integrate both academic achievement and functional performance for 3 and 4 year olds.

The IEP Team's determination of how each child's disability impacts the child's involvement and progress in the general curriculum is a primary consideration in the development of the child's IEP. In assessing children with disabilities, school districts may use a variety of assessment techniques to determine the extent to which these children can be involved and progress in the general curriculum, such as student outcomes on previous IEP goals, initial or more recent evaluations of the student, data from previous interventions and progress monitoring, classroom/school/district state assessments, portfolios, vocational evaluations, work products, observations, test results, etc. provided by family members, the student, the classroom teacher, and other professionals.

The purpose of using these assessments is to determine the child's present level of academic achievement and functional performance and areas of need arising from the child's disability so that approaches for ensuring the child's involvement and progress in the general curriculum. Any needed adaptations or modifications to that curriculum can be identified. When possible IEP Teams are encouraged to use technically adequate measures that are being used in general education to define a student's present level of academic achievement and functional performance. Using general education measures helps ensure alignment of the child's program to the general curriculum.

More and more school districts are moving towards the use of Curriculum Based Measurements in defining student performance. These mastery or general outcome

measures are helpful in not only identifying students who are failing to achieve at expectancy and in need of support, but also in developing quantitative, measurable baselines and measurability statements for annual goals. A critical component of the present level in areas that will require specially designed instruction is the baseline. The baseline describes in objective, quantifiable, measurable terms what the student can currently do. It serves as the “pretest” level for the IEP goal. The measurability component of the IEP goal represents the posttest level. It defines for the parent and the other IEP Team members where the child will be on the goal maximally in a year’s period of time.

A note of caution. Standardized tests scores by themselves generally are not helpful in developing IEP present levels of academic achievement and functional performance because they do not provide material that is relevant to the regular classroom and they are not specific enough to develop annual goals and short term objectives. For example, it is difficult to use standard scores or percentiles to monitor a student’s progress towards an annual goal. Grade equivalents and age equivalents are often misunderstood and for this reason professional organizations such as the American Psychological Association have recommended that they not be reported.

If the child has been provided accommodations or modifications within the general curriculum that have been successful in addressing how the child’s disability impacts the child’s involvement and progress in the general curriculum they should be described in the Present Levels. In addition if a child’s disability impacts performance in areas such as math, literacy, behavior or other academic or functional areas, and these needs are addressed through educational programs or supports such as Personal Literacy Plans, Behavior Intervention Plans or assistive technology devices provided successfully through general education services these should also be captured in the present levels section of the IEP. This will ensure that all individuals who work with the child are familiar with how the child’s disability impacts the child’s involvement and progress in the general curriculum, even if the needs described will not require specially designed instruction.

From these specific levels the participants at the IEP meeting will determine which needs cannot be met through general education supports and services and require specially designed instruction provided by an appropriately licensed individual, such as a special educator. The IEP Team will then develop annual goals and objectives which are relevant, and then determine the supplementary aids and services and special education and related services that need to be provided for the child to meet the goals.

37. If a student does not have needs in the area of functional performance must a statement be included on the IEP?

Yes, every IEP **must** include a statement of the child’s present level of academic achievement **and** functional performance (*Refer to Federal Register, Vol. 71, #156, Monday, August 14, 2006, p. 46662.*)

38. Can a student with a disability have a Personal Literacy Plan (PLP)?

Personal Literacy Plans (PLPs) are developed for all students achieving below grade level in literacy. They focus on developing interventions in areas of literacy needs and monitoring children's progress so that the student will achieve at grade level expectations.

If a student with an IEP was not achieving at grade level in reading this student would have a PLP. The PLP tends to be developed quarterly and specifies the interventions. Whether or not the student would also have a goal on his/her IEP related to literacy would depend on two factors:

1. whether the student's disability was impacting his or progress in literacy; and
2. whether the student required specially designed instruction to address his/her literacy needs.

Below are three examples of how PLPs are addressed for students with disabilities who are achieving below grade level in reading.

Some students with IEPs do have literacy needs which are impacted by their disability, but these needs are addressed through the general education resources available to all children. In such a case these students would not have IEPs that address literacy. Their IEPs would address other areas of academic achievement and functional performance that are impacted by their disability and require specially designed instruction. Their literacy needs would be defined on their IEPs in the present level of academic achievement, but the IEP would also note that these needs are being addressed through a personal literacy plan (PLP) delivered through general education.

Some students with IEPs have literacy needs that may be met through general education resources, such as by a reading teacher, and by special education teachers, who are providing specially designed instruction. In these cases the students would have a PLP and the general educator, such as a reading teacher, ELL teacher, or classroom teacher would be listed as supporting the interventions provided through general education services. In addition the special educator would be listed on the PLP for supporting the interventions provided by him/her. These interventions would also support the student's progress towards his/her IEP literacy goals and be aligned to the student's short term objectives in literacy. The fact that the student has a PLP should be noted in the Present Level of Academic Achievement and what areas the general educator is supporting and what areas need specially designed instruction.

Some students with IEPs have literacy needs that will only be met through specially designed instruction provided by a special educator. The fact that the student has a PLP should be described in the Present Level of Academic Achievement. The student's PLP will describe the interventions provided by the special educator and the student's IEP will note the measurable annual goals that the interventions are supporting. The short term objectives on the IEP in literacy would be aligned to the PLP.

39. How does the Personal Literacy Plan (PLP) and the Individual Learning Plan (ILP) connect to the IEP?

Where appropriate the Personal Literacy Plan (PLP) and Individual Learning Plan (ILP) should be aligned to the short term objectives in the IEP. PLPs are required for all students who are achieving below grade level in reading. If a student with an IEP is not achieving at grade level in literacy, the student will have a PLP defining interventions to support the student in achieving at grade level and methods to monitor progress on those interventions. If the student's disability is impacting his/her performance in reading, and his interventions cannot be supported through general education resources, (e.g., classroom, teacher, reading teacher, ELL teacher) but rather they require the support of a special educator who will provide specially designed instruction, the student will also have measurable, annual literacy goals defined on his IEP. In such cases the short term objectives for those measurable, annual IEP literacy goals should be aligned to the PLP. Since PLPs are typically written quarterly, as are short term objectives, this alignment should not be difficult.

ILPs are required for each student no later than entry into 6th grade. They are planning and monitoring tools that help to customize and direct students goals and development in academic, career and personal/social areas. They document students' interests and needs and support course selection and opportunities to form a structured program of study that culminates in proficiency for graduation. Since the ILP also includes college level work, transition placements or employment after high school it coordinates well with the IEP and the transition planning that takes place as part of the IEP process for students 14 years of age or older. IEP Teams should align the ILP and the IEP transition process, where appropriate, so the documents support each other in assisting students with disabilities reach proficiency for graduation.

40. Does each area of need identified in the IEP Present Levels need to have an annual goal?

The present levels of academic achievement and functional performance provide a comprehensive look at how the student's disability impacts the student's involvement and progress in the general curriculum. It is important for the IEP Team in the "present level" area to describe **all** academic and functional areas that are impacted by the student's disability. Some of these areas may be addressed through accommodations or modifications available to all children in general education, for example differentiated instruction or personal literacy plans provided by a general education or reading teacher, and would not require special education or related services. These areas therefore would not have an annual goal statement. Only those areas that are impacted by the student's disability and require special education and related services would have goal statements.

For children 14 years of age or older the "present level" statement would also define areas related to post-school goals that are impacted by the student's disability, but will be addressed through a program of study, such as general education courses, or transition services. The program of studies or the transition services may not require special

education or related services to be addressed and therefore, would also not have an annual goal statement. However, they would be listed under the Program of Study or Transition Services section of the IEP.

41. In developing present levels of academic achievement and functional performance for children aged 3-5 what standards would be used?

For children with disabilities of kindergarten or first grade age, the general education curricular are the standards [Grade Level Expectations (GLEs)] and curriculum benchmarks for those grade levels. For preschoolers, i.e., children aged three (3) to aged five (5), the evaluations and IEPs will define the general curriculum as appropriate activities. “Appropriate” usually refers to activities that are suitable or fitting for a particular person, condition, occasion, or place (*Federal Register, Vol. 71, #156, Monday, August 14, 2006, p. 46661.*) In Rhode Island these appropriate activities are referred to as the Early Learning Standards.

The 8 Early Learning Standards can be found at www.ride.ri.gov/els

42. Must all eight (8) areas of the Early Learning Standards be addressed in the Present Level?

The statement of present levels of academic achievement and functional performance must describe how the disability affects the child’s participation in appropriate activities. “The “present levels” statement is intended to comprehensively describe a child’s abilities, performance, strengths, and needs.” (*NICHCY’s Module 13: Content of the IEP, Training Guide, p. 13-39*). Since the Early Learning Standards represent the “appropriate activities” for the 3-5 year old, a comprehensive description would include a reference to the child’s performance in all eight (8) Early Learning Standards. However, goals do not need to be written for all 8 domains. Goals would only be written in those areas that require specially designed instruction provided by a special educator. For children under 8, for whom speech and language services are their only service, the special education services can be provided by the speech and language therapist.

Measurable Annual Goals



43. How does the “Baseline” on the annual goals page differ from the Present Levels of Academic Achievement and Functional Performance?

A baseline is not a restatement of the present levels of performance. Nor is it a further description of the present level of performance in the area of the measurable, annual goal. Rather a baseline is a brief, quantifiable statement of the child’s current measurable level of performance for this annual goal. The baseline will be embedded in the present level of performance, which is a comprehensive statement of how the student’s disability impacts the student’s progress and involvement in the general curriculum. The baseline can actually be copied from the present level and pasted into the baseline section of the goals page. Generally speaking if the baseline is a sentence it is too long.

Please refer to the *IEP Guidebook* and the sample IEPs at www.ritap.org/IEP/publications/publication.html for examples of baselines.

Examples of baselines would be:

- 67 correct words per minute on fifth grade level passages
- Level 1 on the district’s expository writing rubric
- 30 Dolch words
- emerging on the verbal recall rubric
- 15 minutes on task

- level 1 of the social skills rubric
- 2 out of 5 homework assignments completed.
- 60% of time at seat engaged in independent seat work.

The baseline can be considered the “pretest” for the IEP goal. This is where the child is when this IEP was written. The measurability component of the IEP goal will be the “posttest” for the IEP goal — where you want the child to be in a year’s period of time.

44. How are the student’s annual goals in each area of need developed?

Once the IEP Team has developed the present levels of academic achievement and functional performance, it will determine those priority areas of need that result from the child’s disability that must be met to enable the child to be involved in and make progress in the general curriculum. As noted in **question 40**, there are some areas of need that can be met through the supports and services provided through

Please refer to the *IEP Guidebook* and the IEP samples at www.ritap.org/IEP/publications/publication.html for examples of annual goal statements.

general education. These will not require a measurable annual goal on the IEP. But those areas that cannot be addressed through general education supports and services and require specially designed instruction, provided by an appropriately credentialed person to enable the child to make progress and be involved in the general curriculum will have an IEP goal. These goals and subsequent objectives form the basis for the specially designed instruction provided to the student. They are, therefore, written in terms of what the student will achieve. **They should not be written in terms of what a parent or service provider will provide to the student.** Annual goals state the anticipated achievement expected within a 12 month period of time, although they can be written for a shorter period. In developing annual goals the present level of academic achievement and/or functional performance must be considered. Annual goals must not be a restatement of the present levels of performance. Yet anyone reviewing the IEP should be able to clearly determine the direct relationship between the two. Annual goals must be measurable. Not only must the IEP Team consider annual goals based on the child’s needs related to the general curriculum, but it must also consider the child’s needs in nonacademic and extracurriculum activities as well as other needs resulting from the child’s disability.

45. What standards are used for functional goals?

For preschool children the Early Learning Standards describe the expectation for appropriate activities in academic and functional areas. These two areas are intertwined within the standards. Therefore, for preschool children all goals, whether functional or academic, are written to the Early Learning Standards. For school age children it is recognized that the functional areas are not closely related to academic content or standards. Therefore functional goals for school age children do not have to be aligned to standards. (*Refer to Federal Register, Vol. 71, #156, Monday, August 14, 2006, p. 46663.*)

46. If a student is performing well below grade level, such as a 9th grader reading at a 2nd grade level, which GLEs would the IEP Team use?

An IEP Team should always start with the appropriate grade level or grade span expectations based on the child's age/grade. In this case we would start with the 9th grade GSEs and describe what the child can do with supplementary aids and services and program modifications on these standards. Given that the child's instructional reading level is 2nd grade, the IEP Team would then have to unbundle the GSEs for 9th grade to determine, what are the key needs this IEP would have to address to enable this student to be involved with and progress in the general curriculum. For one student it may mean working on vocabulary knowledge; for another student it may mean working on the accuracy and automaticity of word identification; for another it may mean working on comprehension strategies. The IEP Team would describe what the student can do in that given area with and without supports. This will provide the IEP Team with specific information for the baseline from which the goal will be written.

It would be inappropriate for the IEP Team to automatically assume that since the student's instructional level is second grade the IEP should address second grade GLEs. If that were the case the child would never "catch up". It would be useful for school district personnel to become aware of RI's RTI initiative. The professional development provided through this initiative can assist IEP Teams in setting IEP goals that are ambitious but attainable using scientifically based research strategies.

47. If a preschool child will turn 5 during the timeframe of the IEP and enter kindergarten, which standards should be used when writing the goal statements?

The IEP Team needs to consider where the child will be for the timeframe of each IEP goal. If the duration of a given goal will be the entire year of the IEP and the child will transition to kindergarten during that timeframe, the IEP Team should use the kindergarten GLEs as the expectation. If the child has some goals whose duration will conclude while the child is still in preschool the IEP Team would use the ELS for those goals.

48. What are short term objectives or benchmarks?

Short term objectives or benchmarks are measurable, intermediate steps between an individual's present level of performance and the annual goal. Although IDEA 2004 only required that short term objectives or benchmarks be included for those students who are assessed using an alternate assessment system, the Rhode Island Board of Regents for Elementary and Secondary Education, in response to overwhelming public comments, has chosen to require them for all students who have IEPs. Short term

Please refer to the *IEP Guidebook* and the sample IEPs at www.ritap.org/IEP/publications/publication.html for examples of short term objectives or benchmarks.

objectives or benchmarks should be based on a logical breakdown of the annual goal and reflect advancement toward that goal. Since short term objectives or benchmarks indicate intermediate steps between the present levels and the annual goals, there should be more than one benchmark or objective for each goal statement. However, the IEP does not represent an entire curriculum or even a child's daily lesson plans. Therefore, it would be inappropriate to have an excessive number of short term objectives or benchmarks. Usually a child would have between 2-4 objectives per goal. The Rhode Island regulations also require that when appropriate short term objectives or benchmarks should be aligned to a student's Personal Literacy Plan or Individual Learning Plan.

49. What is included in the section of the IEP addressing how the child's progress toward meeting the annual goals will be measured?

This section of the IEP is particularly important because under IDEA 2004, school districts must provide parents periodic reports on the progress the child is making towards meeting the annual goals. In the previous regulations school districts reported progress towards short term objectives. Although districts may report progress on short term objectives to families, they **must** measure the child's progress towards meeting annual goals and report this progress to families. When stating how the student's progress towards annual goals will be measured two types of

Please refer to the *IEP Guidebook* and the sample IEPs at www.ritap.org/IEP/publications/publication.html for examples of measuring progress towards annual goals.

information should be included in this section of the IEP. First the IEP Team will define **the data LEAs will collect** and second they will define **how often they will collect it**, so that they can report to parents on the child's progress towards the IEP goals. The periodic monitoring of a child's progress towards an annual goal enables the IEP Team, the service providers, the family and the student to determine if the intervention and or services being provided to the child are working. If the team determines that the intervention is not working, the intervention could be changed without reconvening an IEP meeting. However, if the services that are defined on the IEP need to be changed, an IEP meeting would need to be held to address the changes, unless the family and the LEA determined that an IEP meeting was not needed.

50. How often must school districts provide reports to families on the child's progress towards IEP goals?

The decision as to when progress will be reported to parents is an IEP Team decision, although the regulations do provide examples of when it might be appropriate to report progress (e.g., quarterly or other periodic reports, concurrent with the issuance of report cards, *RI Regs.*, §300.320(a)(3)(ii)). For most IEP goals it will be appropriate to report progress at times concurrent with the issuance of report cards. But there may be some goals, such as behavioral goals or goals for very young children, where the IEP Team may determine that it would be more appropriate to report progress to parents more frequently.

The Rhode Island Office of Student, Community, and Academic Supports after consultation with the Association of Rhode Island Administrators for Special Education (ARIASE) has left the decision of a form to be used for reporting progress to families to each individual school district.

Special Education and Related Services and Supplementary Aids and Services



51. What is included in the statement of special education and related services and supplementary aids and services?

After determining the student's goals and objectives, the IEP Team must determine the specific special education, 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 the student. These services will enable the student to reach his or her goals, to be involved and make progress in the general curriculum, and to be educated and to participate in extracurricular and other nonacademic activities with nondisabled peers. (Refer to RI Regs., §300.320(a)(4)).

Please refer to the *IEP Guidebook* and the sample IEPs at www.ritap.org/IEP/publications/publication.html for examples of special education, related services and supplementary aids and services.

52. What is meant by the term special education?

According to §300.39 of the RI regulations special education is defined as follows:

§300.39 Special education

(a) *General.*

(1) *special education* means specially designed instruction, at no cost to the parents, to meet the unique needs of the child with a disability, including —

(i) Instruction conducted in the classroom, in the home, in hospitals and institutions, and in other settings; and

- (ii) Instruction in physical education.
- (2) Special education includes each of the following, if it meets the requirements of paragraph (a)(1) of this section —
 - (i) Speech-language pathology services for students through eight years of age (up to the child's ninth birthday)
 - (ii) Travel training; and
 - (iii) Vocational education.
- (b) *Individual special education terms defined.* The terms in this definition are defined as follows:
 - (1) *At no cost* means that all specially-designed instruction is provided without charge, but does not preclude incidental fees that are normally charged to nondisabled students or their parents as a part of the regular education program.
 - (2) *Physical education* means —
 - (i) The development of —
 - (A) Physical and motor fitness;
 - (B) Fundamental motor skills and patterns; and
 - (C) Skills in aquatics, dance, and individual and group games and sports (including intramural and lifetime sports); and
 - (ii) Includes special physical education, and adapted physical education, movement education, and motor development.
 - (3) *Specially designed instruction* means adapting, as appropriate to the needs of an eligible child under this part, the content, methodology, or delivery of instruction —
 - (i) To address the unique needs of the child that result from the child's disability; and
 - (ii) To ensure access of the child to the general curriculum, so that the child can meet the educational standards within the jurisdiction of the public agency that apply to all children.
 - (4) *Travel training* means providing instruction, as appropriate, to children with significant cognitive disabilities, and any other children with disabilities who require this instruction, to enable them to —
 - (i) Develop an awareness of the environment in which they live; and
 - (ii) Learn the skills necessary to move effectively and safely from place to place within that environment (e.g., in school, in the home, at work, and in the community).
 - (5) *Vocational education* means organized educational programs that are directly related to the preparation of individuals for paid or unpaid employment, or for additional preparation for a career not requiring a baccalaureate or advanced degree.

As defined in the regulations special education is a **service, not a place**. Using terms like resource, self contained, intensive resource, etc. identify places not services and therefore should not be used to identify the special education services to be provided to the child with a disability on the IEP. In order to be considered special education, the specially designed instruction that is provided to the student with a disability must involve an adaptation of content (the curriculum), methodology (instructional strategies), and delivery (how and/or when will services be delivered). In addition in order to be considered special education the specially designed instruction must be delivered by an appropriate credentialed individual. In Rhode Island an individual appropriately credentialed to provide special education services would be one of the following:

- 1) a special education teacher
- 2) a teacher of the blind and/or visually impaired
- 3) a teacher of the deaf and/or hard of hearing
- 4) an adaptive physical education teacher
- 5) a speech and language therapist who is the primary service provider for children up to the age of 9.

300.156 Personnel qualifications.

(a) *General.* The LEA must ensure that personnel necessary to carry out the purposes of this part are appropriately and adequately prepared and trained, including that those personnel have the content knowledge and skills to serve children with disabilities. *Certification-Licensure.* All professional personnel, whether employed on a full-time or part-time basis, or under a contractual agreement, for whom certificates or licenses are required by State law and/or regulations, shall hold appropriate certificates or licenses. When no such mandates exist, such personnel shall show evidence satisfactory to RIDE that they have appropriate professional training and/or experience to perform satisfactorily and successfully in their respective areas.

The specially designed instruction provided to the child with a disability must be unique to that child and enable the child to be involved and make progress in the general curriculum, to participate in extracurricular and other nonacademic activities, and to be educated and participate with other children with disabilities and with nondisabled children.

Please refer to the *IEP Guidebook* and the sample IEPs at www.ritap.org/IEP/publications/publication.html for examples of specially designed instruction.

53. If the child with a disability is provided a specialized reading program by the reading teacher can the reading teacher be listed on the IEP as the provider?

The reading teacher is an important member of the support services provided to all students, including students with disabilities, through the general education curriculum. In some districts a reading teacher may provide a similar curriculum program to the curriculum program provided by the special education teacher in another building or another district. However, a reading teacher does not have the same background, knowledge and skills as the special educator, who has been credentialed by the state of Rhode Island, as an individual who has attained the professional knowledge, skills and dispositions required by professional organizations of the discipline of special education, such as the Council for Exceptional Children. Although a very skilled reading teacher may demonstrate some of the knowledge, skills and dispositions required by an individual certified as a special education teacher, it is that certification as a special educator that assures all that this individual does indeed have the necessary knowledge, skills and dispositions to provide the specially designed instruction to the student with disabilities.

54. If the individual who fills the role as the reading teacher in a particular building is also certified in special education, can s/he fulfill the role of special educator in providing the special education services to the child with a disability as defined on the child's IEP?

Although the reading teacher, who has special education certification is indeed a highly specialized individual, it would be inappropriate for the IEP Team to designate the reading teacher as the special education provider on the child's IEP. Although this reading teacher may hold the appropriate special education licensure, there is no guarantee that another reading teacher would also hold the appropriate special education licensure. Neither family members nor other members of the IEP Team should have to be in the position of questioning an individual's certification. If the district would like to have individuals fulfill the dual role of reading teacher and special educator, they should define a new role, such as intervention specialist, that requires both reading teacher and special educator certification.

55. What are related services?

Related services are defined as supportive services to assist a child with a disability to benefit from special education. In order for a child to qualify for related services on an IEP the child must require special education, i.e., specially designed instruction provided by a qualified special educator (i.e., special education teacher, teacher of the blind and visually impaired, teacher of the deaf and hard of hearing, adaptive physical education teacher, and speech and language pathologist for children who are the primary service providers for children under the age of 9). If a child does not require specially designed instruction, s/he would not qualify for an IEP. Therefore a related service cannot be a "stand alone" service. There must always be a special education service described. Then if the child requires a related service to benefit from special education that would be described on the IEP.

Please refer to the *IEP Guidebook* and the sample IEPs at www.ritap.org/IEP/publications/publication.html for examples of related services.

According to §300.34 related services are defined as follows:

§300.34 Related services

(a) *General. 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 includes 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 §300.113(b).

(c) *Individual related services terms defined.* The terms used in this definition are defined as follows:

(1) *Audiology* includes —

(i) Identification of children with hearing loss;

(ii) Determination of the range, nature and degree of hearing loss, including referral for medical or other professional attention for the habilitation of hearing;

(iii) Provision of habilitative activities, such as language habilitation, auditory training, speech reading (lip reading), hearing evaluation, and speech conservation;

(iv) Creation and administration of programs for prevention of hearing loss;

(v) Counseling and guidance of children, parents, and teachers regarding hearing loss; and

(vi) Determination of children's needs for group and individual amplification, selecting and fitting an appropriate aid, and evaluating the effectiveness of amplification.

(2) *Counseling services* means services provided by qualified social workers, psychologists, guidance counselors, or other qualified personnel.

(3) *Early identification and assessment of disabilities in children* means the implementation of a formal plan for identifying a disability as early as possible in a child's life.

(4) *Interpreting services* includes —

(i) The following when used with respect to children who are deaf or hard of hearing: 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

(ii) Special interpreting services for children who are deaf-blind.

(5) *Medical services* means services provided by a licensed physician to determine a child's medically related disability that results in the child's need for special education and related services.

(6) *Occupational therapy* —

(i) Means services provided by a qualified occupational therapist and or services provided by a certified occupational therapist assistant under supervision of a certified occupational therapist; and

(ii) Includes —

(A) Improving, developing, or restoring functions impaired or lost through illness, injury or deprivation;

(B) Improving ability to perform tasks for independent functioning if functions are impaired or lost; and

(C) Preventing, through early intervention, initial or further impairment or loss of function.

(7) *Orientation and mobility services* —

(i) Means services provided to blind or visually impaired children by qualified personnel to enable those students to attain systematic orientation to and safe movement within their environments in school, home, and community; and

(ii) Includes teaching children the following, as appropriate:

(A) Spatial and environmental concepts and use of information received by the senses (such as sound, temperature and vibrations) to establish, maintain, or regain orientation and line of travel (e.g., using sound at a traffic light to cross the street);

(B) To use the long cane to supplement visual travel skills or as a tool for safely negotiating the environment for children with no available travel vision;

(C) To understand and use remaining vision and distance low vision aids; and

(D) Other concepts, techniques, and tools.

(8) *Parent counseling and training* means —

(i) Assisting parents in understanding the special needs of their child;

(ii) Providing parents with information about child development; and

(iii) Helping parents to acquire the necessary skills that will allow them to support the implementation of their child's IEP or IFSP.

(9) *Physical therapy* means services provided by a qualified physical therapist or by a qualified physical therapy assistant under the supervision of a qualified physical therapist.

(10) *Psychological services* includes —

(i) Administering psychological and educational tests, and other assessment procedures;

(ii) Interpreting assessment results;

(iii) Obtaining, integrating, and interpreting information about child behavior and conditions relating to learning;

(iv) Consulting with other staff members in planning school programs to meet the special educational needs of children as indicated by psychological tests, interviews, direct observation, and behavioral evaluations;

(v) Planning and managing a program of psychological services, including psychological counseling for children and parents; and

(vi) Assisting in developing positive behavioral intervention strategies.

(11) *Recreation*, includes —

(i) Assessment of leisure function;

(ii) Therapeutic recreation services;

(iii) Recreation programs in schools and community agencies; and

(iv) Leisure education.

(12) *Rehabilitation counseling services* means services provided by qualified personnel in individual or group sessions that focus specifically on career development, employment preparation, achieving independence, and integration in the workplace and community of a student with a disability. The term also includes vocational rehabilitation services provided to a student with a disability by vocational rehabilitation programs funded under the Rehabilitation Act of 1973, as amended, 29 U.S.C. §701 et. seq.

(13) *School health services and school nurse services* means 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.

(14) *Social work services in schools* includes

- (i) Preparing a social or developmental Assessment on a child with a disability;
- (ii) Group and individual counseling with the child and family;
- (iii) Working in partnership with parents and others on those problems in a child's living situation (home, school, and community) that affects the child's adjustment in school;
- (iv) Mobilizing school and community resources to enable the child to learn as effectively as possible in his or her educational program; and
- (v) Assisting in developing positive behavioral intervention strategies.

(15) *Speech-language pathology services* includes —

- (i) Identification of children with speech or language impairments;
- (ii) Diagnosis and appraisal of specific speech or language impairments;
- (iii) Referral for medical or other professional attention necessary for the habilitation of speech or language impairments;
- (iv) Provision of speech and language services for the habilitation or prevention of communicative impairments; and
- (v) Counseling and guidance of parents, children, and teachers regarding speech and language impairments.

(16) *Transportation* includes —

- (i) Travel to and from school and between schools;
- (ii) Travel in and around school buildings, travel to and from community and work-based instruction sites as determined by the IEP team; and
- (iii) Specialized equipment (such as special or adapted buses, lifts, and ramps), if required to provide a special transportation for a child with a disability.
- (iv) Those requirements in §300.902 of these regulations.

56. Must a school district provide related services that are required to assist a child with a disability to benefit from special education, if those services are not included in the list of related services in the regulations?

The list of related services is not meant to be complete but rather a list of most related services. With that in mind, IEP Teams may identify other related services necessary to help a child benefit from special education. The school district would then need to make the defined services available to the child. (*Federal Register*, Vol. 71, Monday, August 14, 2006, p. 46569).

Please refer to the *IEP Guidebook* and the sample IEPs at www.ritap.org/IEP/publications/publications.html for examples of supplementary aids and services.

57. What are supplementary aids and services?

The IEP must describe the supplementary aids and services including modifications and accommodations and support to school personnel that the student with disabilities would need to:

- a. achieve his/her IEP goals;
- b. have access and opportunity within the general curriculum;
- c. participate in extracurricular and other nonacademic activities; and
- d. be educated and participate with other children with disabilities and nondisabled children.

§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 extra-curricular 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.

58. What is meant by peer reviewed research in the statement of special education and related services and supplementary aids and services?

According to the Federal Register, Vol. 71, #156, Monday, August 14, 2006, "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 standard of the field before the research is published. However, there is no single definition of "peer reviewed research" because the review process varies depending on the type of information to be reviewed... (p. 46664).

IEP Teams should ensure that the special education and related services and supplementary aids and services specified in the child's IEP be based on peer-reviewed research to the extent practicable. This means that school districts and school personnel, whenever possible, should be using methods that have been proven to be effective. Typically if a method has been investigated in an experimental study and the study has been published in a research journal that has manuscripts undergo a blind review by peers it is considered peer-reviewed research.

For additional information download this PDF at
http://www.fpg.unc.edu/~autismPDC/assets/pdf/ebp_flyer_1-23-09.pdf

Some other websites that are useful in providing information on peer reviewed methods are:

<http://ies.ed.gov/ncee/wwc>

www.fcrr.org

www.K8accesscenter.org

www.cec.sped.org

Sometimes readers will find terms like evidence-based research mentioned in the literature. The terms peer-reviewed and evidence-based are not synonymous, although evidence based research may be subjected to peer-review. For example, recently the National Professional Development Center on Autism Spectrum Disorders, a multi-university program funded by the U.S. Department of Education, Office of Special Education, defined its criteria for identifying evidence-based practice. It noted that efficacy must be established through peer-reviewed research in scientific journals using the following criteria:

- Randomized or quasi-experimental designs
- Single subject designs
- Combination of randomized or quasi experimental and single subject designs.

It also provided some examples of evidence-based practices to use with individuals with autism spectrum disorder. A few of them listed are:

- Computer-Aided Instruction
- Discrete Trial Training
- Functional Behavior Assessment
- Functional Communication Training
- Naturalistic Interventions
- Parent-Implemented Interventions
- Peer-Mediated Instruction And Intervention
- Picture Exchange Communication System (PECS)
- Pivotal Response Training
- Prompting
- Reinforcement
- Self-Management
- Social Narratives
- Social Skills Training Groups
- Speech Generating Devices/VOCA
- Structured Work Systems
- Task Analysis
- Video Modeling
- Visual Supports

59. What can the IEP Team do if there is no peer-reviewed research available on a particular special education service, related service or supplementary aid and service?

IDEA 2004 requires that the special education and related service, and supplementary aid and service be based on peer reviewed research to the extent practicable. IEP Teams should do everything possible to ensure that the services it is describing on the child's IEP are based on peer-reviewed research in order that the child is receiving proven, effective

instruction. There are methods that have been subjected to peer-reviewed research that have not proven effective, e.g., perceptual motor training. Such methods should not be used with students with disabilities. However, there may be a method for which there is no research available. If the IEP Team believes that such a method is the most appropriate for the child, the IEP Team does have the final decision. However, whatever methods are chosen the IEP Team should ensure that the student's progress towards the annual goal is monitored and when the child is not making appropriate progress, the method should be reviewed and revised as appropriate.

60. Can a particular program or methodology be specified in the IEP?

According to the Federal Register, Vol. 71, No 156/Monday August 14, 2006

...if an IEP Team determines that specific instructional methods are necessary for the child to receive FAPE, the instructional methods may be addressed in the IEP. (p. 46665)

Thus such a determination is an IEP Team decision. However for most children it is preferable not to specify a particular program or methodology. This will enable the provider to monitor the child's progress and revise the program or method, if needed, without reconvening the IEP Team, if the child is not making sufficient progress with a particular method or program. All methods or programs used should be, to the extent practicable, based on peer reviewed research of their effectiveness. In addition if appropriate progress is to be made, the program or method must be implemented with fidelity (i.e., the way it is supposed to be implemented according to the research on the program/method).

61. What is assistive technology?

According to the regulations assistive technology refers to either a device or a service.

300.5 Assistive technology device

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.

300.6 Assistive technology service

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.

62. Would assistive technology be considered a supplementary aid and service?

Assistive technology (AT) devices and services could be considered supplementary aids and services, special education services or related services.

Section 300.320(a)(4) requires the IEP to include a statement of the special education and related services and supplementary aids and services to be provided to the child, or on behalf of the child. This would include any assistive technology devices and services determined by the IEP Team to be needed by the child in order for the child to receive FAPE.... (Federal Register, Vol. 71, No. 156, Monday, August 14, 2006, p. 46685)

300.105 Assistive technology.

(a) Each public agency must ensure that assistive technology devices or assistive technology services, or both, as those terms are defined in §300.5 and §300.6, respectively, are made available to a child with a disability if required as part of the child's —

- (1) Special education under §300.39;
- (2) Related services under §300.34; or
- (3) Supplementary aids and services under §§300.42 and 300.114 (a)(2)(ii).

(b) On a case-by-case basis, the use of school-purchased assistive technology devices in a child's home or in other settings is required if the child's IEP team determines that the child needs access to those devices in order to receive FAPE.

63. Must assistive technology (AT) be considered for each child with a disability?

The question of whether or not a child with a disability needs AT devices or services must be considered for every child with a disability, regardless of disability, as part of what IDEA calls "consideration of special factors." (NICHCY Module, 13: Content of the IEP Training Guide, p. 13-29)

For more information on considering AT at an IEP meeting refer to the fact sheet: *FCTD Assistive Technology 101* available in training package *Resource for Trainers for Theme D (D-7)* at <http://www.fctd.info/factsheet/at101>

64. What are supports to school personnel?

Such supports include training, advice and other services school personnel need to provide the special education and related services or supplementary aids and services specified on the student's IEP. Examples of supports would be consultations by other professionals, and professional development, such as inservice on using particular AT hardware or software, etc.

Please refer to the *IEP Guidebook* and the sample IEPs at www.ritap.org/IEP/publications/publication.html for examples of supports to school personnel.

65. Can a reading specialist be listed under supports to school personnel?

If the reading specialist is providing training, advice or other services to school personnel to enable the special education and related services or supplementary aids and services specified on the student's IEP, s/he could be listed in the supports to school personnel section. For example, the reading specialist may have specific knowledge or expertise about a particular reading strategy that the special educator will be implementing in addressing one of the child's IEP goals. It may be necessary for the reading teacher to model or coach the special education teacher on the use of the strategy.

66. What are program modifications?

Program modifications are changes to the regular education programs including extracurricular or nonacademic activities that would be needed to assist the student with a disability achieve his/her annual goals, make progress and be involved in the general curriculum, and enable the student to participate in settings with students without disabilities to the maximum extent appropriate.

Please refer to the *IEP Guidebook* and the sample IEPs at www.ritap.org/IEP/publications/publication.html for examples of program modifications.

Service Delivery



67. Must the frequency and duration of services be specified in the IEP?

Yes, the amount of services to be provided must be stated in the IEP,

...so that the level of the agency's commitment of resources will be clear to parents and other IEP Team members. The amount of time to be committed to each of the various services to be provided must be appropriate to the specific service, and clearly stated in the IEP in a manner that can be understood by all involved in the development and implementation of the IEP. (Federal Register, Vol. 71, No. 156, Monday, August 14, 2006, p. 46667)

The amount of a special education or related service to be provided to a child may be stated in the IEP as a range (e.g., speech therapy to be provided three times per week for 30-45 minutes per session) only if the IEP Team determines that stating the amount of services as a range is necessary to meet the unique needs of the child. For example, it would be appropriate for the IEP to specify, based upon the IEP Team's determination of the student's unique needs, that particular services are needed only under specific circumstances, such as the occurrence of a seizure or of a particular behavior. A range may not be used because of personnel shortages or uncertainty regarding the availability of staff.

68. If a child is in a co-taught general education classroom and the special education teacher is there for 90 minutes how much time would the IEP Team record under frequency for that goal?

The response to this question must be decided on a case by case basis by the IEP Team based on the needs of this specific child with a disability. The intent is that the IEP Team is providing an accurate picture of how much special education and or related service this child requires. Does the child require the services of that special education teacher for the 90 minutes s/he is assigned to the class? Or might a given child with an IEP require less of the special education teacher's time even though the special education teacher is in the classroom providing support for the entire 90 minutes.

For example, there may be 3 children with IEPs in this classroom.

Child A requires ongoing monitoring and adaptations by the special education teacher for the entire 90 minutes. The frequency listed on his/her IEP would be 90 minutes/day.

Child B requires the special education teacher's involvement for follow up small group instruction after a concept or skill has been taught to the entire class. In this case the special education teacher would do a time sample of how much time s/he actually spent in follow up instruction with this child for a week or two. One day it might be 10 minutes, another day, 20 minutes, etc.) Then the frequency recorded on this child's IEP would be the average amount of time (e.g., on average 20 minutes per day)

Child C requires the teacher to check in with the child at the beginning and end of the 90 minute block to make sure s/he has the needed materials for the class and the materials to take home. The frequency for this child might only be on average 10 minutes per day.

The IEP should reflect the special education supports and services needed by the child, not the schedule of the special education teacher.

69. If a child at the high school level is in co-taught classes for the entire day how would the amount of time be captured on the IEP?

The frequency of the special education and related services provided to a child must be defined by the IEP Team for each individual child. Does this child require the support of the special education teacher for the entire time for each class? Does this child require the support of the special education teacher for specific tasks/assignments that occur in each class? For example, there may be 8 children with IEPs in the co-taught classes. Some of the children may require the special education teacher's support throughout each period. Therefore this child would have the frequency listed as 5.5 hours per day. Other children may only require the special education teacher's support when writing is required. Therefore, the special education teacher would do a time sample of the amount of time s/he supports **each** of these children for a week or two. For one of these children it might be 10 minutes in one class, 20 minutes in another, etc. On average the special education teacher finds s/he is supporting the child on average of 90 minutes a day. The IEP for each child should reflect the amount of special education and related services this specific child requires, not the amount of time a special education teacher is assigned to a class.

70. Where would a teacher assistant be listed on the IEP?

In Rhode Island a teacher assistant is not considered a special educator and therefore could not be listed as a provider under special education. The only individuals who can provide special education in the state of Rhode Island and therefore be listed on the IEP as the special education provider are:

- a special education teacher
- a teacher of the blind and visually impaired
- a teacher of the deaf and hard of hearing
- an adaptive physical education teacher

for children under the age of 9 who are receiving speech and language services as their primary service the speech and language therapist could be listed as the special education provider.

The services provided by the teacher assistant are critical to the child with an IEP's in receiving FAPE and therefore should be captured on the IEP. The services of the teacher assistant would appropriately be defined on the Supplementary Aids and Services page of the IEP.

71. If a child with a disability is in general education classes 100% of the time and has a fulltime teacher assistant who is monitored by the special education teacher, how would that be listed in the special education section of the IEP?

To qualify as child with a disability under IDEA 2004, a child must meet a two-pronged test.

First the child must meet the criteria for one of the categories of disability defined in the regulations (i.e., developmental delay, mental retardation, a hearing impairment, a speech or language impairment, a visual impairment, a serious emotional disturbance, an orthopedic impairment, autism spectrum disorder, traumatic brain injury, another health impairment, a specific learning disability, deaf-blindness, or multiple disabilities).

Second, the child must require special education.

The regulations also specify that if a child meets the criteria for one of the above named categories, but only needs a related service and not special education, the child would not be a child with a disability. Special education is defined as specially designed instruction that has been adapted in content, methodology or delivery. Special education can only be provided by an appropriately credentialed individual. In Rhode Island that is:

- a special education teacher
- a teacher of the blind and visually impaired

- a teacher of the deaf and hard of hearing
- an adaptive physical education teacher
- for children under the age of 9 who are receiving speech and language services as their primary service the speech and language therapist could be listed as the special education provider.

A teacher assistant is not an individual licensed to provide special education. If the child is not receiving special education services from a special educator, s/he is not considered a child with a disability and would not have an IEP.

300.8 Child with a disability.

(a) *General* (1) *Child with a disability* means a child , aged 3 to 21, evaluated in accordance with §§300.304 through 300.311 as having mental retardation, a hearing impairment (including deafness), a speech or language impairment, a visual impairment (including blindness), a serious emotional disturbance (referred to in this part as “emotional disturbance”), an orthopedic impairment, autism spectrum disorder, 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.

(2)(i) Subject to paragraph (a)(2)(ii) of this section, if it is determined, though an appropriate evaluation under §§300.304 through 300.311, that a child has one of the disabilities identified in paragraph (a)(1) of this section, but only needs a related service and not special education, *the child is not a child with a disability under this part.*

(ii) If, consistent with §300.39(a)(2), the related service required by the child is considered special education rather than a related service under State standards, *the child would be determined to be a child with a disability under paragraph (a)(1) of this section...*

72. Where would a physical therapist assistant or an occupational therapist assistant be listed on the IEP?

Appropriately credentialed physical therapist assistants and occupational therapist assistants (COTA) are considered related service providers and should be listed on the IEP as providers in the Related Services section.

73. How is case management listed in the IEP?

Case management is not considered special education. It might be considered a Supports for School Personnel if it is required to enable the child to advance appropriately toward attaining goals; be involved and make progress in the general curriculum and to participate in extracurricular and nonacademic activities, and be educated and participate with other children with disabilities and nondisabled children. If it is considered a Supports for School Personnel it would be listed in that section of the IEP.

74. If a child is in an inclusion class for some of the time, but may be pulled out for more intensive instruction some of the time, how would that be listed on the IEP?

The inclusion class is considered regular education. Therefore the amount of time the child is receiving special education or related services in that inclusion class should be listed as “regular education” on the “service delivery” page (i.e., page listing the special education and related services). “Pull out” is generally considered a removal of the child from the regular education setting and a placement of the child in a more restrictive setting. A “pull out” would be considered “other” on the service delivery page. If on any given goal the provider is delivering the service in the regular setting some of the time and another setting (i.e. “pull out”, “self contained special education classroom” etc.) some of the time, the IEP Team should delineate the amount of time the special education service is delivered in each setting. This would require two listings or lines on the IEP.

75. How can a team ensure that the student with a disability receives services in the least restrictive environment?

IDEA 2004 places great emphasis on the importance of children with disabilities be educated in the least restrictive environment

300.114 LRE requirements.

(a) *General* (1) Except as provided in 300.324(d)(2) (regarding children with disabilities in adult prisons), each public agency must ensure that —

(i) To the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are nondisabled; and

(ii) Special classes, separate schooling or other removal of children with disabilities from the regular educational environment occurs only if the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

The determination of

...each child's educational placement must be determined on an individual case-by-case basis depending on each child's unique educational needs and circumstances, rather than by the child's category of disability, and must be based on the child's IEP.... (Federal Register, Vol. 71, No 156, Monday, August 14, 2006, p. 46586).

Thus in determining the special education and related services needed by a student with a disability, the IEP Team must first consider the student's strengths, needs, goals and objectives. Then the team must determine what supplementary aids and services, including assistive technology devices and services, would be needed to assist the student in meeting his/her needs within the regular classroom. Only if the team determines that the student's needs, and thus, his/her goals and objectives, cannot be met within the regular education setting, **even with the use of supplementary aids and services**, can services

and programs removed from the regular classroom be considered. Consequently, decisions about services and placements must be one of the last things decided by the IEP Team. The decisions cannot be made by the Evaluation Team as part of the evaluation process prior to the development of the student's IEP.

Section 300.320(a)(5) requires the IEP Team to provide an explanation of the extent, if any, to which the child will not participate with nondisabled children in the regular class and in extracurricular and other nonacademic activities.

In making the decision about services then, the IEP Team should ensure the following:

1. Since the IEP is reviewed and revised annually and decisions about services are based on the IEP, services for each student with a disability must be determined at least annually by the IEP Team members.
2. The IEP Team should consider what supplementary aids and services could be provided to accommodate the student's needs within the regular classroom and typical nonacademic, extracurricular settings, before considering settings removed from the nondisabled population.
3. If the student's needs cannot be met in the regular classroom with the provision of supplementary aids and services, the student must be placed in the least restrictive alternative, among the continuum of special education placements and services that can meet the student's needs on the basis of his or her IEP.
4. Each student with a disability should be placed in a program in the school the student would attend if nondisabled. If this is not possible s/he should be placed as close to the student's home as possible.
5. The decision about placement must be based on the student's needs and not on category of disability, significance of disability, availability of special education and related services, configuration of the service delivery system, availability of space, or administrative convenience.
6. Students with disabilities must also be given opportunities to participate with nondisabled peers in nonacademic and extracurricular activities and be provided with any supplementary aids and services which might be required

(Refer to RI Regs. §300.114-117)

Continuum of Special Education

Placements and Services:

- General education class with special education consultation, supplementary aids and services or part-time services in a special class.
- Placement in a special class integrated in a school district building
- Home or hospital instruction
- Special education day school placement in a separate public school or non-public facility
- Special education residential placement

76. For children placed in special classes within a juvenile correctional facility, which box should be checked for placement of this student?

The training school is considered a school district or LEA and has both students with or without disabilities.

If a student with a disability is in general classes at the training school and the services are provided in the general education setting, the placement would be the first box in the placement section — general education class with special education consultation...

If the student is in a special class integrated in a school building then that box would be checked.

77. If a child enters Kindergarten at 5 years of age and an annual IEP is developed, does the IEP Team use the 3-5 (left side of placement box) or does it use the 6+ (right side of the placement box)?

In this instance you would need to check two boxes. For the services the child receives prior to their 6th birthday the IEP Team checks the appropriate placement box on the left hand side and for those services the child receives after the child's 6th birthday, the IEP Team checks the appropriate placement box on the right hand side.

78. If a secondary child is in the high school in the morning and is involved with services provided by an outside agency in the afternoon, how would that be described on the IEP?

The special education services that will be provided to the student in the morning at the high school would be listed and described under special education. The services provided in the afternoon would not be considered special education if they are not provided by a certified special educator. Adult service providers are not typically certified special educators. Therefore, the afternoon service would be listed on the transition service page of the IEP. Under supplementary aids and services the IEP Team would also describe the agency service e.g., community job based skill development, frequency 2.5 hours per day, and include that as regular setting.

C. OTHER



79. Can students with disabilities be exempted from state and district assessments?

No. All public school students in Rhode Island are expected to participate in state and district required assessments. In the past, many students have been excluded from assessments for a variety of reasons. Through Article 31, it is the intent of the General Assembly that schools succeed with all students. Therefore, virtually all students shall be included in the state and district required Assessment Program. There are three ways in which all students can participate in any assessment:

1. take the assessment with no accommodations;
2. take the assessment with accommodations;
3. take an alternate assessment.

The decision as to whether or not a student with a disability will take an assessment with accommodations, with no accommodations, or will take an alternate assessment is made by the student's IEP Team and is documented on the IEP form.

80. Must Parents sign the IEP?

There are two times in the IEP process that parents signatures are required. The first is when the parents are required to give informed written consent to have the child evaluated to determine if the child is deemed eligible as a child with a disability and in need of special education and related services and the second is when the child has been deemed eligible

and the parents must provide informed written consent to the provision of special education and related services. This is prior to the development of the IEP. Parents are not required to sign the first or any subsequent IEP. If the parents do not agree with an IEP they must specifically request mediation or a due process hearing or the IEP will go into effect within 10 school days of receipt of written prior notice of the IEP to be provided.

81. What is an interim IEP?

An interim IEP can only be written for students with disabilities aged 3-5, when the IEP Team feels it needs additional information to aid in developing the educational objectives for the child's IEP and for determining appropriate placement for the child. In such cases the IEP Team will develop an IEP or an Individualized Family Service Plan (IFSP) which specifies a temporary placement for the child (no more than 30 days), as well the conditions and timelines for the temporary placement. At the end of the interim period, an IEP or IFSP meeting will be held to finalize the child's IEP or IFSP.

300.115(B) Continuum of special education placements and services for children Aged Three (3) through Five (5)...

(1) Temporary placement in any educational setting as described in this Section, for a period of no more than thirty (30) days, when necessary to aid in determining educational objectives and the appropriate placement for an eligible child with a disability. Prior to such placement, an interim individualized education program (IEP) or individualized family service plan (IFSP) shall be developed which specifies the conditions and timelines for the temporary placement. Upon the close of the interim period, an individualized education program (IEP) or individualized family service plan (IFSP) meeting shall be conducted to finalize the child's individualized education program (IEP) or individualized family service plan (IFSP)....

D. REVIEW AND REVISION



82. Can an existing IEP be amended?

If a change needs to be made to an IEP during the course of the IEP's effective dates, such as an increase or decrease in the frequency of services, or a change in a goal, the IEP can be amended without the entire IEP having to be redrafted. These changes may be made at an IEP Team meeting with the entire IEP Team present. However, if the parent(s) of the child with a disability and the school district agree, the changes can be made without holding a meeting. In this case a written document would be developed amending the child's current IEP. Individuals are encouraged to refer to his/her district procedures and forms for amending the IEP with or without a meeting. If changes are made to the IEP without a meeting, the district must ensure that the child's IEP Team is informed of the changes. It is also best practice to provide the parents with a copy of the IEP with the amendments incorporated, although the regulations only require the school district to do so upon request.

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

(4) *Agreement* (i) In making changes to a child's IEP after the annual IEP Team meeting for a school year, the parent of a child with a disability and the public agency may agree not to convene an IEP Team for the purposes of making those changes, and instead may develop a written document to amend or modify the child's current IEP.

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

(iii) If there is a request for an IEP meeting, each LEA shall ensure that an IEP meeting is scheduled within ten (10) school days of the request by the parent or the

LEA to meet to review the child's IEP. (The parent may agree to waive this 10 school day meeting requirement if such parental waiver is documented by the LEA).

(5) *Consolidation of IEP Team meetings.* To the extent possible, the public agency must encourage the consolidation of reevaluation meetings for the child and other IEP Team meetings for the child.

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

83. What happens at the time of the annual review and revision?

Each student with a disability must have his or her IEP reviewed at least annually. It can be reviewed sooner if a parent or teacher feels the program and services defined on the student's IEP are not meeting the student's needs. At the annual review meeting the IEP Team members should review the student's current IEP to determine whether or not the goals have been met. In order to make this determination each service provider should provide specific information, i.e., data from measurements used to determine progress on annual goals. For culturally and linguistically diverse students the IEP Team should also consider English language proficiency assessment, English Language Learner (ELL) intake data, student work samples, student self assessments, anecdotal records, structured observations, etc.), which consider performance, including difficulties across time and settings and ensure access to evaluators who speak a student's home/native language, are knowledgeable about the impact of second language acquisition on performance on any formal norm referenced tests used and choose tests that are developed to minimize bias for culturally and linguistically diverse students.

If the goals have not been met the service provider should be able to provide specific reasons based on the data gathered. Based on a determination of current present levels of academic achievement and functional performance which also describe how the student's disability impacts the student's involvement and progress in the general curriculum, goals and objectives for the subsequent year should be specified. Finally the special education and related services needed to meet those goals would be defined.

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

(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 reevaluation 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

(2) *Consideration of special factors.* In conducting a review of the child's IEP, the IEP Team must consider the special factors described in paragraph (a)(2) of this section.

(3) *Requirement with respect to regular education teacher.* A regular education teacher of the child, as a member of the IEP Team, must, consistent with paragraph (a)(3) of this section, participate in the review and revision of the IEP of the child.

Timelines for Referral, Evaluation (Initial and Reevaluation), Eligibility, and IEP Development/Implementation

Guidelines for Local Education Agencies*

Rhode Island Department of Education Office of Student, Community, and Academic Supports

Referral	
10 school days	The public agency must conduct a meeting of the Evaluation Team within 10 school days of the receipt of a referral to determine whether a special education evaluation is needed. The Evaluation Team is comprised of qualified professionals and the parent, including members described in §300.321.
10 school days	If an evaluation is needed, it must start no later than 10 school days after the receipt of parental consent to evaluate. (Should the parent not notify the agency of his/her consent within 5 school days, the agency must document its efforts to obtain consent. Should parental consent not be obtained within 15 school days, the Evaluation Team must reconvene.) If it is determined that an initial evaluation is not needed, the evaluation team shall consider referring the student's case back to general education for appropriate action.
Evaluation/Eligibility/IEP	
60 calendar days:	Within 60 calendar days of parental consent to evaluate: Child must be evaluated and a written Evaluation Team report provided. An Eligibility Team meeting must be convened to determine whether the child has a disability and is in need of special education and related services. The Eligibility Team is comprised of qualified professional and the parent.
15 school days:	If determined eligible, an IEP meeting convening members described in §300.321-322, must be conducted and an IEP is developed and special education and related services are made available to the child in accordance with an IEP within 15 school days of the eligibility determination.
10 school days:	Following the development of the IEP, special education and related services must be made available in accordance with the IEP as soon as possible, but not later than by 10 school days.
Reevaluation	
60 calendar days	The public agency must conduct reevaluations and determine continued eligibility, and, when eligibility continues, make available continued services in accordance with timelines and provisions of reevaluation and evaluation procedures in §300.303-311.
Not more than 1x per year	Reevaluation limitations: May not occur more than once per year, unless the parent and public agency agree otherwise; and
Every 3 years	must occur at least once every 3 years, unless the parent and public agency agree that a reevaluation is unnecessary.

*These guidelines are intended to assist public agencies with implementation of *Regulations Governing the Education of Children with Disabilities* adopted on December 19, 2007 by the Rhode Island Board of Regents for Elementary and Secondary Education and effective July 1, 2008. References regarding these timelines can be found in Regulations §300.300, §300.301, §300.303 - §300.311, §300.321, and §300.323.