

IEP TEAM MEMBERS

Required IEP Team Members

The following are required IEP Team Members:

1. The parents or legal guardian of the child

(Please note that “parent or legal guardian” for IEP purposes is different than for the legal requirements for parent or legal guardian under other laws, such as residency, Student Records Act, etc. The following information on what qualifies as a parent or legal guardian applies to IEP purposes only. Residency rules are important, however, in terms of which district is fiscally responsible for the student.)

For IEP purposes, parent or legal guardian follows a sequential order of determination. That is, if the first one exists, then that is who must be considered the parent and the person who is allowed to make decisions, sign consent, etc. If the first one does not exist, then it moves to the second, and so on. The order of sequence is as follows:

1. a biological or adoptive parent of the child
2. a foster parent, unless State law, regulations or contractual obligations within a state or local entity prohibit a foster parent from acting as a parent
3. a guardian generally authorized to act as the child’s parent, or is authorized to make educational decisions on behalf of the child (but not the State if the child is a ward of the state)
4. an individual acting in the place of a biological or adoptive parent (including a grandparent, stepparent, or other relative) with whom the child resides or an individual who is legally responsible for the child’s welfare, or
5. a surrogate parent who has been appointed under the IDEA

Thus, when more than one party is qualified to act as a parent, the biological parent must be presumed to be the parent unless the biological or adoptive parent does not have legal authority to make educational decisions for the child or if a judicial decree or order

identifies a specific person or persons to act as the “parent” of a child or to make educational decisions on behalf of a child, then such person or persons shall be determined to be the “parent.”

Thus, only if there is no biological or adoptive parent of the child with authority to make decisions, would any of the others be allowed to serve in the role of the parent at the IEP meeting. That is, stepparents, grandparents, etc. can only serve in the role of parent if #1, 2, or 3 are not met. Only a legal court document can give the decision-making power to another individual. Verbal or written documents not legally issued are not acceptable.

All biological parents have the right to guardianship unless there is a court order. Districts should request a copy of the parenting agreement to make these determinations. (Custody and Guardianship = Decision Making) When a court orders joint custody, the school should look to the joint parenting agreement to determine if only one, or if both parents have educational decision-making authority. If there is no court order, school correspondence goes to both parents.

Unless there is a court order that states something different, districts should allow both parents to participate in the development of the IEP. Consent is needed for initial evaluation, reevaluation, initial special education placement, revocation of consent for special education services, or waivers and excusals of requirements. If parents are married, either parent can give consent. If sole custody, only one can give consent unless ordered by the court differently. If joint custody, either can give consent unless the joint parenting agreement designates one or both as educational decision-makers.

Document all efforts to ensure parent participation, including type of effort (e.g., phone, notification letter, etc.), date of effort, and results of effort. If you have made at least three attempts to contact parent and have been unable to convince the parent that they should attend the meeting, and the parent does not attend the meeting, you may hold the meeting in their absence as long as the written notice was given 10 calendar days in advance of the meeting and all required participants are present, however, you will not be able to implement an Initial IEP or any change in placement for 10 calendar days unless the parent signs the Notification of Conference Recommendations to waive the 10 calendar day notice before placement occurs.

You are required to hold the meeting at a “mutually agreeable” date and time for the parent. To ensure that you have attempted to hold the meeting at a mutually agreeable time, present the parent with several dates and times to choose from. Avoid giving a set date and time without checking with the parent. (Please note that Illinois Law requires employers to allow parents to take off for 2 parent-teacher conferences per school year without losing their job, but the employer is not required to pay the parent for this time.)

Efforts to contact the parent should include 3 different modes of communication when meetings are held without parents present. Document contacts on the Conference Summary Form and provide any further explanation on the Additional Notes pages.

2. General Education Teacher

Not less than one general education teacher of the child (if the child is or may be participating in the general education environment) is a required IEP team member. The general education teacher shall be a teacher who is, or may be, responsible for implementing a portion of the IEP, so that the teacher can participate in discussions about how to best instruct the child. The general educator invited should be familiar with curriculum for that student’s age and grade level. If the student has more than one general education teacher but only one general educator attends, it is highly recommended that the remaining teachers provide written input. For a child age three through five years who has not yet entered the primary grades, the team shall include an individual qualified to teach preschool children without identified disabilities.

Since the team cannot pre-determine placement prior to an IEP meeting, the general educator has to be invited to all IEPs regardless of whether the student is currently enrolled in general education classes. The only exception would be for meetings for students placed in separate facilities when the purpose of the meeting is for purposes other than discussion of placement and services.

One general education teacher must remain for the entirety of the meeting. Switching out of teachers is permissible as long as one teacher remains for the entirety of the meeting.

3. Special Education Teacher

A special education teacher is a required IEP team member. (For speech-only students, this will be the Speech Therapist.) It is recommended that this person be the teacher who currently provides services or who it is anticipated will provide the services.

4. Local Educational Agency Representative

An LEA Representative is a required IEP team member. By law, the LEA Representative must be

- qualified to provide, or supervise the provision of specially designed instruction to meet the unique needs of children with disabilities,
- knowledgeable about the availability of resources of the school district, and
- have the authority to make commitments for the provision of resources and is able to ensure that IEP services will be implemented.
- Be able to ensure that the services set out in the IEP will be implemented.

Districts are strongly cautioned against appointing non-administrative personnel as LEA representatives due to the requirement that they must be able to supervise the provision of specially designed instruction and they must have the authority to commit district resources.

5. An individual who can interpret the instructional implications of evaluation results

This means that someone at the meeting must be able to discuss any evaluation results that are used for decision-making at that IEP. Someone may serve a dual role for this purpose.

6. The student, if transition planning is discussed or whenever else appropriate

This includes students that will turn 14 ½ at any time during the period of that IEP, but may include students of earlier ages.

7. Other individuals who have knowledge or special expertise regarding the child invited by the parents or the school, including related service personnel

Related service personnel should be invited to meetings when they have knowledge or special expertise regarding the child, including if they are providing or may be providing services to the student.

Districts may choose to invite the student's truancy officer, probation officer, or others when these individuals may have information pertinent to the IEP discussion. Case managers, however, are encouraged to contact administration before inviting non-school personnel as there could be costs involved (e.g., outside counselor may charge district for their time for attending the meeting).

It is not advisable for districts to invite aides to the IEP. If a parent requests the aide attend, the district is not required to include them but may choose to do so.

Parents can invite other individuals to the IEP if this individual has knowledge or special expertise regarding the child.

Advocates can attend with parents to help parents understand the IEP process but the conversation should be directed to the parent and all decision-making must be made by the parent.

Parent attorneys may also attend. They do have authority to speak on behalf of the parent.

If the parents invite other individuals and the district can show that these individuals do not have special expertise or knowledge regarding the child, the district may refuse to allow the person to attend as long as not allowing them to attend is not violating the child's right to FAPE. (Please use caution when denying participants and check with administration before doing so).

8. An agency representative likely to be responsible for providing or paying for transition services (if the parents consent to the attendance of such individuals)

Agency representatives are required to be invited when the student is 14 ½ or older, however, these individuals are not considered IEP team members for consensus purposes.

Do not disclose confidential information about the student, including the student's name, to the agency representative until the parent has agreed to allow this person to attend. You can give them general information and check on their availability to attend the meeting without parental approval. Please note that there are forms that the parent and student must sign before agency representatives can be invited to the meeting.

9. A qualified bilingual specialist or teacher or an interpreter for the hearing impaired, if the presence of such a person is needed to assist the other members in understanding the child's language or cultural factors as they relate to the child's instructional needs

10. In the case of a child whose behavior impedes his or her learning or the learning of others, the team shall include a person knowledgeable about positive behavior strategies.

Students over age 18

When a student who is eligible for special education reaches the majority age of 18 years, all rights accorded to the student's parents under this Article transfer to the student. This transfer of rights also applies to students who are incarcerated in an adult or juvenile State or local correctional institution. A student with a disability who has reached majority age has the right to have an adult of his or her choice, including, but not limited to, the student's parent, assist the student in making decisions regarding the student's individualized education program.

Rights shall not transfer from the parents to the student if either of the following apply:

- (1) The student with a disability who has reached the age of majority has been adjudged incompetent under State law.
- (2) The student has not been adjudged incompetent under State law, but the student has executed a Delegation of Rights to make educational decisions pursuant for the purpose of appointing the student's parent or other adult to represent the educational interests of the student.

When students are 18 years of age or older, the district shall still invite the parent to the meeting but the decision-making power is the students unless #1 or #2 above have been met.

Listing of IEP Team Members on the Notification of Conference Form

IEP Team Members must be listed on the Notification of Conference form by name AND position whenever possible. The LEA representative must include the person's name, position, and title as LEA representative.

All individuals invited by the school district to participate in the IEP meeting must be listed on the Notification of Conference.

Individuals invited by the parent should not be listed on the Notification of Conference.

Excusals of IEP Team Members

A member of the IEP Team is not required to attend an IEP Team meeting, in whole or in part, if the parent and the district agree, in writing, that the attendance of the member is not necessary because the member's area of the curriculum or related services is not being modified or discussed in the meeting. The excusal of a team member whose area of service is not being modified or discussed required a written agreement between the parent and the district. The upper portion of the form "Excusal of IEP Team Members" should be completed and signed by the parent.

A member of the IEP Team can be excused from attending an IEP Team meeting, in whole or in part, when the meeting involves a modification to or discussion of the member's area of the curriculum or related services, if --

- (i) The parent, in writing, and the public agency consent to the excusal; and

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

The bottom portion of the Excusal Form is completed in these cases. Because written consent versus written agreement is required when the IEP team member's area or service is being modified or discussed, this requires the district to fully inform the parent of all information relevant to the team member's excusal in the parent's native language or other mode of communication, and to ensure the parent's understanding that the granting of consent to the team member's absence is voluntary and can be revoked at any time.

Districts are cautioned to consider an excusal request carefully before asking parents to agree or consent to a member's nonattendance at an IEP meeting. Extreme caution should be given to the excusal of the LEA representative, special education teacher, or general education teacher. An LEA that routinely excuses IEP team members would not be in compliance.

IEP meetings cannot be held unless the parent agrees, in advance of the meeting, to excuse the participants.

If a parent is not in attendance AND another member is not in attendance, the IEP cannot be held unless the parent had signed the Excusal form prior to the meeting.

In addition, if you did not include someone on the Notification of Conference form, you must complete a revised Notification of Conference form and notify the parent of the change in participants. It is advised that this be done prior to the meeting date. If in a rare case this does not occur, then notify the parent prior to the meeting beginning, obtain permission for participation, and document on the Additional Notes that the parent agreed to the additional participants.

Alternate Means of Participation

The parent and district can agree to use alternative means of meeting participation, such as video conferences and conference calls.