

## **PRACTICAL ANALYSIS AND GUIDANCE: Individualized Education Programs (IEP)**

IDEA's central requirement is the development of an individualized education plan (IEP) for each student with disabilities. An IEP is the cornerstone of an eligible student's educational program and creates a road map for the student's special education and related services over the next year. IEPs inform both parents and service providers about what the student knows and needs to know, as well as the services designed to help the student meet his/her identified goals. It is essential that IEP decisions be based on a thorough discussion of the student's needs, including current and adequate data.

### **IEP MEETINGS: GENERAL**

IEPs are developed during IEP meetings, which must be convened at least every 365 days. Parents or the public agency may request an IEP meeting at any time and must schedule the meeting as soon as is practicable and reasonable (usually around ten days, but not longer than 30 days). It is essential for the public agency to be clear about the purpose of the IEP meeting by properly marking the type of meeting to be held on the notice and on the IEP document prepared at the meeting. If the IEP team will consider the student's eligibility and then proceed to develop or revise the IEP, then the case manager should check all of the relevant boxes on both the notice and IEP document.

- **Amendments**

Amendments to IEPs are changes that are made outside of an IEP meeting. Amendments can be made only when the public agency and parents agree to the change(s) AND agree to make the change(s) without a meeting.

Colorado law allows changes of placement to be accomplished by amendment, but this practice is not generally recommended. To amend an IEP outside a meeting, the case manager must:

- (1) Clearly agree with the parents of the student that the amendment is appropriate;
- (2) Ensure a review of existing data and consideration of reevaluation and document by Notice of Reevaluation (Appendix A) or PWN (Appendix B);
- (3) Revise the IEP as agreed; and
- (4) Send a copy of the IEP with a cover letter confirming agreement to amend (*see, e.g., Appendix B, PWN*). Also send all other documentation, including Notice of Reevaluation.

- **Computer-Based IEP Program**

Many school districts use a computer-based IEP system. Though the technology has many benefits, case managers must be careful to ensure that the IEP team's decisions made during a proper IEP team meeting are captured accurately into the IEP program. It is best practice for case managers to be logged into the IEP system during the IEP meeting and to capture the IEP changes live. As a back-up, another IEP team member should record the changes by hand on a printed version of the IEP (using a prepared draft really helps). **The parents should be provided with a complete, revised IEP at the end of the meeting.**

**If a legitimate technology issue arises, the parents must receive at least a copy of the IEP with the handwritten changes before leaving the meeting.** As soon as possible but no later than ten school days after the meeting, the IEP must be finalized in the computer system and the case manager must mail a copy of the completed IEP to the parents with a letter requesting that they review it to ensure that it accurately reflects the IEP team's work at the last meeting. (See, Appendix B, sample letter: Enclosing Final Computer-Generated IEP). If this is necessary, the handwritten IEP also should be maintained in the student's file. In the event that a dispute arises regarding the revisions made to the IEP, the case manager should consider reconvening the IEP team to clarify any areas of concern and to ensure that the IEP team has made a clear and complete offer of FAPE.

*IMPORTANT: It is not appropriate for the case manager (or whoever is entering the information into the computer-based IEP system) to alter the language that was agreed upon at the meeting even if the language is inartful. IEPs are legally binding documents and the decisions about IEP contents must be made by a properly constituted IEP team or by written amendment (see above).*

## **LEGAL STANDARD FOR IEPS**

To comply with IDEA, IEPs must satisfy a two-pronged test:

1. **Procedural**—the public agency had the right people in the right place with the right information and included the right information and provisions in the IEP; and,
2. **Substantive**—the IEP, specifically including the special education and related services provisions, is reasonably calculated to allow the student to make some progress and is implemented in the least restrictive environment.

(See, Chapter D, Free Appropriate Public Education.)

### **Procedural Requirements**

- **Notice of IEP Meeting**

This form is to be used any time the public agency is convening an IEP meeting. The language on this form has been prepared in accordance with direction from the Colorado Department of Education to indicate (by job title, not by name) the individuals who *will* attend the IEP meeting, not those who *may* attend. It is important for parents to have a clear understanding of the individuals who will be in attendance so the parents can be prepared for the meeting and also may exercise their right to invite additional people to attend the meeting if they so choose. In order to comply with federal and state laws and CDE's monitoring requirements, the participants signing in at IEP meetings must match exactly those indicated on the notice of meeting forms unless the parents specifically note on the meeting sign-in sheet their agreement to additional or fewer participants.

*PRACTICE TIP: Keep a log of all phone calls between the public agency and the parents, including unsuccessful attempts to reach the parents or messages left for the parents. If the public agency has made repeated attempts to contact the parents or schedule a meeting and the parents are unresponsive, send them a letter identifying a number of dates (at least three) on which the IEP team is available to meet, and indicate that if the parents fail to choose a date or otherwise respond, the meeting will be held on the last or preferred date offered. (See, Chapter K, Parent Rights and Participation, and Appendix B, Sample Letter: Scheduling IEP Meeting.)*

- **IEP Team Members & Responsibilities**

- **Parents.** Parents are strongly encouraged to attend IEP meetings and the public agency must make significant efforts to get and keep parents involved in their children's education. (See, Chapter K, Parent Rights and Participation).
- **Students.** Students are encouraged to attend and participate in IEP meetings if appropriate. Until transition age (15 years old, 9<sup>th</sup> grade, and older), the parents make the determination about the student's participation. Beginning at transition age, the public agency must invite the student to the meeting. (See, Chapter H, Transition and Graduation).
- **Case manager** (usually the student's special education teacher).
  - **Prior to the IEP meeting, the case manager will:**
    - Schedule a meeting time, date and location that is mutually agreeable to staff and parents giving reasonable notice, usually ten days (document when parent agrees to a meeting with less notice);
    - Send the notice of meeting to all participants;
    - Collect all needed information, such as current functioning data and progress towards goals and objectives;

- Determine if translator support or other accommodations for parent will be necessary and, if so, make appropriate arrangements; and
- Ensure that the draft IEP is ready prior to the meeting.

- **At the meeting, the case manager will:**
  - Chair the meeting: share the agenda and ensure that the sequence of the meeting and all due process procedures are followed;
  - Ensure that all IEP components are addressed;
  - Update revisions into the IEP prior to finalizing the document;
  - **Provide parents a copy of the newly created final IEP prior to their leaving; and**
  - Record the meeting, if parents will be recording. Ensure proper operation of the recording device, changing of tapes throughout the meeting and labeling of the tapes at the conclusion of the meeting.
- **After the meeting, the case manager will:**
  - Maintain tapes, if any, and the original of the IEP (including signature page);
  - Distribute IEP summaries, accommodation/modification forms, and/or Behavior Intervention Plans to appropriate teachers and service providers;
  - Provide parent with a final copy of the IEP, if the changes were not captured and finalized at the meeting;
  - Provide parent with prior written notice of the IEP team's decisions; and
  - Monitor the IEP to be sure that it is being implemented.
- **Special education teacher/related service providers of the child**
  - Prepare to attend the IEP and remain for the duration of the meeting;
  - Bring present levels of performance (current functioning data if not already included in the draft document), work samples, progress reports, attendance and class participation data, etc. to the meeting;
  - Identify strategies that have and have not been effective for the student;
  - Review current functioning (not already included in the drafted document) as it relates to the student's area of service;
  - Review student progress on annual goals and short-term objectives, including through the use of specific examples and data;

- Share drafted goals as they relate to the student's area of service (document acceptance of these goals by the IEP committee);
  - Contribute to discussions pertaining to accommodations and modifications, system-wide assessments, and placement options;
  - Review IEP for understanding of student's needs and implement the IEP;
  - Collaborate with other service providers and parents; and
  - Assess the student's progress regularly and inform the case manager if the student is not making progress and/or an IEP meeting is needed.
- **General education teacher of the child**
- Be prepared to provide information about the student's performance in relation to the general education curriculum;
  - Prepare to attend the IEP and remain for the duration of the meeting;
  - Bring present levels of performance (current functioning data if not already included in the draft document), work samples, progress reports, attendance and class participation data, etc. to the meeting; identify strategies that have and have not been effective for the student;
  - Collect information from other general education teachers as appropriate;
  - Contribute to discussions as appropriate, particularly concerning any needed modifications for instruction, participation in system-wide assessment, and appropriate placement options including the extent to which the child will participate in the general education setting;
  - Review IEP for understanding of student's needs in general education and implement the IEP;
  - Collaborate with other service providers and parents; and
  - Assess the student's progress regularly and inform the case manager if the student is not making progress and/or an IEP meeting is needed.
- **Public agency representative**
- Be knowledgeable of available resources within the school system;
  - Be knowledgeable of the general education curriculum; and

- Be qualified to provide or supervise the provision of specially designed instruction for students with disabilities;

- **If applicable, the following additional members must be invited:**
  - Other agencies likely to be paying for or providing transition services in the next 12 months;
  - Special Education Director or designee for the student’s school district of residence; and/or
  - A representative of an eligible facility or private school in which a student is placed at public expense.
- **Waiving the attendance of IEP team members.**

Though waiving the attendance of certain IEP team members (see discussion of Director and teachers below) is permitted, it is not generally advisable. IDEA allows for the attendance of a member of the IEP team to be waived with the written agreement of the public agency and parents if the excused member’s area of the curriculum or related services is not being modified or discussed at the meeting. If the team member’s area of curriculum or service is on the agenda, the public agency and parent must agree in writing to the excusal AND the team member must submit input into the development of the IEP in writing prior to the meeting.

Colorado law bans waiving the attendance of the Director of Special Education or designee, assumedly because this team member is essential to a good, compliant IEP meeting. For the same reasons, it is hard to understand how the attendance of a general education or special education teacher could be waived since IDEA assigns these members roles that are threaded throughout all aspects of the IEP.

*PRACTICE TIP: If the public agency and parents waive the attendance of an IEP team member and then find that there is conflict regarding the student’s program during the meeting, the IEP team should break and the excused member should be requested to join the meeting. If this is not possible, then the team should strongly consider rescheduling the meeting for a time when all of the team members can be available.*

- **Conducting the IEP Meeting.**

For Sample IEP meeting agendas, consult Appendix C.

*IMPORTANT: The purpose of the meeting indicated on the notice of meeting form must match the purpose of the meeting indicated on the IEP.*

- **IEP Contents**

- **Present levels of performance.**

Present levels of performance are intended to establish a “baseline” in measurable terms of what a student knows and can do. Present levels should be based on data, including assessment findings and recent performance data, and *specific reports on the previous years’ goals and objectives*. Statements in the present level of performance should be written in objective terms. Whenever possible, statements should describe skills that are observable. Test results pertinent to the student’s disability may also be included. Present levels must be prepared for relevant academic and non-academic areas in which the student requires specialized instruction—not simply scores, but also behavioral and functional performance.

*NOTE: Colorado no longer requires IEP team to address student strengths and needs in six different domains.*

Public agencies have various practices, with some including evaluation reports within the present levels of performance section of the IEP and others preparing freestanding reports. In any event, the IEP team must have access to the information. Adequate and accurate evaluative information is a critical piece of the IEP, explaining in plain language what the assessment information means in terms of the student’s abilities, areas of need, and day-to-day school function. It should be updated regularly and provided, when appropriate to the student’s service providers along with the accommodations and modifications.

*IMPORTANT: Whether evaluation reports are included in the IEP or are freestanding, the report should not include recommendations about eligibility for special education or placement options. The Multidisciplinary or IEP team, not individual evaluators, makes those decisions.*

*PRACTICE TIP: It is best practice for evaluators to provide copies of the reports to the parents in advance of the IEP meeting so that parents can have an opportunity to review and digest the information without an IEP team watching and waiting for them to finish. Also, especially when the results of the evaluation may be hard for the parents to deal with, it is best practice for the evaluator to offer to meet with the family in advance to discuss the report.*

The present levels of performance set the tone for the rest of the IEP. The law establishes a direct relationship between the present levels of performance, goals and objectives, consideration of special factors, accommodations, services recommended and least restrictive environment considerations.

*PRACTICE TIP: When parents contribute information during an IEP meeting, recognize their contributions by adding information into the IEP. If the parents are reporting information that the public agency has not heard before or observed, then begin the phrasing with, “Parents report that the student \_\_\_\_\_.” If the information directly*

*conflicts with the school's information, e.g., reports acquisition or demonstration of a skill that the school has never seen the child perform, the school should consider requesting an evaluation in order to get clear and objective information and avoid a prolonged dispute.*

- **Consideration of special factors.**

The IEP team must pay special attention to children with behavioral needs, English language learner needs, communication needs, deafness and hearing impairments, blindness or visual impairments, and assistive technology needs.

A student's assistive technology needs should be determined in relationship to the student's functional capacity. Assistive technology (AT) can be, but need not be, highly advanced technology. Many AT needs can be addressed with tape recorders, adapted keyboards, communication displays, and calculators. AT is not an IEP goal, but should be identified as a support to appropriate IEP objectives.

The IEP for a student identified with a hearing disability must also include a Communication Plan. The IEP for a student identified with a vision disability must include a Learning Media Plan.

For a student whose behavior interferes with his/her learning or that of others, the IEP team must consider the use of positive behavioral interventions and support and other strategies. For some students, the IEP can address these needs through goals and objectives and accommodations and modifications. For other students, the IEP team may determine that a **Behavior Intervention Plan (BIP)** should be developed.

The purpose of the BIP is to assist the teacher in systematically addressing student behavior and documenting the effectiveness of strategies used to help students be successful. Students with significant behavioral needs will likely need both a BIP and IEP goals and objectives directed at behavior. If one of the main areas of educational need is the student's behavior and it is in this area that the team seeks growth, then the IEP must include behavioral goals and objectives that will reflect the student's progress. The BIP then reflects the instructional strategies and techniques that will be used to help the child achieve the goals and objectives. BIPs must be implemented appropriately and failure to do so may deny a student a FAPE.

*NOTE: Do not use parents as behavioral interventions. Parents need to be informed about their student's behaviors at school, the interventions being used, and the student's progress with those interventions, but should not be required to act in order for the student's behavior intervention plan to be implemented. Often, consequences that have a student calling the parent escalate the child's behavior (e.g. a power struggle between the student and teacher about whether the call will be made), become too difficult to implement (e.g. because the parent cannot always be available, or the time away to call the parent is so disruptive that*

*significant instructional time is lost), or just do not work because the student is not learning internal controls for his/her own behavior and the school is not seen by the student as able to control or address the behavior.*

Document that a **Functional Behavioral Assessment** has been completed if applicable. IDEA mandates that public agencies conduct an FBA on students with a history of disruptive behaviors. A FBA must also be conducted when a student has been suspended out of school for more than 10 days. (See, Chapter L, Discipline and Attendance Issues). This process involves identifying factors that elicit disruptive behaviors and developing intervention strategies to reduce the behaviors that interfere with learning.

○ **Annual goals.**

IEPs must include annual goals, including academic and functional goals designed to meet the child's needs resulting from the child's disability and to enable the child to access the general education curriculum. Student IEPs must have clear, measurable descriptions of what the child will learn over the next year. Student IEPs should not rewrite the public agency's curriculum in the form of goals and objectives; IEPs must only include goals in the student's areas of special education need. Tips for writing effective goals and objectives include:

- Ensure the goals and/or objectives are measurable, measureable, measurable, e.g. words per minute, outbursts per hour, number of times correct out of a number of trials—4 out of 5 trials with less than 2 verbal prompts.
- Individualize goals and align them to the Colorado Standards. All third graders with learning disabilities in reading should not have the same goals.
- Do not base goals and objectives solely on the disability category, label, or curriculum.

*PRACTICE TIP: Do not carry the same goals and objectives over from year to year. If a child is continuing to work on the same goals for multiple school years, then the goals are likely written too broadly to reflect the rate at which the student can acquire new skills. Figure out what the child is doing and break down the goals into smaller pieces so that the student can experience success.*

○ **Progress reporting.**

The IEP must inform the parents how the child's progress will be measured and reported. Progress on annual goals is reported along with each progress report and report card. The report is in addition to, not instead of, the usual report card and grades given for participation in general education classes.

*PRACTICE TIP: Collect data at multiple times throughout each reporting period. If the goal or objective requires the skill to be demonstrated in multiple settings (e.g. special*

*education classroom, general education classroom, structured and unstructured times), collect data across those settings too.*

- **Accommodations and modifications.**

*Accommodations* allow a student to access the curriculum, but do not substantially change the instructional level, content, standards or expectations. CDE explains, “Accommodations consist of adaptations to instructional strategies (materials, manner of presentation, grouping, format), and/or the classroom environment (seating arrangements, lighting, sound, etc.). Accommodations should be made across educational settings.”

*Modifications* are changes to the program or curriculum that alter the scope or content of the curriculum. Modifications are made when accommodations cannot be effective.

All school personnel responsible for interacting with the student must be informed of the accommodations and modifications they are expected to implement. After the meeting, the case manager must send copies or summary of the accommodations/modifications to all teachers (general and special education) and service providers (paraprofessionals, bus drivers, etc.) who work with the student.

The IEP team must discuss accommodations/modifications that may enable students to participate in extracurricular/nonacademic activities, such as field trips, intramurals, and band/orchestra performances.

*PRACTICE TIP: Think well in advance about student’s participation in field trips. Field trips generally must be justified by relationship to the curriculum, so denying students with disabilities the opportunity to participate in a field trip may mean denying them access to the curriculum. For planning purposes and to ensure that any necessary accommodations can be made, set a deadline for receipt of permission slips and fees well in advance of the trip. If a student with a disability does not return the slip and fees on time AND the deadline is enforced with all students, then the school does not need to rush around at the last minute in an effort to accommodate the student.*

- **State and System-wide testing participation considerations.**

All students with disabilities must participate in local/state assessments or in alternate assessments if nondisabled students of the same age or grade are tested. Federal and state law anticipate that almost all students with disabilities will be able to participate in local/state assessments. CDE sets forth three questions for IEP Teams in determining the extent of participation appropriate for a student with disabilities:

- Is the student working toward the same standards as other students in the same grade? (If the answer is YES, the student should participate in the standard assessment with appropriate accommodations.)

- Is the student’s curriculum moderately modified? (If the answer is YES, the student should participate in the standard assessment with appropriate accommodations.)
- Is the student’s curriculum significantly modified? (If the answer is YES, the student should have an alternate assessment.)

*NOTE: Students who need accommodations or individual modifications to participate in testing generally must use those same accommodations every day for instruction and teacher-designed tests. It is best practice to ensure that the student needs the accommodations and can effectively use the accommodations by having them in place for at least a few months before the state or system-wide assessment.*

○ **Service Delivery**

The service delivery section of the IEP includes a grid or table in which to list the duration and frequency of special education and related services to be provided to the child. Services are provided in either a direct or consult service model.

In direct service, a trained staff member works directly (in a group or individually) with a student on particular IEP objectives. Typically, direct service establishes a skill that the student may go on to use in a variety of different environments and activities. Consult services mean an educator or related service provider works with other professionals, not the student directly, to assist those other professionals to meet a student's IEP goals and objectives. Typically, consult services ensure that a student has multiple opportunities in a day to use a particular skill.

*NOTE: For both direct and consult services, responsible providers must document the provision of services through logs or other records identifying when the service was delivered, who received the service, what was discussed, and any other relevant information about the service provided.*

In addition to the grid, the service delivery section includes a narrative statement that should “tell the story” of the student’s program. This section is used to explain in words those services that are not adequately addressed in the table, such as those that are needed on an inconsistent or less frequent basis or for a specific purpose.

Between the grid and the narrative statement, the IEP should identify clearly what the public agency will do to enable the child to advance appropriately toward attaining annual goals, to be involved and make progress in the general education curriculum and to participate in extracurricular and other nonacademic activities with other children with and without disabilities.

○ **Prior Written Notice (Section 15)**

Though the Institute’s computer-based IEP includes the Prior Written Notice (PWN) as Section 15, the Institute encourages practitioners to use the free-standing document included in Appendix A. The free-standing PWN document included in this Manual provides more room for explanation and also encourages more specificity than the computer-based version. PWN is an **essential** part of the IEP process that is intended to provide parents with a plain-language statement as to what is going to happen for the student and why. Failure to provide a proper PWN when proposing an IEP, including an explanation of options that were considered or rejected, and why, could expose the public agency to liability for failure to comply with the IDEA’s procedural requirements. This is particularly true when the IEP team has declined a parental request for services or placement.

(See Appendix A, PWN; Appendix B, sample PWNs, and Chapter J, Parent Rights and Participation).

## **SUBSTANTIVE REQUIREMENTS**

To satisfy IDEA’s substantive standard, the IEP developed for a student must provide individualized services sufficient to “confer some educational benefits.”

All of the IEP components addressed above set the tone for the placement discussion. Development of present levels of performance and discussion of the student’s educational needs leads to development of goals and objectives. The service delivery and placement discussion centers on determining what services the student needs in order to meet the specified goals and objectives and the extent to which the student is able to appropriately participate in the general curriculum. For the law and analysis of this discussion, *see* Chapter D, Free Appropriate Public Education, and Chapter F, Placement/Least Restrictive Environment.

## **TRANSFER STUDENTS**

Traditional school districts and Institute Charter Schools have different procedural obligations for enrolling students with disabilities. For students with disabilities seeking to enroll in a school of choice, Colorado ECEA Rule 4.03(8)(b)(iv) requires schools of choice to follow IDEA’s transfer rules. (*See* Chapter F, Placement, Law, p. 5). The Institute has developed enrollment procedures consistent with IDEA’s requirements. (*See* Appendix D, Enrollment Procedures for Students with Disabilities). Additional procedures apply to those students whose applications are a request for a significant change of placement, including:

- students with disabilities who have been served in a center-based program (or otherwise have intensive IEP service needs) and apply for admission into an Institute charter school that does not currently offer those services; or

- students currently enrolled in a “brick and mortar school” who apply for enrollment in an ONLINE program or students enrolled in an ONLINE program who apply for enrollment in a “brick and mortar school.”

## **FREQUENTLY ASKED QUESTIONS**

### **How often must an IEP meeting be convened?**

IEPs must be reviewed on an annual basis with an annual review meeting held on or before the anniversary date. There are situations in which the case manager could schedule an IEP review within the one-year anniversary time period, for example:

- In the spring before the student begins middle school or high school, especially if the student's IEP would expire prior to September 30;
- When a change of service or modification of goals or objectives is necessary;
- If a parent or teacher requests a review; or
- After an evaluation to consider new information or eligibility re-determination.

### **What should occur if the team members who show up for the meeting are not the individuals listed on the IEP notice?**

In order to comply with federal and state laws and CDE's monitoring requirements, the participants signing in at IEP meetings must match exactly those indicated on the notice of meeting forms. If additional or fewer participants appear for the meeting, the parents must specifically note on the meeting sign-in sheet their agreement to additional or fewer participants. If the parents are not in agreement and the individual is necessary to the IEP team, the meeting should be rescheduled.

### **How much notice of an IEP meeting must parents receive?**

The law does not make a specific requirement, but it is good practice to provide ten days notice unless there is a good reason why the meeting should take place sooner. Document when a parent agrees to a meeting with shorter notice. If the public agency does not have a current offer of FAPE available to the student and an IEP meeting is necessary, then the meeting should happen as soon as possible.

### **How should parents receive notices, IEPs and PWNs?**

The law only specifically allows PWNs, procedural safeguards and certain notices regarding due process to be sent via email. As a result, CDE takes the position that notices of meetings and IEPs must be sent via mail or hand-delivery.

As a matter of practical reality, all required notices and documents must be provided in a manner likely to get it to the parents, so do not refuse to send documents via email if the parents so request and regularly use email to communicate with the public agency. Even if the parents routinely use email, if the relationship is in any way contentious, it is prudent to send notices of meetings and IEP documents by U.S. Mail, perhaps even certified mail.

### **What if the parents request that we invite every one of the student's teachers?**

The law requires at least one special education teacher and at least one general education teacher of the child to attend the IEP meeting. When students have multiple teachers (especially in middle and high school), the teacher designated to attend should collect information from the student's other teachers that can be shared at the IEP meeting. While it is usually impractical for several teachers to attend a student's IEP meeting, it is nice to accommodate the parents' request, if possible. One option might be to have several teachers participate during the present levels discussion and then have just one teacher stay for the remainder of the IEP meeting. Ultimately, it is the public agency's responsibility to determine the necessary participants.

### **What do we do if parents want to bring private evaluators, attorneys, or advocates to their child's IEP meeting?**

Parents (and the public agency) have the right to invite to the IEP meeting individuals who have knowledge or special expertise regarding the student. Whoever invites the individual determines whether they have the knowledge or expertise to attend the meeting, so the parents cannot object to the public agency's invitees and vice versa. It is often a school district's practice to have an attorney present on behalf of the public agency if an attorney will accompany the parents. If parents indicate their intent to bring an attorney to an IEP meeting, contact the lead administrator.

### **Should I list the parents' private evaluators, attorney, or advocate on the IEP notice of meeting?**

The public agency should list on the notice of meeting only those individuals whom the agency is responsible for ensuring attend the meeting. The parents may extend the invitation to and information about the meeting to any individuals they choose. If you do decide to list individuals whom the parents invite or indicate that they would like to invite, then you can expect the public agency to be asked to pay for the individual's participation.

### **How is the agenda for an IEP meeting different when the parents request a meeting to address concerns they may have?**

All IEP meetings should follow the standard IEP process—beginning with a discussion of the student's present levels of performance, including behavioral concerns, followed by a review of goals and objectives, and concluding with a consideration of services and placement. Parents' concerns should be addressed within the structure of the IEP agenda and in the context of the discussions required by law. As explained above, a thorough discussion of any concerns about the child's performance should then form the basis for review of the student's goals and objectives and then placement.

*PRACTICE TIP: When parents contribute information during an IEP meeting, recognize their contributions by adding that information into the IEP. If the parents are reporting information that the public agency has not heard before or observed, then begin the phrasing with, “Parents report that the student \_\_\_\_\_.” If the information directly conflicts with the school’s information (e.g., reports acquisition or demonstration of a skill that the school has never seen the child perform), the school could recommend evaluation in order to get clear and objective information.*

### **What do we do if a parent wants to record or videotape the IEP meeting?**

Taping meetings allows parents, who may be overwhelmed during the meeting, to listen to the tapes later and make sure that they heard and understood the IEP team’s discussion. Audio taping of meeting started as an accommodation and has become a widespread practice. Since parents sometimes tape meetings in anticipation of litigation (i.e. a due process hearing request), the public agency should always tape meetings if parents do. Requests to videotape meetings are far less common and are more likely to be disruptive to the meeting—in large part because team members are reluctant to be candid in discussions when being filmed. Unless a parent has a disability that would make audiotapes inaccessible for them, parents should be encouraged to audiotape instead. If such a request persists, contact the lead administrator.

### **What if parents want to bring a reporter to an IEP meeting?**

It is hard to imagine how it could be appropriate for a reporter to attend a meeting during which a student’s confidential information will be discussed and a program prepared, even if the parents would like the person to attend. If parents make such a request, contact the lead administrator immediately, because this request is likely symptomatic of a larger concern.

### **What if I have a question for other members of the IEP team during a meeting? Is it okay to ask the parents and their advocate to wait outside the room?**

The IEP team should take reasonable breaks during a meeting to allow people to stretch and regroup. If a question comes up about procedures or information or people get upset, you can announce a short break. Since the parents are typically not as familiar with school buildings as staff, the public agency staff should allow the parents to use the meeting room to confer while agency staff adjourn to another space. These breaks should not be overused or too long, but can be useful to clear up confusion or to allow people to clear their heads.

### **What if a parent clearly indicates to the IEP team that he/she does not want the team to address a particular service, such as mental health or occupational therapy?**

The IEP team needs to be sure that the IEP it proposes for a student is a complete offer of FAPE—meaning it contains all of the goals and objectives and services that the child needs to make some progress in all areas of educational need. IEP teams have obligations to the student, and should not honor a parent’s request if doing so would compromise the offer of

FAPE to the student. IEPs are more like creating a complete balanced meal, rather than setting out an *a la carte* buffet. OSEP has explained, “We do not view the consent provisions of the Act as creating the right of parents to consent to each specific special education and related service that their child receives. Instead, we believe that parents have the right to consent to the initial provision of special education and related services.”

**The parents came to the IEP meeting, but then got angry and left early because they didn’t like the IEP that was being developed. Should we adjourn the meeting and reschedule to finish the IEP?**

Under most circumstances, no. Parents are entitled to participate in the development of the IEP, but if they choose not to participate fully by leaving a meeting early, the public agency should finish the meeting and complete the IEP.

It is essential, however, to be very careful in gauging the situation. If the meeting is running long but running well, and the parents have to leave because of scheduling conflicts but are not refusing to participate in the IEP process, every effort should be made to reschedule (quickly) to complete the IEP. If it is clear, however, that the parents are simply refusing to continue to participate because their demands are not being met, the IEP team should complete the IEP. The meeting chair or case manager should then send a copy of the IEP to the parents, along with a letter explaining to the parents that the public agency completed the enclosed IEP and offering to reconvene the meeting if the parents have any additional concerns to be addressed. A PWN should also be sent with this correspondence. (*See*, Chapter K, Parent Rights and Participation).

**At the end of the IEP meeting, the parents refuse to consent to the IEP proposed by the IEP team. What do we do?**

Parental consent is not required to implement an IEP, except for the initial provision of special education and related services. The case manager should provide the parents with a copy of the finalized IEP, along with a PWN indicating that the services in the IEP will be commenced on a given date (the standard is three days) and a copy of the procedural safeguards notice (unless the student’s file amply documents that the parents have received and understand the procedural safeguards notice within the last year – quite frankly, with the procedural safeguards notice, you can’t be too careful).

**Is it okay to prepare an IEP in advance of the meeting?**

It is absolutely okay, even best practice, for the IEP team members to prepare a draft IEP for an upcoming meeting. Doing so can facilitate the meeting and serve as a tool for the parents and other IEP team members in preparing for the meeting. If a draft is prepared, the case manager must ensure that the IEP is clearly marked as a draft and that the IEP team members clearly understand that they can change anything in the document in order to arrive at an offer of FAPE for the student. Also, it is a good practice to send the draft to the parents in

advance of the meeting so that they can familiarize themselves with it and prepare any feedback that they may have.

***IMPORTANT: In order to avoid violating the law by predetermining placement, the draft IEP should not include recommendations of service hours and placement.***

### **We scheduled two hours for the meeting, but we are not finished. What do we do?**

It is okay to schedule a time for the meeting, including an ending time. If the team has not completed its work within that time, the team should decide whether to continue or set a time to reconvene. It is critically important to have an offer of FAPE available to children with disabilities at all times. Accordingly, if the student does not have a current and appropriate IEP, the IEP team should allow plenty of time to complete the IEP during the first meeting.

### **How soon can we begin to implement an IEP?**

For initial placement, the parents will need to provide written consent before the IEP can be implemented. For subsequent IEPs, the public agency does not need specific consent, only the absence of a request for a due process hearing because only a due process hearing request prevents the public agency from changing a student's placement. (See, Chapter J, Dispute Resolution, and Chapter K, Parent Rights and Participation).

After the initial placement, when parents attend the IEP meeting and agree with the IEP and placement, implementation may begin immediately. If the parents do not attend the IEP meeting or verbally express disagreement with the IEP, the case manager should send the IEP documents to the parent by mail with a cover letter that explains that the IEP will be implemented for the student on a specific date in the future—usually 10 days after the date of the IEP meeting, unless there is a good reason to implement the IEP sooner. In any case, the parents need a reasonable amount of time to receive and respond to the IEP before it is implemented.

### **How are IEP provisions, including accommodations and modifications, communicated to service providers?**

Different schools have developed different practices for ensuring that all of a student's service providers are informed of the student's needs and their responsibilities in meeting those needs. Fundamentally, the case manager must send copies or summaries of the accommodations/modifications to all teachers (general and special education) and service providers (paraprofessionals, bus drivers, etc.) who work with the student.

### **Why do we have to prepare two forms of progress reporting for students with disabilities?**

All students receive report cards regarding their progress in the general education curriculum and on developmental behavioral expectations. Students with disabilities and their families

need to receive this information in order to understand the child's status with respect to the general education curriculum. In addition, students with IEPs need additional reporting on the student's progress on IEP goals and objectives.

**For transfer students to receive IEP services, do we need to secure Initial Consent for Special Education and Related Services?**

CDE answers this question as follows:

Sometimes. When a student transfers into a public agency, the IDEA requires the public agency to take reasonable steps to promptly obtain the student's records from the previous public agency. If the public agency receives the child's records, but the records do not include documentation of the consent for initial provision of special education services, then the receiving public agency must obtain a new consent for initial provision of special education services.