



The University of the State of New York  
The State Education Department

# **Guide to Quality Individualized Education Program (IEP) Development and Implementation**

February 2010  
(Revised December 2010)



# THE UNIVERSITY OF THE STATE OF NEW YORK

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## INTRODUCTION

Research and experience has shown that to improve results for students with disabilities, schools must:

- have high expectations for students with disabilities;
- meet the student's needs to enable the student to access, participate and progress in the general education curriculum to the maximum extent possible;
- ensure that parents have meaningful opportunities to participate in the development, review and revision of the individualized education program (IEP);
- ensure that families have meaningful opportunities to participate in the education of their children at school and at home;
- ensure that special education is a service, rather than a place where students are sent;
- provide appropriate special education services and supplementary supports and services in the general education classroom, whenever appropriate;
- provide effective systems of school-wide, classroom, small group and individualized systems of behavior supports;
- ensure that all those who work with students with disabilities have the skills and knowledge necessary to help such students to meet academic and functional goals;
- prepare students for their transition to adult living, working and learning to lead productive independent adult lives to the maximum extent possible;
- provide high quality research-based instruction and supports; and
- focus resources on teaching and learning.

The IEP is the cornerstone of the special education process for each individual student. It is the tool to document how one student's special needs related to his/her disability will be met within the context of an educational environment. This guidance document provides important information for Committees on Preschool Special Education (CPSE) and Committees on Special Education (CSE)<sup>1</sup> in developing IEPs that are reasonably calculated to result in educational benefit to a student.

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<sup>1</sup> References to the CSE throughout this document include the Subcommittee, unless otherwise specified.  
February 2010 (Revised December 2010)

## DEVELOPING IEPS LINKED TO THE STANDARDS

*"The New York State Standards apply to all students, regardless of their experiential background, capabilities, developmental learning differences, interests or ambitions. There are multiple pathways to learn effectively, participate meaningfully and work towards attaining the curricular standards. Students with a wide range of abilities may pursue multiple pathways to learn effectively, participate meaningfully and work toward attaining the curricular standards." (Learning Standards for English-Language Arts, New York State Education Department, March 1996).*

The New York State Learning Standards include learning standards, performance indicators and sample tasks a student is expected to know or demonstrate at different levels (alternate, elementary, intermediate and commencement). Standards serve as the basis for developing instructional curriculum.

In developing a student's IEP, it is the responsibility of the Committee to recommend goals and services that will assist the student to be involved and progress in the general education curriculum (or for preschool students, in appropriate activities). This means that members of a Committee will need to consider both the State's learning standards as well as the school-based instructional curriculum, which should be aligned to the State's learning standards. They will need to know the expectations of the general education classroom for the corresponding age of the student both in terms of what learning is expected (general curriculum) as well as how the students are expected to access/demonstrate that learning. This information will assist the Committee in determining if the student needs adaptations, accommodations, or modifications to the general curriculum for all or part of his/her learning. This is one reason it is essential that the student's general education teacher(s) participate in the Committee meetings and for the school district representative to be knowledgeable about the general education curriculum.

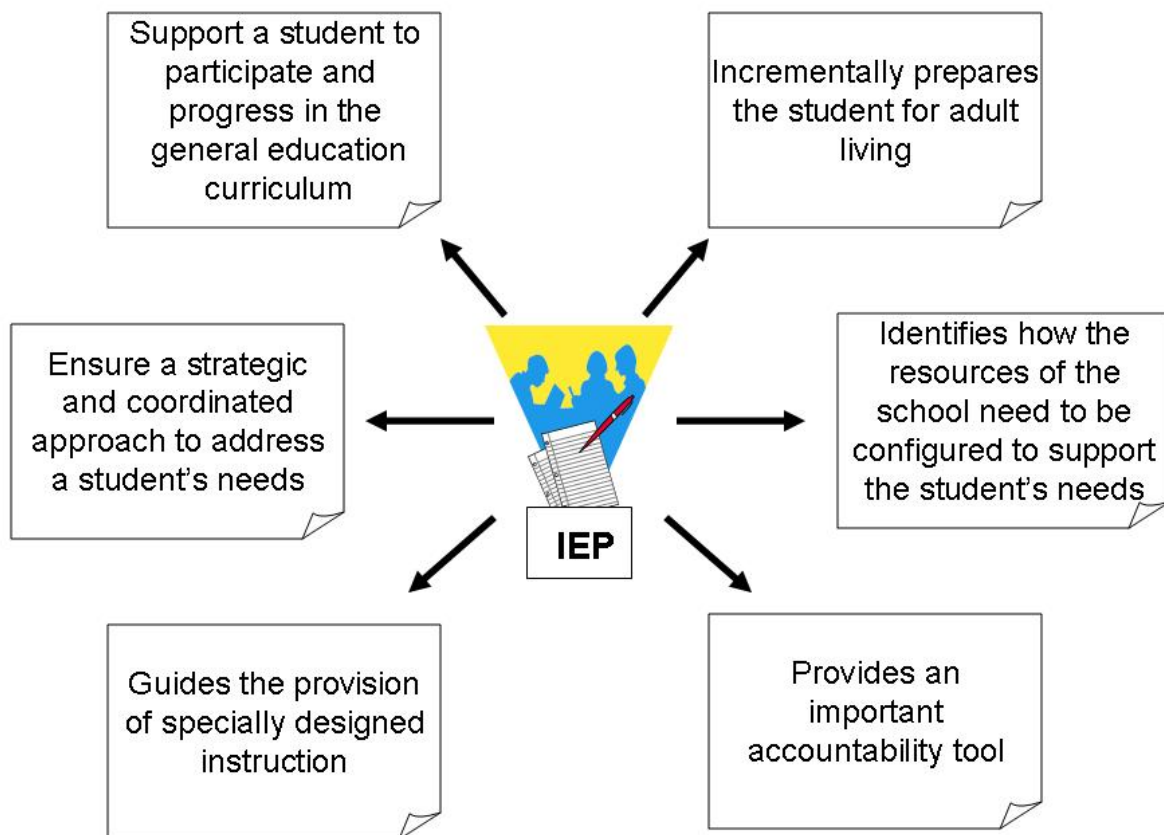
To develop IEPs that are linked to the standards, the Committee should:

1. Review the content as well as the expectations for how the student will learn or demonstrate knowledge and skill in the content areas.
2. Identify the strengths and challenges for the student in relation to those expectations in the present levels of performance section of the IEP.
3. Identify how a student's needs are linked to the general curriculum (e.g., a student's difficulty with visual processing may affect graphing skills required to achieve the math standards).
4. Identify the goals that the student will be expected to achieve in one year and, when appropriate, short-term instructional objectives or benchmarks that are the intermediate steps to reach those annual goals). Standard-based goals do not mean that a student's goals and objectives in an IEP are a re-statement of a standard or a curriculum goal in a specific content area, but rather are a statement that reflects the necessary learning that will lead to attainment of the standard. For example, a student may have goals to acquire essential learning strategies (e.g., mnemonics, self-questioning, paraphrasing and summarizing) that will help him or her better meet the expectations around how to learn the content.

5. Identify the special education services, including the adaptations, accommodations, or modifications to the general curriculum, and/or instructional environment and materials, as needed by the student to reach those standards.

## THE IEP AS THE CORNERSTONE OF THE SPECIAL EDUCATION PROCESS

The IEP is a strategic planning document that should be far reaching in its impact. An IEP identifies a student's unique needs and how the school will strategically address those needs. IEPs identify how specially designed instruction will be provided in the context of supporting students in general education curriculum and in reaching the same learning standards as nondisabled students. IEPs guide how the special education resources of a school will be configured to meet the needs of the students with disabilities in that school. IEPs identify how students will be incrementally prepared for adult living. IEPs also provide an important accountability tool for school personnel, students and parents. By measuring students' progress toward goals and objectives, schools should use IEPs to determine if they have appropriately configured how they use their resources to reach the desired outcomes for students with disabilities.



# OVERVIEW

## The Individualized Education Program (IEP)

An IEP is a written statement for a student with a disability that is developed, reviewed and revised by a Committee on Special Education (CSE), Subcommittee on Special Education or Committee on Preschool Special Education (CPSE). The IEP is the tool that ensures a student with a disability has access to the general education curriculum and is provided the appropriate learning opportunities, accommodations, adaptations, specialized services and supports needed for the student to progress towards achieving the learning standards and to meet his or her unique needs related to the disability. Each student with a disability must have an IEP in effect by the beginning of each school year. Federal and State laws and regulations specify the information that must be documented in each student's IEP. In New York State (NYS), IEPs developed for the 2011-12 school year and thereafter, must be on a form prescribed by the Commissioner of Education.

### Who develops the IEP?

An IEP must be initially developed and annually reviewed and, if appropriate, revised by the CSE, Subcommittee on Special Education or CPSE (hereinafter referred to as the Committee). The Committee is required to include certain individuals who know the student and his or her unique needs and who can commit the resources of the school to address the student's needs.

To develop an appropriate IEP for the student, a group of individuals with knowledge and expertise about the student, curriculum and resources of the school must consider individual evaluation information and reach decisions in an effective and efficient manner. Information about the student's strengths, interests and unique needs gathered from parents, teachers, the student, related service providers, evaluations and observations are the foundation upon which to build a program that will result in effective instruction and student achievement. Each member of the multidisciplinary team that makes up the Committee brings information and a unique perspective to the discussion of the student's needs and has an important role and responsibility to contribute to the discussion and the recommendations for the student.

Each Committee has a chairperson who has certain responsibilities under the law and regulations. The school district representative must serve as the chairperson of the Committee. The required members of the Committee include the following:

#### **STUDENT**

Whenever appropriate, the student should be invited to participate in the Committee meetings. It is the student, after all, who will be most affected by the recommendations of the Committee. The concerns, interests and recommendations of the student need to be considered. An IEP that builds on the strengths of the student and includes recommendations that the student can support is more likely to result in successful outcomes for the student. The decision to invite the student should be discussed with the student's parent(s) to determine if the student's attendance at the

meeting will be helpful in developing the IEP and/or directly beneficial to the student. If the purpose of the meeting is to consider the postsecondary goals for the student and transition services needed to assist the student in reaching those goals, the student must be invited. If the student does not attend, the district must take steps to ensure that the student's preferences and interests are considered.

**PARENTS OF THE STUDENT**

As Committee members, the student's parents or guardian participate in the development, review and revision of their child's IEP. Parents are the constant individuals on the Committee from year to year for that student. They bring a history as well as current information on their child's strengths and needs and their concerns and ideas for enhancing their child's education. Parents bring information on what expectations and hopes and dreams they have for their child, and often can speak to those approaches that have been successful and/or unsuccessful for their child. They can also provide information on their child's interests that can be used to motivate the child's learning, the skills that the child shows at home and in other settings and whether skills learned in school are being demonstrated elsewhere. The concerns of the parent for the education of their child must be considered in the IEP development process.

**REGULAR EDUCATION TEACHER OF THE STUDENT**

Whenever the child is or may be participating in the general education environment, at least one regular education teacher of the child must participate as a member of the Committee. The regular education teacher of the student has knowledge of the school's general education curriculum requirements and helps the Committee determine appropriate positive behavioral interventions, instructional strategies, supplementary aids and services, program modifications and supports for school personnel for and on behalf of the student that are necessary for the student to participate to the fullest extent possible in general education curriculum and classes. While only one regular education teacher of the student is required to attend the meeting, the Committee is encouraged to seek the input of the student's other regular education teachers who will not be attending the Committee meeting.

**INDIVIDUAL WHO CAN INTERPRET THE INSTRUCTIONAL IMPLICATIONS OF THE EVALUATION**

At least one individual must participate in the Committee meeting who can interpret evaluation information so that the instructional implications of those evaluations are understood and considered in the IEP development process. This individual may, as appropriate to the evaluations to be discussed, be a member of the Committee who is also serving as the regular education teacher, special education teacher or special education provider, (e.g., related service provider), school psychologist, representative



of the school district or a person having knowledge or special expertise regarding the student when such member is determined by the school district to have the knowledge and expertise to fulfill this role on the Committee.

**SCHOOL DISTRICT REPRESENTATIVE**

The school district representative must be someone who is qualified to provide or supervise special education and who is knowledgeable about the general education curriculum and the availability of resources of the district. This individual brings knowledge of the continuum of special education supports and services and should have the authority to commit the resources of the school and to ensure that whatever services are set out in the IEP will be provided.

The individual who meets these qualifications may also be the same individual appointed as the regular education teacher, special education teacher or special education provider of the student or the school psychologist on the Committee. The school district representative on the Committee must serve as the chairperson of the Committee.

**INDIVIDUALS WITH KNOWLEDGE OR SPECIAL EXPERTISE ABOUT THE STUDENT**

In addition to the other required members, parents and school personnel have discretion to invite other individuals who have knowledge or special expertise regarding the student. This is important to ensure that the Committee includes the input of those persons that can add to the discussion of the student's needs and recommendations for supports and services. The determination of the knowledge or special expertise of any such individual is made by the party (parents or school) who invited the individual to the meeting. When these individuals attend the meeting, they participate as Committee members for the student.

**SPECIAL EDUCATION TEACHER, OR RELATED SERVICE PROVIDER, OF THE STUDENT**

Not less than one special education teacher of the student, or if appropriate, not less than one special education provider of the student must participate in the Committee meetings. If the student is being considered for initial provision of special education, this individual must be a teacher qualified to provide special education in the type of program in which the student may be placed and be the teacher likely to implement the student's IEP. The student's special education teacher provides information on the specially designed instruction needed to address the student's unique needs.

**SCHOOL PSYCHOLOGIST**

A school psychologist is a member of the CSE, and under certain circumstances, the Subcommittee. (The school psychologist is not a required member of the CPSE.) This individual contributes to an understanding of the individual evaluations conducted on the

student, assists to identify the positive behavioral intervention supports and strategies needed by the student, assists to plan school programs to meet the student's needs and to identify, plan and manage any psychological services the student might need.

**ADDITIONAL PARENT MEMBER**

In addition to the parent of the student, another parent of a student with a disability must participate in meetings of the CSE and CPSE, except when the parents of the student request, in writing, that the additional parent member not participate or when the parents and school district agree, in writing, that the participation of the additional parent member is not necessary. For the CSE, the additional parent member must be a parent of a student with a disability residing in the school district or a neighboring school district, provided that the additional parent member may be the parent of a student who has been declassified within a period not to exceed five years or the parent of a student who has graduated within a period not to exceed five years., For the CPSE, the additional parent member must be a parent of a child with a disability residing in the school district or a neighboring school district and whose child is enrolled in a preschool or elementary level education program. The additional parent member may not be employed by or under contract with the school districts. The additional parent member is not a required member of a Subcommittee.

The additional parent member can provide important support and information to the parents of the student during the meeting and, in addition to the student's parents, participates in the discussions and decision making from the perspective of a parent of a student with a disability.

**SCHOOL PHYSICIAN**

A school physician, if specifically requested in writing by the parent or school district at least 72 hours before the meeting, is a required member of the CSE.

**OTHER AGENCY REPRESENTATIVES**

When the purpose of the meeting is to discuss transition services, a representative of any participating agency likely to be responsible for providing or paying for transition services must be invited to the meeting to the extent appropriate and with the consent of the student's parent (or the student who is 18 years of age or older). Written consent is needed because personally confidential information about a student will be shared at the Committee meeting. If an agency invited to send a representative to a meeting does not attend, the district must take steps to involve the other agency in the planning of any transition services.

When a student is or may be attending an approved private school or facility, a representative of that school or facility must be invited

to participate in the student's Committee meetings. This is also the case when a student is attending an education program operated by another State department or agency (e.g., Office of Mental Health, Office of Children and Family Services). If the private school or facility representative cannot attend, the school district must use other methods to ensure participation by the private school or facility, including individual or conference telephone calls.

For CPSE meetings, a representative of the municipality must be invited, but if that representative does not attend, the meeting can legally proceed. For students transitioning from early intervention (EI) programs and services to the CPSE, an EI service coordinator or other appropriate representative of the EI system must be invited at the request of the parent.

**ATTENDANCE NOT  
NECESSARY**

The parent and the school district may agree in writing that the attendance of one or more of the Committee members is not necessary for all or a portion of a particular Committee meeting because that individual's area of service will not be discussed or modified at the meeting. The regulations for these procedures are provided in Attachment 1.

**EXCUSAL OF  
COMMITTEE  
MEMBERS**

If a particular Committee member's area of service will be discussed or modified at a meeting, but the individual is not able to participate in the meeting, the parent and the district may consent in writing to excuse the individual from all or a portion of the meeting. In this case, the Committee member must have provided the Committee members with a written report. The regulations for these procedures are provided in Attachment 1.

Attachment 1 provides further information on the required members of these Committees.

## **STEPS TO DEVELOPING AND IMPLEMENTING AN IEP**

The IEP needs to be developed in a particular sequence. The information considered and discussed in each step provides the basis for the next step in the process.

### **Step 1: Obtain and consider evaluation information**

Evaluation information must be obtained in all areas of the student's disability or suspected disability. Evaluations need to identify and provide instructionally relevant information as to the unique needs of the student, current functioning, cognitive, physical, developmental and behavioral factors that affect learning and how the disability affects the student's participation and progress in the general education curriculum and in general education classes (or, for preschool students with disabilities, participation in age appropriate activities).

Before a student is identified as needing special education services, the Committee must ensure that the appropriateness of the resources of the general education program, including but not limited to academic interventions services, has been considered.

### **Step 2: Determine eligibility for special education services**

The Committee must review the evaluation information to determine if the student has a disability that requires special education services. A Committee may not determine that a student needs special education services if the determinant factor is:

- lack of appropriate instruction in reading, including explicit and systematic instruction in phonemic awareness, phonics, vocabulary development, reading fluency (including oral reading skills) and reading comprehension strategies;
- lack of appropriate instruction in math; or
- limited English proficiency.

If the Committee determines that the student is eligible for special education services, it must identify the student's disability classification. For school-age students, one of the following disabilities must be identified: autism, deafness, deaf-blindness, emotional disturbance, hearing impairment, intellectual disability, learning disability, multiple disabilities, orthopedic impairment, other health impairment, speech or language impairment, traumatic brain injury or visual impairment including blindness.

Each 3 - 4 year old in need of special education is identified as a "preschool student with a disability." In making this determination, the CPSE must determine if the preschool student exhibits a significant delay or disorder in one or more functional areas or meets the criteria for a disability classification of autism, deafness, deaf/blindness, hearing impairment, orthopedic impairment, other health-impaired, traumatic brain injury or visual impairment including blindness.

**Step 3: Identify the student's present levels of performance and indicate the individual needs of the student according to each of four need areas:**

- academic achievement, functional performance and learning characteristics;
- social development;
- physical development; and
- management needs.

At the Committee meeting, the student's present skills, strengths and individual needs must be discussed and documented. This includes how the student's disability affects his or her participation and progress in the general education curriculum (or for preschool students, participation in appropriate activities), consideration of specific student strengths and needs and concerns of the parents for enhancing the education of their child.

**Consideration of special factors**

The Committee must include a statement in the IEP if, in considering the special factors of behavior, limited English proficiency, blind or visual impairment, communication needs and/or assistive technology requirements, the Committee has determined a student needs a particular device or service (including an intervention, accommodation or other program modification) in order for the student to receive a free appropriate public education.

Attachment 2 provides examples of guiding questions that may be used by a Committee to determine whether a student needs such an intervention, accommodation or program modification to address one of these special considerations.

**Step 4: Identify the measurable postsecondary goals and transition needs, including courses of study, of the student**

Beginning not later than the first IEP to be in effect when the student is age 15 (and at a younger age, if determined appropriate) and updated annually, the IEP must include:

- appropriate measurable postsecondary goals based upon age appropriate transition assessments relating to training, education, employment and, where appropriate, independent living skills; and
- a statement of transition service needs that focuses on the student's courses of study, taking into account the student's strengths, preferences and interests, as they relate to transition from school to post-school activities.

**Step 5: Set realistic and measurable annual goals for the student**

After determining and discussing the student's present levels of performance and, as appropriate, the student's measurable post-secondary goals, the Committee must make a recommendation as to the measurable annual goals that the student can realistically reach in the year in which the IEP will be in effect. For each annual goal, the IEP must indicate the evaluative criteria (the measure used to determine if the goal has been achieved),

evaluation procedures (how progress will be measured) and schedules (when progress will be measured) to be used to measure progress toward meeting the annual goal.

These goals should relate to the student's unique needs and promote the student's participation and progress in the general education curriculum in the least restrictive environment. For students beginning with the first IEP to be in effect when the student is age 15 and updated annually, the Committee must identify appropriate annual goals to address the student's transition needs.

For students eligible to take the New York State Alternate Assessment (NYSAA) and for preschool students with disabilities, each annual goal must also include short-term instructional objectives and/or benchmarks (measurable intermediate steps between the student's present levels of performance and the annual goal). In accordance with district policy, short-term instructional objectives and benchmarks may be established for other students as well.

**Step 6: Reporting progress to parents**

The Committee must identify and document in the IEP when periodic reports on the progress the student is making toward the annual goals will be provided to the student's parents.

**Step 7: Determine the special education program and services the student will need**

Based on the student's needs and goals, the Committee must decide what special education program and services, including as appropriate related services, accommodations, program modifications and supports the student needs to meet the annual goals, participate and progress in the general education curriculum and participate in extracurricular and other nonacademic activities with other students including students without disabilities. The Committee must also decide the extent (frequency and duration) as well as the location where each program, service, accommodation, etc. will be provided.

**Step 8: Determine eligibility for twelve-month (July/August) services**

The Committee must determine the student's eligibility for 12-month services. If a student is recommended for July/August services, the IEP must identify the provider of services during the months of July and August, and, for preschool students determined by the CPSE to require a structured learning environment of 12 months duration to prevent substantial regression, a statement of the reasons for such recommendation.

- Step 9: Determine individual testing accommodations the student will need**  
The Committee must identify any individual testing accommodations, needed by the student because of his/her disability, to be used consistently by the student in the recommended educational program and on State and district-wide assessments. Documentation of testing accommodations is required for preschool students only if there is an assessment program for nondisabled preschool children.
- Step 10: Determine the coordinated set of transition activities**  
For students beginning not later than the first IEP to be in effect when the student is age 15 (and at a younger age, if determined appropriate) and updated annually, the Committee must identify needed activities to facilitate the student's movement from school to post-school activities, including instruction, related services, community experiences, the development of employment and other post-school adult living objectives and, when appropriate, acquisition of daily living skills and functional vocational evaluation.
- Step 11: Determine which State and district-wide assessments the student will participate in**  
The Committee must recommend whether the student will participate in the same or alternate State and district-wide assessments of student achievement, or for preschool students, the student's participation in the same assessments of student achievement, that are administered to nondisabled students.
- Step 12: Determine participation in regular class, or, for preschool students, in settings/activities with nondisabled peers**  
Based on the Committee's recommendation, the IEP must identify the extent, if any, to which the student will not participate in regular classes and extracurricular activities with nondisabled peers. For preschool students, the CPSE must document the extent the preschool student would not be participating in appropriate activities with age appropriate peers.
- Step 13: Determine special transportation needs**  
The Committee must identify special transportation needs of the student, and, as appropriate, if the student will need transportation to and from special education programs and services that may be provided in settings outside the school program. For preschool students, the Committee must indicate if the parent has agreed to transport the student to and from his/her special education program at public expense.
- Step 14: Determine placement**  
The Committee must decide the type of setting where the student's IEP will be implemented (e.g., public school district, board of cooperative educational services (BOCES) classroom, approved private day or residential school, private preschool or daycare setting). Placement is determined based on the least restrictive environment where the student's IEP can be implemented.

Unless the student's IEP requires some other arrangement, the student with a disability must be educated in the school he/she would have attended if the student did not have a disability.

**Step 15: Implementation**

The IEP must document the projected date the IEP will be implemented. Each student with a disability must have an IEP in effect at the beginning of each school year. There may be no delay in implementing a student's IEP, including any case in which the payment source for providing or paying for special education services for the student is being determined. The student's IEP needs to be implemented as soon as possible following the Committee meeting.

The school must take steps to ensure a student's IEP is implemented as recommended by the Committee, including but not limited to:

- providing copies of the student's IEP, as appropriate;
- informing each individual of his or her IEP implementation responsibilities; and
- providing a student with his or her instructional materials in an accessible alternative format if recommended in the student's IEP.

**Step 16: Review and, if appropriate, revise the IEP**

The Committee must reconvene to review the student's IEP when requested by the student's teacher or parent, but at least annually. At the IEP review meeting, the Committee must consider the student's progress toward meeting the annual goals, the concerns of the parents for the education of their child, any new evaluation information, the student's progress in the general education curriculum (or for preschool students, participation in appropriate activities), the student's need for testing accommodations and identify the least restrictive environment for the student. For students ages 15 and older, the measurable post secondary goals and transition services must be reviewed annually.

Upon consideration of these factors, the IEP should be revised, as appropriate, to address any lack of expected progress toward the annual goals and in the general education curriculum; the results of any reevaluation and any information about the student provided to, or by, the parents; the student's anticipated needs; or other matters, including a student's need for test accommodations.

In making changes to a student's IEP after the annual review has been conducted, the parent and the school district may agree, in writing, not to convene a meeting of the Committee for the purpose of making these changes, and instead may develop a written document to amend or modify the student's current IEP.

**Step 17: Conduct a meeting to review reevaluation information on the student**

The needs of students change over time. Therefore, a reevaluation of each student's individual needs, eligibility for special education and the continued



appropriateness of the special education services that have been provided to the student must be conducted at least once every three years, except where the school district and the parent agree in writing that such reevaluation is unnecessary. A reevaluation may be conducted more frequently if conditions warrant or if the parent or the teacher requests a reevaluation of the student, but not more frequently than once a year unless the parent and representatives of the school district appointed to the Committee agree otherwise. The Committee must convene a meeting to discuss and, if appropriate, revise the student's IEP in consideration of the results of the reevaluation.

### **Guiding Principles for IEP Development**

The following guiding principles for IEP development are important to ensure that each student's IEP is developed and implemented consistent with the intent of the law.

- The IEP development process is a student-centered process. No other issues, agenda or purposes should interfere.
- Information provided by parents regarding their child's strengths and needs is a vital part of the evaluation and is critical in developing an IEP that will lead to student success.
- The input of each individual on the Committee should be encouraged and valued.
- All members of the Committee share the responsibility to contribute meaningfully to the development of a student's IEP.
- Meaningful efforts are made to ensure that parents and students participate in the IEP development process.
- Information is shared in the language or communication mode a parent and student can understand.
- Special education is a service, not a place. The IEP development process evolves to address concerns and considerations so as to support the student's progress toward the State's learning standards and to ensure the student receives services in the least restrictive environment appropriate for the student.
- The IEP recommendations are based on the student's present levels of performance and in consideration of the student's strengths, needs, interests and preferences.
- The IEP recommendations reflect consideration of the concerns of the parent for the education of their child.
- The IEP is developed in such a way that it is a useful document that guides instruction and provides a tool to measure progress.
- The IEP appropriately addresses all the student's unique needs without regard to the current availability of needed services.
- Positive behavioral supports and services needed by the student are identified.

- A student's need for transition services is considered throughout the IEP development process, including during discussions of the student's present levels of performance, annual goals, services, accommodations, program modifications and placement.
- The student's parents participate in developing, reviewing and revising the IEP, having concerns and information considered and being regularly informed of their child's progress.

## INDIVIDUALIZED EDUCATION PROGRAM (IEP) DEVELOPMENT

The following sections of this document provide guidance on developing, documenting and implementing recommendations for each student's IEP.

- IEP Identifying Information
- Present Levels of Performance and Individual Needs
- Measurable Post-secondary Goals/Transition Needs
- Measurable Annual Goals, Short-Term Objectives and Benchmarks
- Reporting Progress to Parents
- Recommended Special Education Programs and Services
- Coordinated Set of Transition Activities
- Participation in State and District-wide Assessments
- Participation with Students Without Disabilities
- Transportation
- Placement Recommendation
- IEP Implementation

In general, each chapter presents regulatory requirements, followed by guidance on each of the required components and quality indicators for that section.

The New York State Education Department (NYSED) has developed model Student Information Summary and IEP forms recommended for use by all school districts. A copy of the State Model IEP form may be found at <http://www.p12.nysed.gov/specialed/formsnotices/IEP/memo-Jan10.htm>. Beginning in the 2011-12 school year and annually thereafter, IEPs developed for NYS students must be on the State developed IEP form.

## IEP IDENTIFYING INFORMATION

### STUDENT IDENTIFYING INFORMATION

The student's name is indicated in the IEP. The IEP may also indicate the student's date of birth and locally developed identification number.

### DISABILITY CLASSIFICATION

The IEP must designate the disability classification of the student from one of the disability categories defined in State regulations. Only one disability category may be listed in the IEP.

- For preschool students, the disability category must be designated as "preschool student with a disability." The criteria used for the preschool student's eligibility determination shall be either:
  - a functional delay: a significant delay or disorder in one or more functional areas related to cognitive, language and communicative, adaptive, socio-emotional or motor development which adversely affects the student's ability to learn; or
  - a specific disability classification of autism, deafness, deaf/blindness, hearing impairment, orthopedic impairment, other health-impaired, traumatic brain injury or visual impairment including blindness. The definition of these terms may be found in section 200.1(mm) of the Regulations of the Commissioner of Education.
- For school-age students, the IEP must specify one of the following disabilities: autism, deafness, deaf-blindness, emotional disturbance, hearing impairment, intellectual disability, learning disability, multiple disabilities, orthopedic impairment, other health-impaired, speech or language impairment, traumatic brain injury or visual impairment including blindness. These disabilities are defined in section 200.1(zz) of the Regulations of the Commissioner of Education.

### DATE IEP IS TO BE IMPLEMENTED

The IEP must indicate the projected date the IEP is to be implemented.

### PROJECTED DATE OF ANNUAL REVIEW

The IEP must indicate the projected date of the review of the student's IEP. Each student's IEP must be reviewed and, if appropriate, revised at least annually to determine if the annual goals for the student are being achieved. Some students require more frequent reviews to adjust the student's educational program as a result of a student's changing needs.

## PRESENT LEVELS OF PERFORMANCE AND INDIVIDUAL NEEDS

### PURPOSE

An appropriate program for a student with a disability begins with an IEP that reflects the results of the student's individual evaluation and describes the needs of the student to be addressed through the provision of special education services, including a student's strengths, interests and preferences and concerns of the parents. This section of a student's IEP identifies the areas of unique needs related to the student's disability and the current level of functioning, including the strengths of the student, related to those areas. This is the foundation on which the Committee builds to identify goals and services to address the student's individual needs.

### CONSIDERATIONS IN IDENTIFYING PRESENT LEVELS OF PERFORMANCE

The Committee must ensure that the present levels of performance and individual need statements are developed in consideration of:

- results of the student's most recent individual evaluation(s);
- student's strengths;
- student's results on State and district-wide assessments;
- parents' concerns for enhancing the education of their child;
- special factors related to the student's disability such as a student's needs in the areas of behavior, communication, limited English proficiency, instruction in and the use of Braille, and assistive technology devices and services;
- how the student's disability affects involvement and progress in the general curriculum, or for preschool students, participation in age-appropriate activities; and
- the results of age-appropriate transition assessments<sup>2</sup> and the student's strengths, preferences and interests as they relate to transition from school to post school activities.

Present levels of performance and need statements:

- summarize information from a variety of sources;
- translate information from technical evaluation reports to clear, concise statements;
- identify the instructional implications of evaluations; and
- describe, in language the parents and professionals can understand, the unique needs of the student that the IEP will address and identify the student's level of performance in those need areas.

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<sup>2</sup> For guidance on age appropriate transition assessments, see [http://www.nsttac.org/products\\_and\\_resources/tag.aspx](http://www.nsttac.org/products_and_resources/tag.aspx)

**EVALUATION RESULTS**

The IEP must document the results of the initial or most recent individual evaluation of the student as well as the results of the student's performance on any general State or district-wide assessment programs that identify the student's present levels of performance and individual needs. For example:

*Behavioral Assessment - 10-11-09 - Student demonstrated difficulty in the areas of self-regulation and attention and showed aggression in the form of destruction of materials. Observations and reports from teachers indicate these behaviors are avoidance/escape motivated behaviors in response to stress and skill deficits.*

*State Assessments - 2008 grade 4 English language arts - Level 2; 2008 grade 4 Math - Level 2 (not proficient).*

**THE FOUR NEED AREAS THAT MUST BE ADDRESSED IN DOCUMENTING A STUDENT'S PRESENT LEVEL OF PERFORMANCE AND INDIVIDUAL NEEDS**

The IEP recommendation must report the student's present levels of performance and indicate the individual needs according to each of four areas:

- academic achievement, functional performance and learning characteristics;
- social development;
- physical development; and
- management needs.

The report of the student's present levels of performance and individual needs in the above areas must include how the disability affects involvement and progress in the general curriculum (i.e., the same curriculum as for nondisabled students), or for preschool students as appropriate, how the disability affects participation in age-appropriate activities.

**ACADEMIC ACHIEVEMENT, FUNCTIONAL PERFORMANCE AND LEARNING CHARACTERISTICS**

The student's current levels of knowledge and development in subject and skill areas, including, as appropriate:

- activities of daily living (e.g., personal care, preparing meals, household activities, managing resources);
- level of intellectual functioning (e.g., general intelligence, attention, memory, problem-solving ability, language functioning);
- adaptive behavior (e.g., the effectiveness with which the individual copes with the natural and social demands of his or her environment; how the student makes judgments and decisions);
- expected rate of progress in acquiring skills and information (e.g., the pace in which a student learns new information or skills, in consideration of factors such as those associated with

|  |   |
|--|---|
|  | <p>the child's levels of cognitive skills, interests, age and history of rate of progress); and</p> <ul style="list-style-type: none"> <li>• learning style (e.g., how the student learns best such as through visual or auditory modalities, hands-on approaches, cooperative learning, repetition).</li> </ul>  |
| <p>SOCIAL<br/>DEVELOPMENT</p>  | <p>The degree and quality of the student's:</p> <ul style="list-style-type: none"> <li>• relationships with peers and adults;</li> <li>• feelings about self; and</li> <li>• social adjustment to school and community environment.</li> </ul>  |
| <p>PHYSICAL<br/>DEVELOPMENT</p>  | <p>The degree or quality of the student's:</p> <ul style="list-style-type: none"> <li>• motor and sensory development;</li> <li>• health;</li> <li>• vitality; and</li> <li>• physical skills or limitations that pertain to the learning process.</li> </ul>   |
| <p>MANAGEMENT<br/>NEEDS</p>  | <p>Management needs means the nature and degree to which the following are required to enable the student to benefit from instruction:</p> <ul style="list-style-type: none"> <li>• environmental modifications (e.g., consistency in routine; limited visual/auditory distractions; adaptive furniture);</li> <li>• human resources (e.g., assistance in locating classes and following schedules; assistance in note taking); and</li> <li>• material resources (e.g., instructional material in alternative formats).</li> </ul> <p>Management needs must be developed in accordance with the factors identified in the areas of academic or educational achievement and learning characteristics, social and physical development.</p>                              |
| <p>PRESENT LEVEL<br/>STATEMENTS<br/>SHOULD ANSWER<br/>THESE QUESTIONS:</p> | <p>Present levels of performance statements should answer such questions as:</p> <ul style="list-style-type: none"> <li>• What are the student's unique needs that result from his or her disability?</li> <li>• What is it that the student can and cannot do at this time?</li> <li>• What are the student's strengths in this area?</li> <li>• How do these needs affect the student's participation and progress in the general curriculum or, for a preschool student, participation in age-appropriate activities?</li> <li>• What are the parents' concerns for the education of their child?</li> <li>• What instructional and/or behavioral supports or services have been effective or not effective in addressing the need area in the past year?</li> </ul> |

- What accommodations and/or program modifications or supplementary aids and services have been effective or not effective in addressing the need area in the past year?
- What instructional supports and services will likely be supported and used by the student?

WHEN YOU COMPLETE THE STUDENT'S PRESENT LEVEL OF PERFORMANCE AND INDIVIDUAL NEED SECTION OF AN IEP, YOU SHOULD BE ABLE TO STATE:

**The student's unique needs that require the student's educational program to be individualized:**

*We are individualizing this student's education program because of his unique needs related to his disability in the areas of . . . . (e.g., reading, writing, organization, memory, vision, hearing, problem solving, attention, motor skills).*

**What the student can and cannot do in each area of identified need:**

*In the area of \_\_\_\_\_, we know this student can currently \_\_\_\_\_, but cannot \_\_\_\_\_. (e.g., in the area of memory, he can remember a two-step sequence, but does not complete activities that involve multiple steps such as "get ready for school.)*

**The strengths of the student are upon which you can build:**

*He learns best through \_\_\_\_\_ (e.g., pairing auditory with written work; using music to trigger memory; redirection; modeling).*

**The areas of concern the parents have raised about their child's needs:**

*(e.g., He becomes upset and cries at home when he has to do writing assignments; he is not showing at home any of the language skills teachers report he has achieved in school; he has tantrums whenever we bring him out into the community).*

**The environmental, human or material resources the student will need to enable him/her to benefit from education:**

*(e.g., He will need structure and routine throughout his instructional day; close supervision during transitions; assistance with note taking; adaptive furniture for motor support; instructional materials in large print formats; a positive reward system for appropriate behavior).*

HOW THE DISABILITY AFFECTS INVOLVEMENT AND PROGRESS IN THE GENERAL CURRICULUM, OR FOR PRESCHOOL

The present levels of performance must include a description of how a student's disability affects the student's involvement in the general curriculum.

**Examples:**

- *Kari's difficulty in organizing materials and information affects*



STUDENTS, HOW THE DISABILITY AFFECTS PARTICIPATION IN AGE APPROPRIATE ACTIVITIES

*her ability to complete assignments independently and compose written essays.*

- *Luis has difficulty organizing information into larger units (e.g., main ideas or themes). He understands parts of a text, but has difficulty determining the main ideas and writing summaries of information read.*

For preschool students, appropriate activities include those activities that children of that chronological age engage in such as coloring, pre-reading activities, play time, listening to stories, sharing-time, parallel play.

Examples:

- *Dayton prefers to play in isolation and becomes upset (e.g., cries and hits others) when another student comes too close. As a result his peer interactions at playtime are limited.*
- *Damien's attention problems result in failure to follow teacher's directions, talking out of turn and responding inappropriately during group activities.*

**CONSIDERATION OF SPECIAL FACTORS**

The IEP must include a statement (under the applicable sections of the IEP) if the student needs a particular device or service (including an intervention, accommodation or other program modification) to address one or more of the following needs in order for the student to receive a free appropriate public education.

STRATEGIES, INCLUDING POSITIVE BEHAVIORAL INTERVENTION AND SUPPORTS TO ADDRESS THE BEHAVIOR WHEN A STUDENT HAS BEHAVIOR THAT IMPEDES HIS OR HER LEARNING OR THAT OF OTHERS

In the case of a student whose behavior impedes his or her learning or that of others, the Committee must consider strategies, including positive behavioral interventions and supports and other strategies to address that behavior. The behavioral interventions and/or supports should be indicated under the applicable section of the IEP. For example, a Committee may determine that the positive behavioral supports a student needs require a special education service (e.g., consultant teacher), a related service (e.g., counseling), a program modification (e.g., special seating arrangements), assistive technology (e.g., communication board) and/or supports for school personnel (e.g., consultation with the school psychologist).

A student's need for a behavioral intervention plan must be documented in the IEP. When a behavioral intervention plan is recommended, the Committee must ensure that a functional behavioral assessment (FBA) has or will be conducted prior to the development of the behavioral intervention plan. A student's IEP must specify when a behavioral intervention plan will include the use of a time out room for a student, including the maximum

amount of time a student will need to be in a time out room as a behavioral consequence as determined on an individual basis in consideration of the student's age and individual needs. In addition, if applicable, other information relating to a student's behavioral intervention plan as required by section 200.22(e)(9) of the Regulations must be specified.

LANGUAGE NEEDS OF THE STUDENT WITH LIMITED ENGLISH PROFICIENCY, AS SUCH NEEDS RELATE TO THE STUDENT'S IEP

In developing an IEP for a student with limited English proficiency (LEP), the Committee must consider how the student's level of English language proficiency affects the special education services that the student needs, including:

- whether a student with LEP may need special education services for those aspects of his or her educational program that addresses the development of English language skills and other aspects of the student's educational program (e.g., consultant teacher to be provided in the student's English as a second language course); and
- whether the special education services will be provided in a language other than English (e.g., bilingual speech and language therapy).

COMMUNICATION NEEDS OF THE STUDENT

For each student with a disability, the Committee must consider whether a student needs a particular device or service to address the student's communication needs.

For a student who is deaf or hard-of-hearing, such consideration must also include the:

- opportunities the student needs for direct communication with peers and professional personnel in the student's language and communication mode; and
- student's academic level and full range of needs, including opportunities for direct instruction in the student's language and communication mode.

The communication needs of the student would be addressed on the IEP under the applicable sections. For example:

- "Annual Goals/ Short Term Objectives/Benchmarks" (e.g., reflecting instruction in sign language or use of an augmentative communication device)
- "Related Services" (e.g., reader)
- "Program Modifications/Accommodations/Supplementary Aids and Services/ Assistive Technology Devices/Services " (e.g., instructional materials in alternative formats: audio text, tape recorder, computer, speech synthesizer, headphones; related hardware and software; instruction in the use of speech synthesizer software)
- "Testing Accommodations" (e.g., separate location with double

time)

IN THE CASE OF A STUDENT WHO IS BLIND OR VISUALLY IMPAIRED, THE STUDENT'S NEED FOR INSTRUCTION IN BRAILLE AND THE USE OF BRAILLE

In the case of a student who is blind or visually impaired, the IEP must recommend that the student be provided instruction in Braille and in the use of Braille, unless the Committee determines, after reviewing the results of the student's individual evaluation, that instruction in Braille or the use of Braille is not appropriate for that student. If instruction in Braille or the use of Braille is to be provided, this would be documented under the applicable sections of the IEP, for example:

- "Annual Goals/Short Term Objectives/Benchmarks" (e.g., reflecting instruction in the use of Braille and/or instruction in the use of a related assistive technology device)
- "Related Services" (e.g., orientation and mobility services; parent counseling and training in use of a portable word-processor/note taker Braille device)
- "Program Modifications/ Accommodations/ Supplementary Aids and Services/ Assistive Technology Devices/ Services/ Supports for School Personnel" (e.g., instructional materials in alternative formats: Braille text; refreshable Braille note taker; related hardware and software; instruction in the use of Braille, staff training in the use of a Braille word-processing device)

THE STUDENT'S NEED FOR ASSISTIVE TECHNOLOGY DEVICES AND SERVICES

The Committee must consider each student's need for assistive technology devices and/or services. If a student needs such devices and/or services, the appropriate sections of the IEP must specify the:

- nature of the assistive technology to be provided;
- services the student needs to use the assistive technology device;
- frequency, duration of such services;
- location where the assistive technology devices and/or services will be provided; and
- whether such device is required to be used in the student's home or another setting in order for the student to receive a free appropriate public education.

Attachment 2 provides examples of guiding questions that may be used by a Committee to determine whether a student needs such an intervention, accommodation or program modification to address one of these special considerations.

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| <b>Quality Indicators</b> | <p>Present levels of performance and individual need statements:</p> <ul style="list-style-type: none"><li>• provide instructionally relevant information about the student.</li><li>• identify how the student is progressing towards the State learning standards.</li><li>• are descriptive and specific.</li><li>• provide the basis for annual goals and direction for provision of appropriate educational programs and services.</li><li>• are written in such a way that they can be understood by parents, professionals and paraprofessionals.</li><li>• are based on the results of the individual evaluation.</li><li>• reflect the concerns of the parents for enhancing the education of their child.</li><li>• identify what impact the student's disability is having on his or her ability to participate and progress in age-appropriate activities or in the same curriculum as nondisabled peers.</li></ul> |
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## MEASURABLE POSTSECONDARY GOALS AND TRANSITION NEEDS

### MEASURABLE POSTSECONDARY GOALS

For students beginning with the first IEP to be in effect when the student is age 15 (and at a younger age, if determined appropriate) and updated at least annually, the IEP must include measurable postsecondary goals based on the student's preferences and interests, as they relate to transition from school to post-school activities, in the areas of:

- employment (e.g., integrated competitive employment);
- postsecondary education and training (e.g., career and technical education and training, continuing and adult education, college); and
- independent living skills (when appropriate) (e.g., adult services, independent living or community participation).

The National Secondary Transition Technical Assistance Center defines a postsecondary goal to be "generally understood to refer to those goals that a child hopes to achieve after leaving secondary school (i.e., high school)" rather than "the process of pursuing or moving toward a desired outcome." [http://www.nsttac.org/tm\\_materials/post\\_secondary\\_goals.aspx](http://www.nsttac.org/tm_materials/post_secondary_goals.aspx).

Postsecondary goals identify the student's long-term goals for living, working and learning as an adult. The projected postsecondary goals in the student's IEP establish a direction for the school, student, student's family and any participating agencies to work towards in recommending transition activities for the student. These post-school goals guide planning for activities that prepare the student to move from school to post-school activities and for discussion with appropriate public and private community agencies regarding their contributions to the student's transition process. The student's IEP should include goals, services and activities to incrementally prepare the student to achieve the measurable postsecondary goals.

Students and parents need to be involved in developing these goals. Information to develop a student's measurable postsecondary goals should be obtained using a variety of formal and/or informal methods which may vary from student to student, including but not limited to vocational assessments, assessment of postsecondary education skills, interviews with the student and/or parent, strength-based assessments and teacher observations.

The measurable postsecondary goals are intended to acknowledge the student's needs, preferences and interests and should be expressed in terms of the student's aspirations for the

future. Goals may be written using the student's own words, in answer to such questions as:

- What do you want to do when you finish high school?
- If you go to college, what do you want to study?
- What kind of work do you want to do?
- What do you want to learn more about?
- Where do you plan on living?

The measurable postsecondary goals can be general or specific since they will be reviewed and, as appropriate, revised annually to reflect the student's current aspirations as well as his or her ability to narrow general interests to specific directions concerning postsecondary plans. For example, when Maria first begins to participate in the transition planning process, projected postsecondary goals may be broad in scope: *"Maria will work in the technology field."* Later, after involvement in career and technical education courses and work experiences, the IEP might more specifically state that *"Maria will attend a 4-year college to study computers with the goal of working as a computer programmer."*

Examples of Post-Secondary Goals:

#### Education/Training

- *John will enroll in the general Associates Degree program at ZYX Community College in September 2012.*
- *Joan will attend a two-year community college course and gain a qualification in culinary arts.*
- *Karen will complete a one-year course at a cosmetology school.*
- *John will take a course in dog grooming.*
- *Emma will complete a training course as a Certified Nursing Assistant.*
- *Jack will participate in on-the-job training as a painter and decorator.*

#### Employment

- *Thomas will become employed as an apprentice carpenter.*
- *Damien will work for at least one year as a trainee veterinary*

*technician in order to gain relevant employment experience.*

### Independent Living

- *Matthew will live in an apartment with friends.*
- *Chris will obtain his driving license after graduation from high school.*
- *Andrea will shop for groceries independently using a list.*

## **TRANSITION NEEDS AND COURSES OF STUDY**

For students beginning with the IEP to be in effect when the student is age 15 (and at a younger age, if determined appropriate), the IEP must include a statement of the transition service needs of the student that focuses on the student's courses of study, such as participation in advanced placement courses or a vocational education program, taking into account the student's strengths, preferences and interests, as they relate to transition from school to post-school activities.

The IEP should identify the high school curriculum that will prepare the student to meet his/her post secondary goals. Examples of courses of study might include Regents coursework and/or sequence of courses in a career and technical education field related to the student's post-secondary goals.

This section of the IEP should also identify other needs of the student such as:

- *Joey needs adult assistance to travel in the community*
- *Darcy needs instruction in functional reading and mathematics.*
- *Guy needs to develop self-advocacy skills.*
- *Ravon needs to learn to use public transportation.*
- *Sydney needs to learn computer and time management skills.*
- *Savannah needs to complete necessary coursework for graduation with a regular diploma.*
- *John needs to complete courses in automotive career and technical education.*

Based on the postsecondary goals and transition needs of the student, annual goals and objectives or benchmarks and other activities can be developed to help the student incrementally develop skills, knowledge, experiences and contacts with resources, as needed, to work toward these desired postsecondary goals. The specific coordinated set of activities, including instruction, to be provided for the student to achieve his/her postsecondary goals is documented in a later section of the IEP (See "Coordinated Set of Transition Activities").

|                           |  |
|---------------------------|--|
| <b>Quality Indicators</b> | <p>Measurable postsecondary goals and transition need statements:</p> <ul style="list-style-type: none"><li>• reflect the dreams, aspirations and hopes of the student.</li><li>• reflect the student's strengths, preferences and interests as they relate to transition from school to post-school activities.</li><li>• are written to the greatest extent possible in the student's own words.</li><li>• are reviewed and updated at least annually.</li><li>• become increasingly specific as the student comes closer to the time he or she will be leaving school.</li><li>• are developed with direct student involvement.</li><li>• are written in such a way as to guide the development of annual goals and recommendations for transition services, linkages and activities.</li><li>• are based upon age-appropriate transition assessments relating to training, education, employment and where appropriate, independent living skills.</li></ul> |
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## **ANNUAL GOALS, SHORT-TERM INSTRUCTIONAL OBJECTIVES AND/OR BENCHMARKS**

### **REQUIREMENTS**

Individual need determinations (i.e., present levels of performance and individual needs) must provide the basis for a student's written annual goals. The IEP must list measurable annual goals, consistent with the student's needs and abilities to be followed during the period in which the IEP will be in effect.

For each annual goal, the IEP must indicate the evaluative criteria (the measure used to determine if the goal has been achieved), evaluation procedures (how progress will be measured) and schedules (when progress will be measured) to be used to measure the student's progress toward meeting the annual goal.

For students who meet the eligibility criteria to take NYSAA and for preschool students with disabilities, the IEP must include a description of the short-term instructional objectives and/or benchmarks that are the measurable intermediate steps between the student's present level of performance and the measurable annual goal.

The measurable annual goals, including academic and functional goals, must be related to meeting:

- the student's needs that result from the student's disability to enable the student to be involved in and progress in the general education curriculum (or for preschool students, in appropriate activities); and
- each of the student's other educational needs that result from the student's disability.

For students beginning with the first IEP to be in effect when the student is age 15 and older, annual goals should be identified, as appropriate, to move the student toward his/her postsecondary goals. For transition goals, the CSE should consider the State's Career Development and Occupational Standards (CDOS).

### **WHAT ARE ANNUAL GOALS?**

Annual goals are statements that identify what knowledge, skills and/or behaviors a student is expected to be able to demonstrate within the year during which the IEP will be in effect. The IEP must list measurable annual goals consistent with the student's needs and abilities, as identified in the present levels of performance.

### **HOW SHOULD ANNUAL GOALS BE LINKED TO THE STANDARDS?**

Annual goals should focus on the knowledge, skills, behaviors and strategies to address the student's needs. A student's needs generally relate to knowledge and skill domains such as, but not limited to, reading, writing, listening, organization, study skills,

communication, physical development, motor skills, cognitive processing, problem-solving, social skills, play skills, memory, visual perception, auditory perception, attention, behavior, and career and community living skills. The goals in a student's IEP should relate to the student's need for specially designed instruction to address the student's disability needs and those needs that interfere with the student's ability to participate and progress in the general curriculum.

Goals should not be a restatement of the general education curriculum (i.e., the same curriculum as for students without disabilities), or a list of everything the student is expected to learn in every curricular content area during the course of the school year or other areas not affected by the student's disability. In developing the IEP goals, the Committee needs to select goals to answer the question: "What skills does the student require to master the content of the curriculum?" rather than "What curriculum content does the student need to master?"

For example, a student may be performing very poorly on written tests in global studies that require written expression. The IEP goal for this student should focus on developing written expressive skills (e.g., using outlines or other strategies to organize sentences in paragraphs) rather than the curriculum goal that the student will write an essay about the economy of a particular country. Generally, goals should address a student's unique needs across the content areas and should link to the standards so that a student has the foundation or precursor skills and strategies needed to access and progress in the general education curriculum.

**HOW FAR ... BY  
WHEN?**

*ONE YEAR FROM  
NOW, WE EXPECT  
THE STUDENT TO BE  
ABLE TO....*

From information in the present levels of performance, the Committee has identified which need areas must be addressed and where the student is currently functioning in each of those areas. The next step is to identify what the focus of special education instruction will be over the course of the upcoming year. The annual goals will guide instruction, serve as the basis to measure progress and report to parents and serve as the guideposts to determine if the supports and services being provided to the student are appropriate and effective.

An annual goal indicates what the student is expected to be able to achieve during the year in which the IEP will be in effect. The annual goal takes the student from his/her present level of performance to a level of performance expected by the end of the year.

To be measurable, an annual goal should, in language parents

and educators can understand, describe the skill, behavior or knowledge the student will demonstrate and the extent to which it will be demonstrated.

Examples:

- *Given a 4-function calculator, Sue will solve one-step word problems using addition and subtraction with 90% accuracy.*
- *Given 5th grade material, Mike will read orally at 80-100 words per minute.*
- *Given 15 minutes of free play time, Sam will engage in interactive play with peers for at least 10 minutes.*

Terms such as "will improve...," "will increase..." and "will decrease..." are not specific enough to describe what it is the student is expected to be able to do. To be measurable, a behavior must be observable or able to be counted. In general, it is recommended that goals describe what the student will do, as opposed to what the student will not do.

Example:

*"The student will ask for a break from work..." versus "The student will not walk out of the classroom without permission."*

**HOW DOES THE IEP  
MEASURE PROGRESS  
TOWARD THE  
ANNUAL GOAL?**

For each annual goal, the IEP must indicate the evaluative criteria, evaluation procedures and schedules to be used to measure progress toward meeting the annual goal.

**EVALUATIVE  
CRITERIA**

Evaluative criteria identify how well and over what period of time the student must perform a behavior in order to consider it met.

How well a student does could be measured in terms such as:

- frequency (e.g., 9 out of 10 trials)
- duration (e.g., for 20 minutes)
- distance (e.g., 20 feet)
- accuracy (90% accuracy)

The period of time a skill or behavior must occur could be measured in terms such as:

- number of days (e.g., over three consecutive days)
- number of weeks (e.g., over a four week period)
- occasions (e.g., during Math and English classes, on six consecutive occasions)

Examples:

- 85% accuracy over 5 consecutive trials
- 50 words/minute, with 3 or fewer errors, for 2 consecutive trials

- 3 out of 5 trials per week

EVALUATION PROCEDURES

Evaluation procedures identify the method that will be used to measure progress and determine if the student has met the objective or benchmark. An evaluation procedure must provide an objective method in which the student's behavior will be measured or observed.

Examples:

- *structured observations of targeted behavior in class*
- *student self-monitoring checklist*
- *written tests*
- *audio-visual recordings*
- *behavior charting*
- *work samples*

EVALUATION SCHEDULES

Evaluation schedules state the date or intervals of time by which evaluation procedures will be used to measure the student's progress toward the objective or benchmark. It is not a date by which the student must demonstrate mastery of the objective.

Examples:

- *Each class period*
- *Daily*
- *Weekly*
- *Monthly*
- *On January 5, March 15 and June 3*

The following template may assist in the writing of annual goals: Given (conditions, accommodations), *student name* will (do what – observable skill/behavior in functional term) (to what extent) (over what period of time) or (by when) as evaluated by \_\_\_\_\_.

For example:

| <b>Measurable Goals</b>  |                          |   |                 |
|--|--------------------------|---|-----------------|
| <b>Annual Goal</b>   | <b>Criteria</b>          | <b>Method</b>   | <b>Schedule</b> |
| Given 5th grade material, Mike will read orally at 80-100 words per minute with 95% accuracy | for 3 consecutive trials | 1 minute oral reading probe with charting of words per minute and error count | weekly          |

**SHORT-TERM  
INSTRUCTIONAL  
OBJECTIVES AND/OR  
BENCHMARKS**

Short-term instructional objectives and/or benchmarks are required for students who take NYSAA and for all preschool students with disabilities. Short-term instructional objectives and/or benchmarks are the intermediate steps between the student's present level of performance and the measurable annual goal. Short-term instructional objectives and benchmarks should be general indicators of progress, not detailed instructional plans, that provide the basis to determine how well the student is progressing toward his or her annual goal and which serve as the basis for reporting to parents.

Generally, one annual goal would not include both short-term objectives and benchmarks. Whether short-term instructional objectives or benchmarks are used for a particular annual goal is at the discretion of the Committee.

**SHORT-TERM  
INSTRUCTIONAL  
OBJECTIVES**

Short-term instructional objectives are the intermediate knowledge and skills that must be learned in order for the student to reach the annual goal. Short-term instructional objectives break down the skills or steps necessary to accomplish an annual goal into discrete components.

For example, the sequential steps that one student must demonstrate in order for him to reach the annual goal to *“read orally at 80-100 words per minute with 95% accuracy”* are as follows:

- *Mike will identify and record unfamiliar words prior to engaging in oral reading.*
- *Mike will make a prediction about the topic of the passage(s) he will read.*
- *Mike will self-monitor his reading fluency and accuracy on a daily basis.*

**BENCHMARKS**

Benchmarks are the major milestones that the student will demonstrate that will lead to the annual goal. Benchmarks usually designate a target time period for a behavior to occur (i.e., the amount of progress the student is expected to make within specified segments of the year). Generally, benchmarks establish expected performance levels that allow for regular checks of progress that coincide with the reporting periods for informing parents of their child's progress toward the annual goals. For example:

- *By November, Mike will orally read 70 – 80 words per minute*
- *By February, Mike will orally read 80 – 90 words per minute*
- *By April, Mike will orally read 90 – 100 words per minute*

|                           |  |
|---------------------------|--|
| <b>Quality Indicators</b> | <p>Annual goals, including short-term instructional objectives or benchmarks:</p> <ul style="list-style-type: none"><li>• are directly related to the student’s present levels of performance statements.</li><li>• are written in observable and measurable terms.</li><li>• identify an ending level of performance that is achievable within one year.</li><li>• identify objective procedures to evaluate a student’s progress.</li><li>• incrementally provide knowledge and skills towards achieving the student’s projected measurable postsecondary goals.</li><li>• are achievable in relation to the student’s current level of educational performance, expected rate of progress, strengths and needs.</li><li>• are instructionally relevant.</li><li>• are written in terms that parents and educators can understand.</li><li>• support participation and progress in the general education curriculum and for preschool students, participation in age-appropriate activities.</li></ul> |
|---------------------------|--|

## REPORTING PROGRESS TO PARENTS

### REQUIREMENTS

The IEP must identify when periodic reports on the progress the student is making toward the annual goals will be provided to the student's parents.

### WHAT IS THE PURPOSE OF REPORTING PROGRESS TO PARENTS?

Regular reports to parents provide a mechanism to monitor a student's progress toward the annual goals and to evaluate the effectiveness of the student's special education services. If progress is such that the student is not expected to reach his/her annual goals, the Committee must review and revise the student's IEP to ensure that the student is being provided the appropriate supports and services.

### WHAT SHOULD BE INCLUDED IN THE PROGRESS REPORT?

The report of the child's progress informs parents of:

- their child's progress toward the annual goals; and
- whether this progress is sufficient in order for their child to achieve the goals by the end of the school year.

The annual goal establishes the criteria, schedule and method for evaluating the student's progress. Establishing goals that are measurable is important so that progress can be adequately assessed. To report student progress, the teachers must have gathered evidence of what students are able to do in each annual goal area. Establishing a systematic data collection system is the very first step to effective progress reporting to parents.

### IN WHAT MANNER SHOULD PROGRESS BE REPORTED?

The method or combination of methods to inform the parents of their child's progress is left to local discretion. Based on the unique needs of the students, the manner selected to inform parents might vary from student to student.

There are many ways a student's parents can be informed of their child's progress, including, but not limited to periodic parent-teacher conferences, written progress reports and student-parent-teacher conferences. The reports to the parent do not need to be lengthy or burdensome, but they need to be informative. For example, the report to parents could include a statement of the goals with a written report of where the student is currently functioning in that goal area and/or a rating of progress to indicate whether the student's progress to date will likely result in the student reaching the goal by the end of the year. The progress report to parents should be in addition to the student's regular report cards that provide grades for courses or subject areas.

Following is an example of how progress can be reported to parents.

**Annual Goal:** Kevin will use graphic organizers to write a three-paragraph essay using correct sequencing of sentences including topic sentence, supporting sentences and conclusion with 90% accuracy on 4 weekly trials.

Reporting Progress to Parents

| 1 <sup>st</sup> period ending<br>November  | 2 <sup>nd</sup> period ending<br>January  | 3 <sup>rd</sup> period ending<br>March                                  | 4 <sup>th</sup> period ending<br>June  |
|--|---|---|--|
| Kevin is writing three-sentence paragraphs with correct sequencing, including a topic sentence, supporting sentence and conclusion. Objective met. | Kevin needs assistance to develop the outline, but once developed, he follows it to accurately write a five-sentence paragraph using a graphic organizer. | Kevin is writing two-paragraph essays when following a written outline. | Kevin independently develops a graphic organizer (outline) and writes three-sentence paragraphs using correct sequencing of sentences. |

**HOW OFTEN MUST PROGRESS BE REPORTED?**

Progress should be reported at least as often as parents of nondisabled students are informed of their child's progress. The IEP could indicate frequency of reporting, for example, as:

- monthly,
- quarterly,
- at the end of each term, or
- at 3 month intervals.

|                           |  |
|---------------------------|--|
| <b>Quality Indicators</b> | <ul style="list-style-type: none"> <li>• The frequency and manner of reporting to parents is determined in consideration of a student's unique needs.</li> <li>• Progress is reported to parents in a manner that is understood by them (e.g., jargon-free) and is objective, not subjective.</li> <li>• Specific data is included in measurable terms regarding the extent to which the student is progressing towards meeting annual goals.</li> <li>• The information included in reports to parents is sufficient to identify a student's lack of progress early enough that the Committee could, if necessary, reconvene to review and, if appropriate, revise the student's IEP to ensure the student is provided the appropriate supports to reach the annual goals.</li> </ul> |
|---------------------------|--|



## RECOMMENDED SPECIAL EDUCATION PROGRAMS AND SERVICES

### REQUIREMENTS

The IEP must indicate the recommended program and services, including related services that will be provided for the student to:

- advance appropriately toward his or her annual goals;
- be involved and progress in the general education curriculum (or for preschool students, in appropriate activities);
- participate in extracurricular and other nonacademic activities; and
- be educated and participate in activities with other students with disabilities and nondisabled students.

The regulations require that the IEP must indicate:

- the projected date for initiation of the recommended special education program and services;
- the recommended special education programs and services, (special education and related services) specified from the options set forth in Regulations for the continuum of services (section 200.6 for school-age students and section 200.16 for preschool students);
- the anticipated frequency, duration and location for each of the recommended programs and services, including the supplementary aids and services and program modifications to be provided to or on behalf of the student;
- whether the student is eligible for a 12-month special service and/or program and the identity of the provider of services during the months of July and August; for preschool students, the reasons the student needs a 12-month program;
- the class size, if appropriate;
- a statement of supports for school personnel on behalf of the student;
- the general education classes in which the student will receive consultant teacher services;
- any assistive technology devices or services needed for the student to benefit from education, including the use of such devices in the student's home or in other settings;
- a statement of any individual testing accommodations to be used consistently by the student in the recommended educational program and in the administration of district-wide assessments of student achievement and, in accordance with Department policy, in State assessments of student achievement that are necessary to measure the academic achievement and functional performance of the student;
- if the recommendation for a preschool student is for one or more related services selected from the list maintained by the municipality or itinerant services, the child care location arranged by the parent or other site at which each service will

be provided.

**CONSIDERATIONS TO DEVELOP RECOMMENDED PROGRAMS AND SERVICES**

The recommended special education programs and services in a student's IEP identify what the school will provide for the student so that the student is able to achieve the annual goals and to participate and progress in the general education curriculum (or for preschool students, age-appropriate activities) in the least restrictive environment. In determining the recommended programs and services for each student to achieve his or her annual goals, the Committee needs to consider the results of the student's evaluation, student's strengths, concerns of the parents for enhancing the education of their child, results of any general State or district-wide assessment programs and any special considerations unique to this student.

In all cases, the determination of programs and services must be individually determined on the basis of each student's abilities and needs. The recommendations of the programs and services a student needs cannot be based solely on factors such as the category of the student's disability, the availability of special education programs or related services or personnel, the current availability of space, administrative convenience, or how the district/agency has configured its special education service delivery system.

**SPECIAL EDUCATION PROGRAM / SERVICES**

The IEP must specify the special education program and/or services needed by the student.

For school-age students, the continuum of special education programs and services includes:

- consultant teacher services
- integrated co-teaching services
- resource room program
- special class
- travel training
- adapted physical education

For preschool students, the continuum of special education programs and services includes:

- special education itinerant teacher services
- special class integrated setting
- special class half-day or full-day

Related services for both school-age and preschool students include, but are not limited to, such services as:

- speech/language therapy
- audiology services

- interpreting services
- psychological services
- counseling services
- physical therapy
- occupational therapy
- orientation and mobility services
- parent counseling and training
- school health services
- school social work
- assistive technology services

In recommending special education services for a preschool student, the CPSE must first consider the appropriateness of providing (1) related services only or (2) special education itinerant services only, or (3) related services in combination with special education itinerant services or (4) a half-day preschool program or (5) a full day program.

For guidance on the continuum of services for preschool students, see section 200.16 of the Regulations of the Commissioner of Education and/or the *Guide for Determining Eligibility and Special Education Programs and/or Services for Preschool Students with Disabilities* found at <http://www.p12.nysed.gov/specialed/publications/preschool/guide/home.html>.

For guidance on the continuum of special education programs and services for school-age students, see section 200.6 of the Regulations of the Commissioner of Education or the April 2008 memorandum entitled *Continuum of Special Education Services for School-age Students with Disabilities* found at <http://www.p12.nysed.gov/specialed/publications/policy/schoolage/continuum.html>.

**PROGRAM  
MODIFICATIONS,  
ACCOMMODATIONS,  
SUPPLEMENTARY  
AIDS AND SERVICES**

Supplementary aids and services and/or program modifications or supports means aids, services and other supports that are provided in general education classes or other education-related settings to enable students with disabilities to be educated with nondisabled students to the maximum extent appropriate in the least restrictive environment. The IEP must specify the projected date for initiation of services and the frequency, location and duration of such services. Following are examples of supplementary aids and services, accommodations and program modifications:

- A note taker
- Instructional materials in alternative formats (e.g., Braille, large print, books on tape)
- Extra time to go between classes

- Special seating arrangements
- Highlighted work
- Books on tape
- Study guide outlines of key concepts
- Use of a study carrel for independent work
- Assignment of supplementary school personnel (i.e., teacher aide/teaching assistant)
- Behavior management/support plan
- Extra time to complete assignments

## **ASSISTIVE TECHNOLOGY DEVICES AND SERVICES**

The IEP must describe any assistive technology devices and/or services needed for the student to benefit from education, including whether the use of a school-purchased assistive technology device is required to be used in the student's home or in other settings in order for the student to receive a free appropriate public education.

- 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 student with a disability. Assistive technology devices can range from "low technology" items like pencil grips, markers or paper stabilizers to "high technology" items such as voice synthesizers, Braille readers or voice activated computers.
- Assistive technology service means any service that directly assists a student with a disability in the selection, acquisition or use of an assistive technology device.

When a student needs an assistive technology device or service, the Committee needs to consider what instruction the student might require to use the assistive technology device as well as any supports and services the student and/or the student's teachers may need related to the use of the device.

**SUPPORTS FOR  
SCHOOL  
PERSONNEL ON  
BEHALF OF THE  
STUDENT**

Supports for school personnel are those that would help them to more effectively work with the student. This could include, for example, special training for a student's teacher to meet a unique and specific need of the student. The IEP must describe the supports for school personnel that will be provided on behalf of the student in order for the student to advance toward attaining the annual goals, to be involved in and progress in the general curriculum and to participate in extracurricular and other nonacademic activities. These supports for school personnel are those that are needed to meet the unique and specific needs of the student.

Examples of supports that may be provided for school personnel include:

- information on a specific disability and implications for instruction;
- training in use of specific positive behavioral interventions;
- training in the use of American Sign Language;
- assistance with curriculum modifications;
- behavioral consultation with school psychologist, social worker or other behavioral consultant; and/or
- transitional support services.

**12-MONTH SERVICE  
AND/OR PROGRAM**

The Committee may determine that a student requires special education services during the months of July and August in order to prevent substantial regression. Substantial regression means a student's inability to maintain developmental levels due to a loss of skill or knowledge over the summer months of such severity as to require an inordinate period of review at the beginning of the school year (e.g., eight weeks or more) in order to reestablish and maintain IEP goals and objectives mastered at the end of the previous school year. A student's need for services during the months of July and August must be made on an individual basis.

The IEP developed for services in July and August should focus on the areas in which the student is expected to experience regression. An IEP developed for July and August may differ from the IEP developed for the school year program.

For school-age and preschool students eligible for 12-month service and/or program, the IEP must indicate the frequency, duration, location and initiation date of the recommended program/service as well as the identity of the provider of services during the months of July and August. Other than for 12 month programs/service, there is no regulatory requirement that an IEP include the name of the provider of service. In addition, for preschool students determined by the CPSE to require a

structured learning environment of 12 months duration to prevent substantial regression, a statement of the reasons for such recommendation must be included in the IEP.

Placement decisions for July/August special education programs and services must also be developed consistent with least restrictive environment regulations. Schools are not, however, required to create new programs as a means of providing extended school year services to students with disabilities in integrated settings if it does not provide services at that time for its nondisabled students. However, the Committee could recommend that a student receive his/her extended school year services in a noneducational setting (e.g., a community recreational program that has been arranged for by the parent).

Extended school year programs or services may be provided in a setting that differs from the one the student attends during the school year, provided the Committee determines that the setting is appropriate for the student to benefit from the special education services and to meet his/her IEP goals.

For further information regarding the provision of special education programs/services during the months of July and August, see Extended School Year Programs and Services Questions and Answers found at <http://www.p12.nysed.gov/specialed/finance/2010QA.htm>.

**FREQUENCY,  
DURATION AND  
LOCATION**

The IEP must indicate the frequency (how often), duration (how long) and location (where) each recommended service will be provided. Frequency, duration and location must be stated with sufficient clarity to be understood by all persons involved in the development and implementation of the IEP. This quantifies the school's commitment of resources to address the student's needs.

The frequency and/or duration of services must be specific enough so that the extent to which services will be provided is clear. Only in unique situations when the frequency or duration of a service may vary because of a student's unique needs may frequency or duration be indicated in the IEP as a range (e.g., 30–40 minutes per day as determined by the student's evidence of fatigue). A range may not be indicated for reasons other than to address a student's unique needs (e.g., personnel availability or administrative convenience).

**FREQUENCY**

Frequency is the number of sessions a service will be provided during a particular time period (e.g., 3 times per week). This must be stated in the IEP in a manner that is appropriate to the type of service being provided. Frequency can be stated, for example, as

the number of times per day, week or month that a service will be provided.

DURATION  
(REVISED  
DECEMBER 2010)

Duration is the amount of time within a time period that a service will be provided. Duration can be stated, for example, as the number of minutes per session or per week (e.g., 3 hours per week) or the duration of an activity (e.g., for all writing assignments).

To be considered a special education program or service, the Regulations require a minimum frequency and/or duration for certain special education programs and related services:

- Special Education Itinerant Teacher (SEIT) – minimum two hours per week
- Consultant teacher – minimum two hours each week (in any combination of direct and/or indirect services)\*
- Resource room programs – minimum three hours per week\*

\* The Committee may recommend that a student with a disability who needs resource room services in addition to consultant teacher services receive a combination of such services consistent with the student's IEP for not less than three hours each week.

LOCATION

The "location" of services in the context of a student's IEP generally refers to the type of environment that is the appropriate place where a particular service, program modification or accommodation would be provided. The decision as to the location where a service will be provided should be made in consideration of the least restrictive environment provisions and in consideration of the student's overall schedule and participation in general education classes. A Committee should first consider the general education class as the location for special education services including related services rather than a separate location in order to facilitate the student's maximum participation in general education programs and in the general education curriculum. A student's IEP must indicate the general education classes in which the student will receive consultant teacher services.

The determination of location for the special education services may influence decisions about the nature and amount of these services and when they should be provided. For example, an appropriate location for the related service of occupational therapy may be the English class during which the student may have opportunities for writing activities.

- The location where services will be provided needs to be stated specifically enough so the Committee's recommendations regarding location of services is clear (e.g.,

English class; gymnasium; separate therapy room; cafeteria; playground; community; special class; general education summer school academic program).

- It is generally not sufficient to simply state "within general education classes or outside general education classes" for the location of services.
- The location of services should be more specific than simply stating the provider of services or where the student attends school (e.g., within the public school, at the BOCES Center, at the approved private school).

For preschool students, if the recommendation is for one or more related services or itinerant services, the IEP must indicate the child care location arranged by the parent or other site at which each service will be provided. The location must also indicate where, within that site, the services will be provided (e.g., speech and language therapy in the preschool class).

**PROJECTED DATE OF INITIATION OF SERVICES**

The IEP must indicate the projected date of the initiation of each of the services, supports, program modifications and accommodations recommended in the IEP. The Committee has discretion in documenting the end dates of service.

The following is an example of how special education services may be documented in an IEP:

|                             | <b>Applicable Service Delivery Recommendation</b> | <b>Frequency</b> | <b>Duration</b>        | <b>Location</b>                 | <b>Initiation Date</b> |
|-----------------------------|---|------------------|------------------------|---------------------------------|------------------------|
| Consultant Teacher Services | Direct CT services                                | 3x/week          | 60 minutes per session | General education English class | 9/6/11                 |
| Speech Language Therapy     | Individual. Bilingual - Spanish                   | 2x week          | 30 minutes per session | Therapy room                    | 9/6/11                 |



|                                  |  |
|----------------------------------|--|
| <p><b>Quality Indicators</b></p> | <p>The recommended special education programs and services, as documented in the student's IEP:</p> <ul style="list-style-type: none"> <li>• reflect educational needs identified in present levels of performance (i.e., identifies the supports and services to be provided to the student to address each of the student's identified needs).</li> <li>• reflect input from parents and, when appropriate, students.</li> <li>• specify resources needed to accomplish goals and to ensure access to the general education curriculum (or, for preschool students, to participate in appropriate activities).</li> <li>• provide support while continuing to build independence.</li> <li>• are only as "special" as are needed by the student.</li> <li>• promote the student's participation in the least restrictive environment.</li> <li>• are age appropriate.</li> <li>• address transition needs and services for students age 15 and older.</li> <li>• facilitate active participation by the student in extracurricular and other nonacademic activities with other students, including those without disabilities.</li> <li>• are written in language the parents and educators can understand.</li> <li>• are clearly stated as to identify the district's commitment of resources to assist the student in reaching his or her goals.</li> </ul> |
|----------------------------------|--|

## TESTING ACCOMMODATIONS

### REQUIREMENTS

The IEP must indicate the needed individual testing accommodations, if any, to be used consistently by the student in:

- his or her recommended education program;
- the administration of district-wide assessments of student achievement; and
- consistent with Department policy, in State assessments of student achievement that are necessary to measure the academic achievement and functional performance of the student.

### WHAT INFORMATION ON TESTING ACCOMMODATIONS SHOULD BE DOCUMENTED IN A STUDENT'S IEP?

For guidance on Testing Accommodations, see the guidance document *Test Access & Accommodations for Students with Disabilities – Policy and Tools to Guide Decision-Making and Implementation* found at <http://www.p12.nysed.gov/specialed/publications/policy/testaccess/policyguide.htm>

Testing accommodations must be clearly stated to ensure a consistent understanding by the Committee, school principal, teacher(s), paraprofessionals, student and the student's parents. Specific testing accommodations (e.g., use of word processor) should be indicated, not generic test accommodation categories (e.g., answers recorded in any manner).

It is appropriate to indicate the conditions or types of tests that will require testing accommodations. Such conditions may include the length of the test, the purpose of the test, presentation of test items and the method of response required by the student. As examples: a student with a motor impairment may need a scribe for tests requiring extensive writing such as essay writing, but not for multiple-choice tests; a student may need breaks at certain intervals for tests longer than an hour in length but not for 40 minute classroom tests.

A particular test accommodation may also be needed due to and in conjunction with the provision of another accommodation. For example, separate setting may be needed when the student has the use of a scribe. In such instances, both accommodations must be indicated in the IEP and qualifying conditions would be indicated as appropriate.

If it is determined that the student needs a particular testing accommodation for all tests, then qualifying conditions are not indicated or would indicate "all tests."

When documenting the following accommodations, the following specifications should be included:

- extended time - specify the amount of extended time (e.g., time and a half, double time).
- breaks - specify the duration of break and at what intervals (e.g., ten-minute break every 40 minutes).
- directions read or signed or listening passages read or signed more than the standard number of times - specify the number of times (e.g., directions read two more times than the standard number of times provided for all students as per Department directions).
- separate setting - specify individual or small group.
- adaptive furniture - special lighting or acoustics, specify type (e.g., study carrel).

Qualifying terms such as "as appropriate" or "when necessary" should not be used on the IEP.

Testing accommodations should not be indicated in a test-specific manner (e.g., "calculator with fraction capability," not "calculator with fraction capability on Regents examination in mathematics").

This section of the IEP would be completed for preschool children only if there is an assessment program for nondisabled preschool children.

Example:

| Testing Accommodation   | Conditions  | Specifications                    |
|-------------------------|---|-----------------------------------|
| <i>Use of scribe</i>    | <i>For tests requiring essay writing</i>          |                                   |
| <i>Separate setting</i> | <i>When using a scribe</i>                        | <i>Individual</i>                 |
| <i>Directions read</i>  | <i>All tests</i>                                  | <i>2 additional times</i>         |
| <i>Breaks</i>           | <i>For tests longer than 30 minutes in length</i> | <i>5 min. break every 30 min.</i> |

## COORDINATED SET OF TRANSITION ACTIVITIES (SCHOOL TO POST-SCHOOL)

### REQUIREMENTS

Beginning with the first IEP to be in effect when the student is age 15 (and at a younger age, if determined appropriate), and updated annually, the IEP must include a statement of needed transition services and a statement of the responsibilities of the school district and, when applicable, participating agencies for the provision of services and activities that promote movement from school to post-school opportunities, or both, before the student leaves the school setting.

### TRANSITION SERVICES

Transition services means a coordinated set of activities for a student with a disability, designed within a results-oriented process, that is focused on improving the academic and functional achievement of the student with a disability to facilitate the student's movement from school to post-school activities, including, but not limited to:

- postsecondary education,
- vocational training,
- integrated employment (including supported employment),
- continuing and adult education,
- adult services, and
- independent living or community participation.

The coordinated set of activities must be based on the individual student's needs, taking into account the student's strengths, preferences and interests, and includes:

- instruction;
- related services;
- community experiences;
- the development of employment and other post-school adult living objectives; and
- when appropriate, acquisition of daily living skills and provision of a functional vocational evaluation.

Transition planning focuses attention on how the student's educational program can be planned to help the student make a successful transition to his or her goals for life after high school, including:

- providing instruction and courses of study that are meaningful to the student's future and will motivate the student to complete his or her education;
- teaching students the skills and knowledge needed in adult life (including career development and occupational skills); and
- providing contacts (linkages) with adult agencies to provide a smooth transition.

|   |   |
|---|---|
|   | <p>Transition services should address identified transition needs of the student and prepare the student to achieve annual goals relating to transition to reach his or her projected postsecondary goals.</p>  |
| <p><b>INFORMATION NEEDED TO DETERMINE TRANSITION SERVICES</b></p> | <p>To determine the transition services the student needs, the Committee should consider the student's most recent evaluation information including vocational assessments, teacher recommendations, annual reviews, student strengths, preferences, interests and goals and parent concerns.</p>   |
| <p><b>STATEMENT OF NEEDED TRANSITION SERVICES</b></p>             | <p>The statements of needed transition services, developed in consideration of the student's needs, preferences and interests, should specify the particular activity or service and the participating agency (i.e., the school district or another agency) providing the service. The beginning date for the service should be provided if the date of initiation is different than the date of initiation for the IEP.</p>  |
| <p><b>INSTRUCTION</b></p>   | <p>The IEP must identify any instruction that the student might need to prepare the student for post-school living. Instruction is a component of a transition program that the student needs to receive in specific areas to complete needed courses, succeed in the general curriculum and gain needed skills.</p> <p>Instruction could include the courses of study the student needs to take to reach his/her postsecondary goals (e.g., Regents classes in English, Biology and a Second Language; 2 semesters of career and technical education classes in <u>Culinary Arts &amp; Hospitality Technology</u>). Instruction could be indicated as skill areas (e.g., instruction in problem solving skills, how to use public transportation, how to use a particular assistive technology device, how to balance a checkbook, to develop self-advocacy skills).</p> |
| <p><b>RELATED SERVICES</b></p>                                    | <p>The IEP must identify any related services (e.g., rehabilitation counseling services; school social work; orientation and mobility services) the student may need as a transition service to support the student in attaining the projected post-school outcomes. (Related services recommended as a transition activity must also be documented under the IEP section "Special Education Program/Services").</p>  |
| <p><b>COMMUNITY EXPERIENCES</b></p>                               | <p>The IEP must indicate if a student needs to participate in community-based experiences or learn to access community resources (e.g., after school jobs, use of public library, community recreational activities) to achieve his or her projected post-school outcomes.</p>  |

EMPLOYMENT,  
OTHER POST-  
SCHOOL ADULT  
LIVING OBJECTIVES

The IEP must identify what services or activities the student needs to prepare him or her for employment and to assist the student in meeting other post-school adult living objectives (e.g., participation in a work experience program; assistance with completing college or employment applications; practice in interviewing skills; travel training).

ACTIVITIES OF DAILY  
LIVING

If appropriate to the needs of the student, the IEP must indicate the services or activities that will assist the student in activities of daily living skills (e.g., dressing, hygiene, self-care skills, self-medication).

FUNCTIONAL  
VOCATIONAL  
ASSESSMENT

The IEP must indicate if the student will need a functional vocational assessment as a transition service or activity. A functional vocational assessment is an assessment to determine a student's strengths, abilities and needs in an actual or simulated work setting or in real work sample experiences.

**WHAT IS THE  
DEFINITION OF A  
PARTICIPATING  
AGENCY?**

Participating agency means a State or local agency, other than the public agency responsible for a student's education, which is financially and legally responsible for providing transition services to the student.

To the extent appropriate and with parental consent (or the consent of a student who is 18 years of age or older), the school district must invite a representative of any participating agency that is likely to be responsible for providing or paying for transition services to a CSE meeting where the purpose of the meeting is to consider the postsecondary goals for the student and the transition services needed to assist the student in reaching those goals. If an invited agency does not send a representative to the meeting, the district must take other steps to involve the other agency in the planning of any transition services for the student.

When an agency agrees to provide a service, the IEP must include the service and the implementation date of the service if it is different than the implementation date of the IEP.

WHAT IF THE  
PARTICIPATING  
AGENCY FAILS TO  
PROVIDE SERVICES  
AS PLANNED?

If a participating agency fails to provide agreed-upon transition services contained in the student's IEP, the district responsible for the student's education must, as soon as possible, initiate a meeting to identify alternative strategies to meet the transition objectives, and if necessary, revise the student's IEP.

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| <b>Quality Indicators</b> | <p>The recommended coordinated set of transition activities:</p> <ul style="list-style-type: none"><li>• are based on individual student’s needs and post-secondary goals.</li><li>• are reasonably calculated to assist the student to reach his career and other post school goals in the areas of employment, education and community living.</li><li>• are focused on improving the academic and functional achievement of the student with a disability to facilitate transition to postsecondary life.</li><li>• are based on assessment information, including vocational assessment.</li><li>• focus on the student’s strengths, interests and abilities.</li><li>• reflect involvement and connections with general and career and technical education programs as well as post-school supports and programs.</li><li>• are developed with students and parents as active participants.</li><li>• clearly identify the responsibilities of the school district and other agencies.</li></ul> |
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## PARTICIPATION IN STATE AND DISTRICT-WIDE ASSESSMENTS

### ASSESSMENT

All students with disabilities must be included in State or district-wide assessment programs. If the Committee determines that the student will participate in an alternate assessment on a particular State or district-wide assessment of student achievement, the IEP must provide a statement of why the student cannot participate in the regular assessment, and why the particular alternate assessment selected is appropriate for the student.

For example, a student with severe disabilities may meet the criteria for participation in NYSAA. The IEP for this student would indicate that the student will be assessed using NYSAA because the student has a severe cognitive disability, significant deficits in communication/language and adaptive behavior; requires a highly specialized educational program that facilitates the acquisition, application, and transfer of skills across natural environments (home, school, community, and/or workplace); and requires educational support systems including assistive technology, personal care services, health/medical services, and behavioral intervention.

This section of the IEP would be completed for preschool students only if there is an assessment program for nondisabled preschool students.



## PARTICIPATION WITH STUDENTS WITHOUT DISABILITIES

### **PRESCHOOL STUDENT**

For preschool students, the IEP must provide an explanation of the extent, if any, to which the student will not participate in appropriate activities with age-appropriate nondisabled peers and must indicate if the special education services will be provided in a setting with no regular contact with age-appropriate peers without disabilities.

### **SCHOOL-AGE STUDENT**

Removal from the general educational environment occurs only when the nature or severity of the disability is such that even with the use of supplementary aids and services, education cannot be satisfactorily achieved.

### **PARTICIPATION IN GENERAL EDUCATION CLASSES**

The IEP must provide an explanation of the extent, if any, to which a student will not participate in regular class and/or extracurricular and other nonacademic activities with nondisabled peers.

If a student will not participate in a regular physical education program, the IEP must indicate the extent to which the student will participate in specially-designed instruction in physical education, including adapted physical education.

### **LANGUAGE OTHER THAN ENGLISH (LOTE) REQUIREMENTS**

The IEP must indicate if a student identified as having a disability which adversely affects the ability to learn a language will be exempt from the language other than English requirement (LOTE). It is important that the CSE, parents and students carefully consider the implications that a LOTE exemption may have on students achieving their postsecondary goals when planning their courses of study. For students seeking to go on to college, courses in LOTE are often required for admission. If a student who had been receiving special education services is declassified while in grades 9 through 12, and the student's last IEP prior to declassification indicated that the student be exempted from the LOTE requirements, this exemption will continue upon declassification. For further information, refer to <http://www.p12.nysed.gov/ciai/lotte.html>.

## TRANSPORTATION

### DEVELOPING RECOMMENDATIONS FOR SPECIAL TRANSPORTATION

It is the responsibility of the Committee to determine whether the student's disability prevents the student from using the same transportation provided to nondisabled students, or getting to school in the same manner as nondisabled students. The IEP must include specific transportation recommendations to address each of the student's needs, as appropriate, (such as special or adapted buses, lifts and ramps), based on his or her unique needs related to the student's disability to travel:

- to and from school (including such school-related programs as work programs and settings other than the school where the student receives education or special education services); and, as appropriate,
- in and around the school.

In developing recommendations for special transportation, the Committee should consider and document the needs of the student relating to his/her disability. For example:

- **Mobility** – e.g., nonambulatory wheelchair bound.
- **Behavior** – e.g., fearful in noisy environments; self-abusive; runs away; cries frequently.
- **Communication** – e.g., hard of hearing; nonverbal; limited understanding of questions and directions; non-English speaking.
- **Physical** – e.g., needs assistive devices to maintain a sitting position; needs assistance walking and going up and down stairs.
- **Health needs** – e.g., has seizures; fatigue – may fall asleep on bus, requires oxygen equipment; use of an inhaler.

It is not appropriate for the IEP to simply indicate, "special transportation needed," without including the nature of the special transportation. It is not necessary to include special transportation goals in the student's IEP except when instruction will be provided to enable the student to increase his or her independence or improve his or her behavior or socialization during travel.

In determining and documenting a student's special transportation needs, the Committee should consider the following:

- **Special seating.** Does the student require special seating on the bus such as seating away from the window, seating not adjacent to another student, seating in the front of the bus, etc.?
- **Vehicle and/or equipment needs.** Does the student use or require special equipment such as braces, car seat, walker, lap belt, wheelchair, stroller, assistive technology device, medical equipment, adapted buses, or lifts and ramps, etc.?
- **Adult Supervision.** Does the student require additional supervision during transportation such as a one-on-one bus

attendant for a designated purpose, nursing services, special monitoring, or interpreter, etc.?

- **Type of transportation.** Does the student require accommodations such as door-to-door pick up and drop off, a small bus with few students, or individual transportation?
- **Other Accommodations.** Does the student require other accommodations such as permission to carry personal items or to use personal electronic devices such as radios?

In addition to any special transportation needs resulting from the student's disability, some students may be recommended to receive special education programs/services at a site which requires transportation to/from that site in order for the student to receive his/her special education program/services. The IEP must indicate the need for such transportation to a site to receive services.

In developing its recommendation for a preschool student with a disability, the CPSE must identify transportation options for the student and encourage parents to transport their child at public expense where cost-effective.

Additional information on special transportation may be found at <http://www.p12.nysed.gov/specialed/publications/policy/specialtrans.htm>

Also see U.S. Department of Education Office of Special Education and Rehabilitative Services (OSERS) question and answer document on the subject of Transportation found at <http://idea.ed.gov/explore/view/p/%2Croot%2Cdynamic%2CQaCorner%2C12%2C>

## PLACEMENT RECOMMENDATION

### REQUIREMENTS

The IEP must indicate the recommended placement of the student.

### HOW SHOULD PLACEMENT BE INDICATED?

For purposes of the IEP, the identification of placement needs to specify where the student's IEP will be implemented. Placement should indicate the type of setting where the student will receive special education services. For example:

- Public school district
- BOCES class
- BOCES class in public school
- Approved private school or Special Act School District – day
- Approved private school or Special Act School District – residential
- State-operated school

### PLACEMENT SHOULD NOT BE CONFUSED WITH LOCATION OF SERVICES

The student's placement is the educational setting in which the student's IEP will be implemented. The location where each of the recommended services will be provided, as indicated in the section *Recommended Special Education Programs and Services*, specifies where, within that placement, the services will be provided (e.g., Placement: Public High School. Location of Services: consultant teacher services will be provided in the general education math class; individual speech and language therapy will be provided in a separate therapy room).

### HOW IS PLACEMENT DETERMINED?

The IEP forms the basis for the placement recommendation. Only after consideration and development of all other components of the student's IEP, including the identification of the student's strengths, needs, goals and the services necessary to meet those goals, does the Committee determine the recommended placement that is appropriate for the individual student. Placement must be based on the student's needs and recommended services as identified in the student's IEP and determined annually.

Placement decisions must be made on an individual basis in consideration of the student's unique needs. Placement decisions cannot be based solely on:

- category of disability,
- availability of special education and related services,
- design of the service delivery system,
- availability of space, or
- administrative convenience.

Placement decisions must:

- be based on the student's strengths and needs;
- reflect consideration of whether the student could achieve any of his/her IEP goals in a general education class with the use of supplementary aids and services and/or modifications to the curriculum;
- consider the nonacademic benefits to the student that will result from interaction with nondisabled students; and
- be developed in conformity with the least restrictive environment requirements.

Least restrictive environment means that placement of students with disabilities in special classes, separate schools and other removal from the general educational environment occurs only when the nature or severity of the disability is such that, even with the use of supplementary aids and services, education cannot be satisfactorily achieved. The placement of an individual student with a disability in the least restrictive environment must:

- provide the special education needed by the student;
- provide for education of the student to the maximum extent appropriate to the needs of the student with other students who do not have disabilities; and
- be as close as possible to the student's home and, unless the student's IEP requires some other arrangement, the student must be educated in the school he or she would have attended if not disabled.

In selecting the least restrictive environment, consideration must be given to any potential harmful effect on the student or on the quality of the services that the student needs. A student with a disability must not be removed from education in age-appropriate general education classrooms solely because of needed modifications in the general curriculum.

In addition, for **preschool students**, prior to recommending the provision of special education services in a setting which includes only preschool children with disabilities, the CPSE must first consider providing special education services in a setting where age-appropriate peers without disabilities are typically found. A CPSE may only consider provision of special education services in a setting with no regular contact with age-appropriate peers without disabilities when the nature or severity of the child's disability is such that education in a less restrictive environment with the use of supplementary aids and services cannot be achieved satisfactorily.

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|----------------------------------|--|
| <p><b>Quality Indicators</b></p> | <p>Placement decisions:</p> <ul style="list-style-type: none"> <li>• are based on student’s individual strengths and needs, without regard to classification.</li> <li>• are determined by a process that first considers a general education environment in the school the student would attend if he/she did not have a disability.</li> <li>• reflect consideration of the full range of the student’s needs and abilities (academic or educational achievement and learning characteristics, social development, physical development and management needs, including a student’s transition needs).</li> <li>• reflect consideration of whether the student could achieve any of his/her IEP goals in a general education class, including nonacademic classes, with the use of supplementary aids and services.</li> <li>• are not based solely on whether the student needs modifications to the curriculum.</li> <li>• reflect flexible consideration of all options of the continuum of services.</li> <li>• consider opportunities for the student to participate with students without disabilities in all nonacademic and extracurricular activities.</li> <li>• consider access to course credit.</li> <li>• consider potential harmful effects of removal from the general education setting or on the quality of services the student needs.</li> <li>• consider proximity to the student’s home.</li> <li>• are reviewed at least annually.</li> </ul> |
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# IEP IMPLEMENTATION

## REQUIREMENTS

The IEP must be implemented as soon as possible following the meeting in which the IEP is developed. There may be no delay in the implementation of a student's IEP, including any case in which the payment source for providing or paying for special education services for the student is being determined. The school district must ensure that each student with a disability has an IEP in effect at the beginning of each school year.

## PRESCHOOL STUDENT

The board of education must arrange for the preschool student with a disability to receive his or her special education programs and services as recommended in the IEP commencing with the July, September or January starting date for the approved program.

If the IEP is developed less than 30 school days before or after the appropriate starting date selected for the student, the IEP must be implemented no later than 30 school days of the date the IEP was developed (i.e., the date of the CPSE meeting at which the recommendation was developed).

## SCHOOL-AGE STUDENT

The IEP of a school-age student must be implemented within 60 school days of:

- the receipt of consent to evaluate a student not previously identified as a student with a disability; or
- referral for review of the student with a disability for a student previously identified as a student with a disability; except:
- for students recommended for placement in an approved in-state or out-of-state private school, the board must arrange for such programs and services within 30 school days of the board's receipt of the recommendation of the Committee.

## WHAT STEPS MUST BE TAKEN TO ENSURE IEP IMPLEMENTATION?

The school must take steps to ensure a student's IEP is implemented as recommended by the Committee, including but not limited to:

- providing copies of the student's IEP, as appropriate; and
- informing each individual of his or her IEP implementation responsibilities.

For a student who needs his/her instructional materials in an alternative format, the materials must be made available to the student at the same time that such materials are available to non-disabled students.

It is recommended that the Committee meeting include discussion and documentation of the steps necessary to ensure

implementation of the student's IEP, including, but not limited to:

- identifying staff who will be responsible to provide the recommended services, accommodations, program modifications and supports in accordance with the IEP;
- determining how and by whom the student's teachers, related service providers and other service providers will be provided copies of the student's IEP;
- designating an individual who is knowledgeable about the student's disability and program to inform staff of their IEP responsibilities;
- planning how resources and materials necessary to implement the IEP will be obtained (e.g., instructional materials in alternative formats; assistive technology devices ordered);
- arranging, as appropriate, for testing accommodations; and
- determining how coordination with other agencies, if appropriate, will occur.



**Committee on Special Education  
Subcommittee on Special Education  
Committee on Preschool Special Education**

**Committee on Preschool Special Education (CPSE)**

Each CPSE must include, but is not limited to:

- the parents of the preschool child;
- not less than one regular education teacher of the child whenever the child is or may be participating in the general education environment;
- not less than one special education teacher of the child, or, if appropriate, not less than one special education provider of the child;
- a representative of the school district who is qualified to provide or supervise special education and who is knowledgeable about the general education curriculum and the availability of preschool special education programs and services and other resources of the school district and the municipality. The representative of the school district shall serve as the chairperson of the committee;
- an additional parent member of a child with a disability residing in the school district or a neighboring school district and whose child is enrolled in a preschool or elementary level education program, provided that such parent is not a required member if the parent(s) of the child request that the additional parent member not participate;
- an individual who can interpret the instructional implications of evaluation results, provided that such individual may also be the individual appointed as the regular education teacher, special education teacher or special education provider, school psychologist, representative of the school district or a person having knowledge or special expertise regarding the student when such member is determined by the school district to have the knowledge and expertise to fulfill this role on the Committee;
- other persons having knowledge or special expertise regarding the child, including related services personnel as appropriate, as the school district or the parents shall designate. The determination of knowledge or special expertise of such person shall be made by the party (parents or school district) who invited the individual to be a member of the CPSE;
- for a child in transition from early intervention programs and services, at the request of the parent, the appropriate professional designated by the agency that has been charged with the responsibility for the preschool child; and
- a representative of the municipality of the preschool child's residence, provided that the attendance of the appointee of the municipality shall not be required for a quorum.

## Committee on Special Education (CSE)

Each CSE must include, but is not limited to:

- the parents or persons in parental relationship to the student;
- not less than one regular education teacher of the student whenever the student is or may be participating in the regular education environment;
- not less than one special education teacher of the student, or, if appropriate, not less than one special education provider of the student;
- a school psychologist;
- a representative of the school district who is qualified to provide or supervise special education and who is knowledgeable about the general education curriculum and the availability of resources of the school district, provided that an individual who meets these qualifications may also be the same individual appointed as the special education teacher or the special education provider of the student or the school psychologist. The representative of the school district shall serve as the chairperson of the Committee;
- an individual who can interpret the instructional implications of evaluation results. Such individual may also be the individual appointed as the regular education teacher, special education teacher or special education provider, school psychologist, representative of the school district or a person having knowledge or special expertise regarding the student when such member is determined by the school district to have the knowledge and expertise to fulfill this role on the Committee;
- a school physician, if specifically requested in writing by the parent of the student or by a member of the school at least 72 hours prior to the meeting;
- an additional parent member of a student with a disability residing in the school district or a neighboring school district, provided that the additional parent member may be the parent of a student who has been declassified within a period not to exceed five years or the parent of a student who has graduated within a period not to exceed five years. Such parent is not a required member if the parents of the student request that the additional parent member not participate in the meeting;
- other persons having knowledge or special expertise regarding the student, including related services personnel as appropriate, as the school district or the parent(s) shall designate. The determination of knowledge or special expertise of such person shall be made by the party (parents or school district) who invited the individual to be a member of the Committee on special education; and
- if appropriate, the student.

### Subcommittee on Special Education<sup>3</sup>

The membership of each Subcommittee on Special Education must include, but is not limited to:

- the parents of the student;
- not less than one regular education teacher of the student whenever the student is or may be participating in the regular education environment;
- not less than one of the student's special education teachers or, if appropriate, not less than one special education provider of the student;
- a representative of the school district who is qualified to provide, administer or supervise special education and who is knowledgeable about the general education curriculum and who is knowledgeable about the availability of resources of the school district, who may also fulfill the requirement of the special education teacher of the student or, if appropriate, the special education provider of the student or a school psychologist. The representative of the school district shall serve as the chairperson of the subcommittee;
- a school psychologist, whenever a new psychological evaluation is reviewed or a change to a program option with a more intensive staff/student ratio (e.g., change from a maximum class size of twelve students to a maximum class size of eight students, with one or more supplementary school personnel assigned to each class during periods of instruction), is considered;
- an individual who can interpret the instructional implications of evaluation results, who may be a member appointed as a regular education teacher of the student, special education teacher or special education provider of the student, representative of the school district, school psychologist or other persons having knowledge or special expertise regarding the student, including related services personnel as appropriate, as the committee or the parent shall designate;
- such other persons having knowledge or special expertise regarding the student, including related services personnel as appropriate, as the committee or the parent shall designate. The determination of knowledge or special expertise of such person shall be made by the party (parents or school district) who invited the individual to be a member of the subcommittee on special education; and
- the student, if appropriate.

A Subcommittee on Special Education may perform the functions of the CSE, except when a student is considered for placement for the first time in a:

- special class; or
- special class outside of the student's school of attendance (i.e., outside the school the student would normally attend if not disabled); or
- school primarily serving students with disabilities or a school outside of the student's district.

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<sup>3</sup> Does not apply to CPSE

If a recommendation of a Subcommittee is not acceptable to the student's parent(s), the parent may submit a written request to refer the recommendation to the CSE for its review. Upon receipt of such written request by the parent, the CSE must meet and review the recommendation of the Subcommittee.

Each Subcommittee must report annually the status of each student with a disability within its jurisdiction to the CSE.

**Procedures Relating to the Attendance of Committee Members**

From section 200.3(f) of the Regulations of the Commissioner of Education:

- (1) A member of a committee on special education, a committee on preschool special education or subcommittee on special education is not required to attend a meeting of the committee, in whole or in part, if the parent and the school 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 at the meeting.
- (2) A member of such committee may be excused from attending a meeting of the committee or subcommittee, 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 the parent to the student and the school district consent, in writing, to the excusal and the excused member submits to the parent and such committee, written input into the development of the IEP, and in particular written input with respect to their area of curriculum or related services prior to the meeting.
- (3) Requests for excusal of a member of a committee as provided for in paragraphs (1) and (2) of this subdivision, and the written input as provided for in paragraph (2) of this subdivision, shall be provided not less than five days prior to the meeting date, in order to afford the parent a reasonable time to review and consider the request. Provided however, that a parent shall retain the right to request and/or agree with the school district to excuse a member of the committee or subcommittee at any time including where the member is unable to attend the meeting because of an emergency or unavoidable scheduling conflict and the school district submits the written input for review and consideration by the parent within a reasonable time prior to the meeting and prior to obtaining written consent of the parent to such excusal.
- (4) Requests for excusals do not apply to the parents of the student or the appointee of the municipality in the case of a committee on preschool special education.

## Consideration of Special Factors

The following information provides examples of guiding questions a Committee may use to determine whether certain students need a particular device or service (including an intervention, accommodation, or other program modification) in order for the student to receive a free appropriate public education.

### **Students who demonstrate behaviors which impede learning**

A functional behavioral assessment (FBA) is conducted as part of an individual evaluation for each student with a disability who has behaviors that impede his or her learning or that of others. A FBA must also be conducted when disciplinary actions have resulted in the suspension or removal of the student from his or her current program for more than 10 days in a school year. FBAs provide information on why a student engages in a behavior, when the student is most likely to demonstrate the behavior and situations in which the behavior is least likely to occur. The individualized education program (IEP) of a student whose behavior impedes his or her learning or that of others must indicate the strategies, including positive behavioral interventions and supports to address a student's behavior needs. Further information on functional behavioral assessments may be found in the July 1998 memorandum entitled, *Guidance on Functional Behavioral Assessments for Students with Disabilities*.

Based on the results of the FBA, the Committee must identify strategies, including positive behavioral interventions and supports to address those behaviors. When a student's behaviors are such that they are impeding learning, the IEP must identify, as appropriate, the student's present levels and needs and annual goals, (and if required for certain students, short-term objectives and/or benchmarks), related to behaviors, and the special education and related services, supplementary aids and services to be provided to the student, or on behalf of the student, any needed program modifications, and any supports for school personnel needed to address the behavior.

In determining the supports, services, interventions or program modifications a student may need to address behaviors that impede learning, the Committee should consider the following questions:

- What behavior(s) does the student exhibit that are different from those of same-age peers?
- When is the student most likely to exhibit the problem behavior?
- What are the general conditions under which a behavior usually occurs and probable consequences that serve to maintain it?
- What contextual factors (including cognitive and affective factors) contribute to the behavior?
- What specific events appear to be contributing to the student's problem behavior?
- What function(s) does the problem behavior serve for the student?
- What might the student be communicating through problem behavior?
- When is the student less likely to engage in the problem behavior?

- Does the student's behavior problem persist despite consistently implemented behavioral management strategies?
- Does the student's behavior place him/her or others at risk of harm or injury?
- Have the student's cultural norms been considered relative to the behavior(s) in question?
- Do health-related issues affect the behavior?
- Does the student's disability affect his/her ability to control the behavior?
- Does the student's disability affect his/her understanding of the consequences of the behavior?
- What accommodations are necessary for instruction and testing?
- Does the student need an individual behavioral intervention plan?

### **Students with limited English proficiency**

For all students with disabilities with limited English proficiency, the Committee must consider how the student's language needs relate to the IEP. Schools must provide a student with limited English proficiency with alternative language services to enable him/her to acquire proficiency in English and to provide him/her with meaningful access to the content of the educational curriculum that is available to all students, including special education and related services. The Committee should consider the following questions:

- Has the student been assessed in English as well as his/her native language?
- Did the evaluation of the student with limited English proficiency measure the extent to which the student has a disability and needs special education rather than measure the student's English language skills?
- Does the disability impact on the student's involvement and progress in the bilingual education or English as a Second Language (ESL) program of the general curriculum?
- What language will be used for this student's instruction?
- What language or mode of communication will be used to address parents or family members of the student?
- What accommodations are necessary for instruction and testing?
- What other language services (i.e., English as a second language, bilingual education) must be provided to ensure meaningful access to general and special education and related services?

### **Students with visual impairments**

When a student is blind or visually impaired, the Committee must provide instruction in Braille and the use of Braille unless the Committee determines, after an evaluation of the student's reading and writing skills, needs and appropriate reading and writing media, that instruction in Braille or the use of Braille is not appropriate for this student. The student's future needs for instruction in Braille or the use of Braille must also be considered. The Committee should consider the following questions:

- Does the student have a disability in addition to blindness that would make it difficult for him/her to use his or her hands?
- Does the student have residual vision?
- Does the student use or need to learn to use assistive technology for reading and writing?
- Is the student's academic progress impeded by the current method of reading?
- Does the student use Braille, large print, recordings or regular print?
- Will the student need to use Braille, large print or recordings in the future?
- Have provisions been made to obtain in Braille the printed materials used by sighted students?
- Does the student need instruction in orientation and mobility?
- Does the student have appropriate listening skills?
- Does the student have age-appropriate social skills?
- What skills does the student need to enable him or her to learn effectively?
- What accommodations are necessary for instruction and testing?
- What is the potential loss of remaining vision?
- What is the amount of reading required of the student in the general education curriculum?
- Does the student have language-related learning disabilities?

Additional information explaining the responsibilities of educational agencies for students with visual impairments may be found in the June 8, 2000 Federal Register/ Vol. 65, No. 111 *Educating Blind and Visually Impaired Students: Policy Guidance*.

For additional guidance relating to accessible instructional materials for students, see <http://www.p12.nysed.gov/specialed/aim/AIMmemo1209.htm>.

### **Students with communication needs**

The Committee must consider the communication needs of the student, and in the case of a student who is deaf or hard of hearing, consider the student's language and communication needs. The Committee must consider the student's opportunities for direct interaction with peers and educational personnel in the student's own language and communication mode. Opportunities for direct interaction (without needing an interpreter) in the student's own language and communication mode must also be described. The Committee should consider the following questions:

- Does the student use American Sign Language?
- What mode of communication does the student use?
- What mode of communication does the family prefer?
- Is an interpreter or translator needed for the student to participate in and benefit from classroom instruction and/or interaction with peers and educational personnel?
- Does the student require assistive devices to facilitate the development and use of meaningful language and/or a mode of communication?

- Does the student require the use of hearing aids and assistive listening devices in order to maximize auditory training and language development in classrooms, related school activities and at home?
- What environmental modifications are necessary to address communication needs?
- Are there opportunities for the student to participate in direct communication with peers and educational personnel?
- What opportunities exist for direct instruction (without an interpreter) in the student's language and/or mode of communication?

### **Students who may need assistive technology devices and services**

Some students may require assistive technology devices and services to benefit from a free appropriate public education (FAPE). The Committee must also consider whether the use of school-purchased assistive technology devices must be used in the student's home or in other settings in order for the student to receive FAPE. Parental input in this area is especially important. The Committee should consider the following questions:

- What can the student do now with and without assistive technology devices and services?
- What does the student need to be able to do?
- Can assistive technology devices and services facilitate student success in a less restrictive environment?
- Does the student need assistive technology devices and services to access the general curriculum or to participate in nonacademic and extracurricular activities?
- What assistive technology services would help the student participate in the general curriculum and/or classes?
- Does the student need assistive technology devices and services to benefit from educational/printed materials in alternative formats?
- Does the student need assistive technology devices and services to access auditory information?
- Does the student need assistive technology devices and services for written communication/computer access?
- Does the student need an assistive technology device or service for communication?
- Does the student need assistive technology devices to participate in State and district-wide testing?
- Will the student, staff and/or parents need training to facilitate the student's use of the assistive technology devices?
- How can assistive technology devices and services be integrated into the student's program across settings such as work placements and for homework?