

4.0 IEP/IFSP PLANNING STANDARDS

Individualized education program (IEP) planning and individualized family service plan (IFSP) planning are the processes of determining, based on assessment data, a child's or student's educational needs and then completing a written statement, such as an IEP or IFSP, that is developed, reviewed, and revised by a team of individuals. The team must consist of the required individuals as specified in state and federal law.

Each IEP or IFSP describes the educational program designed by the team to meet the child's or student's unique needs and must contain specific information about the child or student, as required by state and federal law. The district has a responsibility to ensure an IEP or IFSP is in effect for each eligible child or student; and is implemented as soon as possible after the team meeting; and is reviewed periodically, but not less than annually, to determine whether the annual goals for the child or student are being achieved. The district must also provide special education and related services to an eligible child or student in accordance with the IEP or IFSP, and make a good faith effort to the assist the child or student to achieve the goals and objectives listed in the IEP or IFSP.

Legal Citations

"Individualized education program" or "IEP" means a written statement for each pupil that is developed, reviewed, and revised in a meeting in accordance with this part

MN Rule 3525.2810, subp.1(A)

"Individualized family service plan" or "IFSP" means a written plan for providing services to a pupil and the pupil's family through interagency agreements. Procedural and program requirements for the IEP also apply to the educational components of the IFSP.

MN Rule 3525.0210, subp. 28

General Individualized Education Program (IEP) Requirements

4.01 IEP Team

Legal Citations

Individualized education program team or IEP Team means a group of individuals described in [300.321](#) that is responsible for developing, reviewing, or revising an IEP for a child with a disability.

34 C.F.R 300.23

4.01.01 Placement Decision Made By an IEP Team

Legal Citations

In determining the educational placement of a child with a disability, including a preschool child with a disability, each public agency shall ensure that the placement decision is made by a group

of persons, including the parents, and other persons knowledgeable about the child, the meaning of the valuation data, and the placement options.

34.C.F.R. 300.116(a)

4.01.02 IEP Manager

Legal Citations

The district shall assign a teacher or licensed related service staff who is a member of the pupil's IEP team as the pupil's IEP manager to coordinate the instruction and related services for the pupil. The IEP manager's responsibility shall be to coordinate the delivery of special education services in the pupil's IEP and to serve as the primary contact for the parent. The district may assign the following responsibilities to the pupil's IEP manager: assuring compliance with procedural requirements; communicating and coordinating among home, school, and other agencies; regular and special education programs; facilitating placement; and scheduling team meetings.

Minn. R. 3535.0550

4.01.03 IEP Team Members

Legal Citations

The district shall designate a team of persons responsible for determining the IEP and authorizing expenditures to implement the IEP of pupils from kindergarten through age 21. The IEP team shall be composed of:

1. One or both of the learner's parents (includes a legal guardian or surrogate parent);
NOTE: Parents whose rights have not been terminated but who have not been granted legal custody have the right of access to and to receive copies of important school records and the right to be informed about the pupil's welfare, educational progress, and status and to attend school and parent-teacher conferences unless otherwise ordered by a court. The school need not hold a separate conference for each parent.
2. At least one special education teacher, or where appropriate, at least one special education provider who can interpret the instructional implications of evaluation results;
3. At least one general education teacher (if the child is, or may be participating in the general education environment). The team shall include a teacher or other representative of the general education program where the pupil is enrolled or expected to enroll or for a child of less than school age, an individual qualified by the district to teach children of that age.
4. The pupil, if appropriate. In cases when transition needs are being considered, the pupil must be invited to the meeting. If the pupil fails to attend, the district must implement procedures to determine the pupil's preferences.
5. A representative of the district, other than the pupil's teacher, who is qualified to provide or supervise the provision of special education services.
6. An individual who can interpret the instructional implications of evaluation results.
NOTE: If the pupil is receiving special education services outside the resident district, an administrator or designee from the resident district must be invited to the meeting. If the representative from the resident district cannot attend, the providing district may use other methods to ensure participation, such as individual or conference telephone calls.

The resident district may appoint a member of the providing district as its administrative designee. If a member of the providing district is appointed as designee, that appointment must be clearly indicated on the IEP; and

7. Others at the discretion of the parents or district.

Multidisability Team-All Students

The team member licensed in a pupil's disability shall be responsible for conducting the pupil's evaluation and participating at team meetings when an IEP is developed, reviewed, or revised. Consultation and indirect services as defined in part [3525.0210](#) must be provided to the general or special education teacher providing instruction if not licensed in the disability. The frequency and amount of time for specific consultation and indirect services shall be determined by the team.

MN Rule 3525.2350, subp. 3

Multidisability Team-DD Students in Grades Kindergarten and 1st

When the student who is in kindergarten or grade one and still retains eligibility under the primary disability category of developmental delay the team must include a licensed early childhood special education (ECSE) teacher. The ECSE teacher is responsible for conducting the student's evaluation and participating at team meetings when an IEP is developed, reviewed, or revised.

The ECSE teacher must provide consultation and indirect services as appropriate to the general or special education teacher providing the instruction if that teacher is not a licensed early childhood special education teacher. The frequency and amount of time for specific consultation and indirect services is determined by the IEP team.

Multidisability Team-Specific Learning Disability Suspected

The determination of whether a child suspected of having a specific learning disability is a child with a disability as defined in [300.8](#), is made by the child's parents and a team of qualified professionals, which must include:

- A. the child's regular teacher; or
- B. if the child does not have a regular teacher, a regular classroom teacher qualified as a teacher of his or her age; or
- C. for a child of less than school age, an individual qualified by the district to teach a child of his or her age; and
- D. at least one person qualified to conduct individual diagnostic examinations of children, such as a school psychologist, speech-language pathologist, or remedial reading teacher.

34 C.F.R. 300.308(b)

Multidisability Team-Student Enrolled in a Private School

Before a district places a child with a disability in, or refers a child to, a private school or facility, the district shall initiate and conduct a meeting to develop an IEP for the child. When a child with a disability is enrolled in a parochial or other private school and receives special education

or related services from a public school, a representative of the private school must be invited to each meeting. If the representative cannot attend, the district shall use other methods such as individual or conference telephone calls to ensure participation by the private school including individual or conference telephone calls. These other methods should be documented in the pupil's phone log.

34 C.F.R. 300.325(a)(2)

Multidisability Team-Out of District Placement Considered

If the team determines that it may be appropriate to consider placement options outside of the resident district, representatives from the outside district, agency, or academy must be invited to attend a team meeting as a participant to complete an appropriate IEP for the pupil including the needs, goals, objectives, services, and placement of the pupil.

MN Rule 3525.0800, subp 3

Multidisability Team-Secondary Transition Services Being Considered

For each pupil, the district shall conduct an evaluation of secondary transition needs and plan appropriate services to meet the pupil's transition needs. The areas of evaluation and planning must be relevant to the pupil's needs and may include work, recreation and leisure, home living, community participation, and postsecondary training and learning opportunities. To appropriately evaluate and plan for a pupil's secondary transition, additional IEP team members may be necessary and may include vocational education staff members and other community agency representatives as appropriate.

MN Rule 3525.2900, subp. 4(A)

The district must invite a student with a disability to attend the student's IEP Team meeting if the purpose of the meeting is the consideration of the postsecondary goals and transition services needed to assist the student in reaching those goals. If the student does not attend the meeting, the district must ensure that the student's preferences and interests are considered and referenced on the *Transition Planning* page of the *IEP*. It is strongly advised that the student should be encouraged and prepared so that the importance of attendance at the meeting is understood by the student.

To the extent appropriate, and with the consent of the parents or student who has reached the age of majority, the district must invite a representative of any participating agency that is likely to be responsible for providing or paying for transition services. This would generally be a representative from county social services and/or Department of Rehabilitative Services. Documentation of those agencies and services occurs on the *Transition Services* page of the *IEP*. If an agency invited to send a representative to a meeting does not do so, the district must take other steps to obtain the participation of the other agency in the planning of any transition services. If the case manager is uncertain as to what steps to take, the director or assistant director of special education should be contacted.

Multidisability Team-Initial IEP Team Meeting for Child Previously Under C

Because ECSE service providers in the SNWSEC districts serve children birth to Kindergarten entrance, transitioning a children from Part C, birth to age 3 services, to Part B, age 3 to 21 services, occurs in a seamless fashion. If the child will be transitioning into a preschool program the preschool teacher for the program should be invited to the meeting in order learn more about the child's special needs and meet the parents.

34 C.F.R. 300.321(f)

Coordination of Interagency Services

If at the time of initial referral for an educational assessment, or a reassessment, the [school] district determines that a child with disabilities who is age 3 through 21 may be eligible for interagency services, the district may request that the county of residence provide a representative to the initial assessment or reassessment team meeting or the first individual education plan team meeting following the assessment or reassessment. The district may request to have a county representative attend other individual education plan team meetings when it is necessary to facilitate coordination between district and county provided services. Upon request from a [school] district, the resident county shall provide a representative to assist the individual education plan team in determining the child's eligibility for existing health, mental health, or other support services administered or provided by the county.

Minn. Stat. 125A.10

4.02 Meeting Requirements

4.02.01 General Requirements


Legal Citations

Each public agency must ensure that a meeting to develop an IEP for a child is conducted within 30 days of a determination that the child needs special education and related services.

34 C.R.R. 300.323 (c)(1)

In most cases, the team is encouraged to hold initial eligibility determination meetings and the IEP meetings at the same time. If holding both meetings together is not feasible, the team has an additional 30 days in which to hold the IEP meeting. The team should attempt to hold the IEP meeting as quickly as possible as a student found eligible for services can not begin services until and IEP has been written and signed by the parents.

[NOTICE OF A TEAM MEETING](#)

 <small>7/07</small>	NOTICE OF A TEAM MEETING
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Student Name: _____ Date: _____

School: _____ Grade: _____ DOB: _____

Dear _____ :

You are invited to attend a meeting to plan for _____'s education program. The meeting will be at _____
(Student's Name)

_____ on _____ at _____
Time Date Room Number - Building - Address

Please allow for _____ to meet.

The purpose of this meeting is:

The following persons are expected to attend:

Name	Title	Name	Title
_____	/ Parent	_____	/ Special Education Teacher
_____	/ Parent	_____	/ General Education Teacher
_____	/ Student	_____	/ School District Representative
_____	/	_____	/ Service Coordinator
_____	/	_____	/
_____	/	_____	/

A member of the IEP team may be excused from attendance at the meeting, in whole or in part, if the district and the parent(s) agree, in writing, that their attendance is not necessary because their area of the curriculum or related services is not being modified or discussed in the meeting. However, you and the district may excuse a member from attendance, in whole or in part, when their area of the curriculum or related services are involved, if: 1) you and the district agree, in writing, to the excusal, and 2) the excused member submits, in writing to you and the rest of the IEP team, input into the development of the IEP prior to the meeting.

You may invite other people to the meeting that have knowledge or special expertise regarding your child, including related services staff as appropriate.

If you have questions, please contact me:

Name	Position	Telephone
_____	_____	_____

This form may be available in other formats. Contact the IEP manager for an alternate format.

4.02.02 Ensuring Parent Attendance at Meetings

Legal Citations

Each public agency must take steps to ensure that one or both of the parents of a child with a disability are present at each IEP Team meeting or are afforded to opportunity to participate, including:

1. Notifying parents of the meeting early enough to ensure that they will have an opportunity to attend; and
2. Scheduling the meeting at a mutually agreed on time and place.

34 C.F.R. 300.322(a)

Within 30 calendar days after the eligibility determination, and annually thereafter, an IEP/IIP/IFSP meeting must be held. The IEP/IFSP manager shall contact the parent to arrange a mutually agreeable time and place for the meeting. Formal written notice should be sent to the parents prior to the meeting utilizing the *Notice of a Team Meeting* form. Because every effort must be made to include parents in all aspects of their child's program, it may be the most time efficient to call the parents prior sending the meeting notice to confirm a mutually convenient meeting date. If you have contacted the parents by phone and they agree to meet with less than 14 days notice, document this agreement on the *Notice of a Team Meeting* form. If neither parent can attend the IEP meeting, the team may involve parents through the use of individual or conference telephone calls or any other means agreeable to the parent.

When parents choose not to attend an IEP meeting, the IEP Manager must document attempts to arrange a mutually agreeable meeting time through use of contact logs, telephone calls made or attempted and the results of those calls, copies of correspondence and any responses received, and/or records of visits made to the parent's home or place of employment and the results of those visits.

Because of time line requirements regarding notice, it is extremely critical that IEP meeting plans are made far enough in advance of the IEP due date to allow for un-foreseen delays. It would not be unreasonable to schedule IEP meetings 30 days prior to the expiration of an IEP. That means that planning should start **at least** 2 months before the expiration date in order to allow for:

1. the 14 day notice of the meeting,
2. possible rescheduling of the meeting,
3. allow 10 days for writing and mailing the IEP and
4. 14 days for the parent to review the IEP in order to meet the IEP due date.

If neither parent can attend the IEP Team meeting and the district has documented attempts to provide the opportunity for the parent to participate either through individual or conference calls, a meeting may be conducted without a parent in attendance

4.02.03 Annual Review of the IEP

Legal Citations

Each public agency must ensure that the IEP team reviews the child's IEP periodically, but not less than annually, to determine whether the annual goals for the child are being achieved.

34 C.F.R. 300.324(b)(1)(i)

4.02.04 Periodic Review of the IEP and Changes to IEP Outside of Meetings

Legal Citations

In making changes to a child's IEP after the annual IEP Team meeting for a school year, the parent of a child with a disability and the public agency may agree not to convene an IEP team meeting for the purposes of making those changes, and instead may develop a written document to amend or modify the child's current IEP. If changes are made to the IEP, the district must ensure that the child's IEP Team is informed of those changes.

34 C.F.R. 300.324(a)(4)

4.02.05 Private Schools

Legal Citations

After a child with a disability enters a private school or facility, any meetings to review and revise the child's IEP may be initiated and conducted by the private school or facility at the discretion of the public agency.

34 C.F.R. 300.325

4.02.06 Failure to Provide Transition Services

Legal Citations

If a participating agency, other than the local school district, fails to provide the transition services, the district shall reconvene the IEP team to identify alternative strategies to meet the transition objectives for the pupil set out in that program.

MN Rule 3525.2810, subp. 4

4.02.07 Review of Emergency Use of Conditional Procedures/Behavior Intervention Procedures

Legal Citations

If an emergency intervention is used twice in a month or a pupil's pattern of behavior is emerging that interferes with the achievement of the pupil's educational goals and objectives, a team meeting must be called to determine if the pupil's IEP is adequate, if additional evaluation is needed, and, if necessary, to amend the IEP. Districts may use conditional procedures in emergencies until the IEP team meets, provided the emergency measures are deemed necessary by the district to protect the individual pupil or others from harm. The IEP team shall meet as soon as possible, but no later than five school days after emergency procedures have

commenced. District administration and parents must be notified immediately when a regulated procedure is used in an emergency situation.

MN Rule 3525.2900, subp. 5(C)

Best practice would suggest that anytime a student's behavior is escalating to the point that interventions such as frequent removal from the classroom, physical restraint, or locked time-out that the staff clearly document each incident. The building principal must be notified within a reasonable time and the case manager should notify the special education director in order to assure that due process procedures are being followed.

A Functional Behavior Assessment (FBA) and/or development a Behavior Intervention Plan (BIP) if one has not been developed should be considered when reviewing a student's IEP should the student's behavior require such interventions.

4.02.08 Alternative Means of Meeting Participation

Legal Citations

A frequent frustration for case managers is the scheduling of a meeting that is convenient for all participants. Staff are encouraged to consider a variety of options such as video conferences and conference calls. At no time should meeting be delayed past the due date without considering alternative options to a traditional face-to-face meeting.

34 C.F.R. 300.328

4.02.09 Excused Absence from Team Meeting by Individual Members

Legal Citations

A member of the IEP team is not required to attend an IEP Team meeting, in whole or in part, if the parent of a child with a disability and the public agency agree, in writing, that the attendance of the member is not necessary because the member's area of the curriculum or related services is not being modified or discussed in the meeting.

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

1. The parent, in writing, and the public agency consent to the excusal; and
2. The member submits in writing to the parent and the IEP Team, input into the development of the IEP prior to the meeting.

34 C.F.R. 300.321(e)



Agreement Regarding IEP Team Member Attendance

Student Name: _____ Date: _____
Excused team member: _____ Team meeting date: _____

I. Content Area of Excused Member Will *Not* Be Discussed or Modified at IEP Meeting

The District and Parent voluntarily agree that team member _____ does not need to attend the IEP meeting held on _____ because his/her area of the curriculum or related service is not being modified or discussed during the meeting. The District and the Parent further agree that the identified team member's absence from the meeting will *not* impact the student's right to a free appropriate public education, the student's ability to benefit from his/her program of specialized instruction, nor the parent's ability to meaningfully participate in developing the IEP.

Parent Signature Date

II. Content Area of Excused Member Will Be Discussed or Modified at IEP Meeting

The District and Parent voluntarily agree that team member _____ is excused from attending the IEP meeting held on _____ because he/she has provided or will provide the IEP team (including the parent) with the following:

- written input into the IEP before the meeting; *or*
- verbal input into the IEP during the meeting and before being excused.

The District and the Parent further agree that the identified team member's absence or excusal from the meeting will *not* impact the student's right to a free appropriate public education, the student's ability to benefit from his/her program of specialized instruction, nor the parent's opportunity to meaningfully participate in developing the IEP.

Parent Signature Date

Return this form to: _____

4.03 IEP Content

All students with disabilities are provided the special instruction and services which are appropriate to their needs. Where the individual education plan team has determined appropriate goals and objectives based on the student's needs, including the extent to which the student can be included in the least restrictive environment, and where there are essentially equivalent and effective instruction, related services, or assistive technology devices available to meet the student's needs, cost to the district may be among the factors considered by the team in choosing how to provide the appropriate services, instruction, or devices that are to be made part of the student's individual education plan. The individual education plan team shall consider and may authorize services covered by medical assistance according to section [256B.0625, subdivision 26](#). The student's needs and the special education instruction and services to be provided must be agreed upon through the development of an individual education plan. The plan must address the student's need to develop skills to live and work as independently as possible within the

community. The individual education plan team must consider positive behavioral interventions, strategies, and supports that address behavior for children with attention deficit disorder or attention deficit hyperactivity disorder. By grade 9 or age 14, the plan must address the student's needs for transition from secondary services to postsecondary education and training, employment, community participation, recreation, and leisure and home living. In developing the plan, districts must inform parents of the full range of transitional goals and related services that should be considered. The plan must include a statement of the needed transition services, including a statement of the interagency responsibilities or linkages or both before secondary services are concluded.

MN Statute 125A.08(a)(1)

4.03.01 Present Level of Educational Performance

Legal Citations

"Individualized education program" or "IEP" means a written statement for each pupil that is developed, reviewed, and revised in a meeting in accordance with this part and that includes a statement of the pupil's present levels of educational performance, including how the pupil's disability affects the pupil's involvement and progress in the general curriculum, or for preschool pupils, as appropriate, how the disability affects the pupil's participation in appropriate activities.

MN Rule 3525.2810, subp. 1(A)(1)

In developing each pupil's IEP, the IEP team shall consider the strengths of the pupil and the concerns of the parents for enhancing the education of the pupil, the results of the initial evaluation or most recent evaluation of the pupil, and, as appropriate, the results of the pupil's performance on any general state or district wide assessment program.

MN Rule 3525.2810, subp. 2(A)

The Present Level of Performance is the key to a well developed IEP. This is the section that describes current level of functioning and identifies strengths and weaknesses. If the child is clearly described, the team should easily be able to determine goals and level of services.

Considerations include:

1. Describe how the student's disability affects involvement and progress in the K-12 general curriculum. What information does the regular education teacher need in order to work with this student. For students using Braille, including how Braille will be implemented through integration with other classroom activities. For preschool children or students age 18 to 22 describe how the disability affects participation in appropriate activities.
2. Discuss the learner's current levels of performance in the areas of presenting problems. Statements of present level of educational performance are concise, meaningful, and identify educational strengths and needs. Describe the student's functional level, both behaviorally and academically, in the school setting. If this is an initial placement or three-year re-evaluation, the student's present level of performance is in the Assessment Summary Report and does not need to be restated. In describing the student's behavior and ability, you may include assessment results, behavioral observation data, previous learning history, relationship of behavior to learning, preferred learning style, interpersonal relationships, status of skill in prior IEP objectives, information obtained

from parents and pupil regarding needs, preferences and interests, and impact of health/physical status on learning.

3. Describe the learner-based special education instructional needs. The needs must be reflected in the present levels of performance on the IEP. Instructional needs refer to skill, functions, or outcomes related specifically to the pupil- not statements about specific special education services, teaching strategies, or prescriptions for therapy. For students who are blind, there is a presumption that proficiency in Braille reading and writing is essential for the student to achieve satisfactory educational progress. The IEP team must determine whether the student's visual impairment does or does not affect reading and writing performance commensurate with ability.

The IEP team shall consider the communication needs of the pupil, and in the case of a pupil who is deaf or hard of hearing, consider the pupil's language and communication needs, opportunities for direct communications with peers and professional personnel in the pupil's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the pupil's language and communication mode.

Minn. R. 3525.2810, subp. 2(B)(4)

The IEP team shall, in the case of a pupil who is blind or visually impaired, provide for instruction in Braille and the use of Braille unless the IEP team determines, after an evaluation of the pupil's reading and writing skills, needs, and appropriate reading and writing media, including an evaluation of the pupil's future needs for instruction in Braille or the use of Braille, that instruction in Braille or the use of Braille is not appropriate for the pupil.

Minn. R. 3525.2810, subp. 2(B)(3)

In developing an individualized education plan for each blind student the presumption must be that proficiency in reading and writing is essential for the student to achieve satisfactory educational progress. The assessment required for each student must include a Braille skills inventory, including a statement of strengths and deficits. Braille instruction and use are not required by this paragraph if, in the course of developing the student's individualized education program, team members concur that the student's visual impairment does not affect reading and writing performance commensurate with ability. This paragraph does not require the exclusive use of Braille if other special education services are appropriate to the student's educational needs. The provision of other appropriate services does not preclude Braille use or instruction. Instruction in Braille reading and writing must be available for each blind student for whom the multidisciplinary team has determined that reading and writing is appropriate.

Minn. Stat. 125A.06(c)

Instruction in Braille reading and writing must be sufficient to enable each blind student to communicate effectively and efficiently with the same level of proficiency expected of the student's peers of comparable ability and grade level.

Minn. Stat. 125A.06(d)

The student's individualized education plan must specify:

1. the results obtained from the assessment;
2. how Braille will be implemented through integration with other classroom activities;

3. the date on which Braille instruction will begin;
4. the length of the period of instruction and the frequency and duration of each instructional session;
5. the level of competency in Braille reading and writing to be achieved by the end of the period and objective assessment measures to be used; and
6. if a decision has been made that Braille instruction or use is not required for the student: a statement that the decision was reached after a review of pertinent literature describing the educational benefits of Braille instruction and use; and a specification of the evidence used to determine that the student's ability to read and write effectively without Braille is not impaired.

Minn. Stat. 125A.06(e)

The IEP team shall, in the case of a pupil with limited English proficiency, consider the language needs of the pupil as such needs relate to the pupil's IEP.

Minn. R. 3525.2810, subp. 2(B)(2)

If, in determining these special factors, the pupil needs a particular device or service, including an intervention, accommodation, or other program modification, in order for the pupil to receive FAPE, the IEP team must include a statement to that effect in the pupil's IEP.

Minn. R. 3525.2810, subp. 2(C)

Student's Behavior Impedes Learning

The individual education plan team must consider positive behavioral interventions, strategies, and supports that address behavior for children with attention deficit disorder or attention deficit hyperactivity disorder.

MN Statute 125A.08(a)(1)

The IEP team shall in the case of a pupil whose behavior impedes his or her learning or that of others, consider, when appropriate, strategies, including positive behavioral interventions and supports to address that behavior.

MN Rule 3525.2810, subp. 2(B)(1)

If, in determining these special factors, the IEP determines the pupil needs a particular device or service, including an intervention, accommodation, or other program modification, in order for the pupil to receive FAPE, the IEP team must include a statement to that effect in the pupil's IEP.

Minn. R. 3525.2810, subp. 2(C)

The IEP team shall consider whether the pupil requires assistive technology devices and services.

Minn. R. 3525.2810, subp. 2(B)(5)

4.03.02 Short and Long Term Goals and Objectives

Legal Citations

"Individualized education program" or "IEP" means a written statement for each pupil that is developed, reviewed, and revised in a meeting in accordance with this part and includes a

statement of measurable annual goals, including benchmarks or short-term objectives, related to meeting the pupil's needs that result from the pupil's disability to enable the pupil to be involved in and progress in the general curriculum, and meeting each of the pupil's other educational needs that result from the pupil's disability.

Minn. R. 3525.2810, subp. 1(A)(2)

4.03.03 Least Restrictive Environment (LRE)

Legal Citations

"Individualized education program" or "IEP" means a written statement for each pupil that is developed, reviewed, and revised in a meeting in accordance with this part and includes an explanation of the extent, if any, to which the pupil will not participate with students in the regular class.

Minn. R. 3525.2810, subp. 1(A)(4).

4.03.04 Special Education and Related Services

Legal Citations

"Individualized education program" or "IEP" means a written statement for each pupil that is developed, reviewed, and revised in a meeting in accordance with this part and includes a statement of the special education and related services and supplementary aids and services to be provided to the pupil, or on behalf of the pupil, and a statement of the program modifications or supports for school personnel that will be provided for the pupil to advance appropriately toward attaining the annual goals, to be involved and progress in the general curriculum and to participate in extracurricular and other nonacademic activities, and to be educated and participate with other pupils and students in the activities described in this paragraph;

Minn. R. 3525.2810, subp. 1(A)(3)

The team member licensed in a pupil's disability shall be responsible for conducting the pupil's evaluation and participating at team meetings when an IEP is developed, reviewed, or revised. Consultation and indirect services as defined in part [3525.0210](#) must be provided to the general or special education teacher providing instruction if not licensed in the disability. The frequency and amount of time for specific consultation and indirect services shall be determined by the IEP team.

Pupils may receive instruction and related services from any or all of the team members with appropriate skills. The special education provided by each team member shall be included in the IEP.

Minn. R. 3525.2350, subp. 3 & 4

Extended School Year Services

School districts are required to provide extended school year (ESY) services to a pupil if the IEP team determines the services are necessary during a break in instruction in order to provide a free appropriate public education.

Extended School Year (ESY) is not the same as summer school. ESY is a mandatory extension of special education services to learners with a disability over the summer months. Although the specific reason for providing ESY vary from learner to learner, the need arises when it is suspected the learner will suffer a significant loss of a critical academic, behavioral, communication or other skills as a result of a lengthy break in instruction. The district may not limit extended school year services to particular categories of disability or unilaterally limit the type, amount, or duration of those services. At least annually, the IEP team must determine a pupil is in need of ESY services if the pupil meets the conditions of item A, B, or C.

- A. there will be significant regression of a skill or acquired knowledge from the pupil's level of performance on an annual goal that requires more than the length of the break in instruction to recoup unless the IEP team determines a shorter time for recoupment is more appropriate;
- B. services are necessary for the pupil to attain and maintain self-sufficiency because of the critical nature of the skill addressed by an annual goal, the pupil's age and level of development, and the timeliness for teaching the skill; or
- C. the IEP team otherwise determines, given the pupil's unique needs, that ESY services are necessary to ensure the pupil receives a free appropriate public education.

Minn. R. 3525.0755, subp. 3

The IEP team must decide the basis for determining whether a pupil is eligible for ESY services using information including:

- A. prior observation of the pupil's regression and recoupment over the summer;
- B. observation of the pupil's tendency to regress over extended breaks in instruction during the school year; and
- C. experience with other pupils with similar instructional needs.

Minn. R. 3525.0755, subp. 4

If the team determines that ESY is appropriate based on the above criteria, then the team needs to determine the amount and type of service for summer that is appropriate to maintain performance on IEP goals. It is the responsibility of the special education service provider to document student progress on IEP goals and objectives on a regular basis throughout the IEP year. The IEP team will determine the specific IEP goals and objectives where skill regression/recoupment or self-sufficiency criteria have been documented or is predicted. Present level of performance at the end of the school year should be preserved and used as a baseline for those students who may be considered for ESY.

Instruction in Braille reading and writing is a service for the purpose of special education and services under Minn. Stat. [125A.06](#).

Minn. Stat. 125A.06(f)

Definitions

Levels Performance means a pupil's progress toward annual IEP goals immediately prior to a break in instruction as seen in progress measurements.

Regression means a significant decline in the performance of a skill or acquired knowledge, specified in the annual goals as stated in the pupil's IEP, that occurs during a break in instruction. Recoupment means a pupil's ability to regain the performance of a skill or acquired knowledge to approximately the same level of performance just prior to the break in instruction.

Self-Sufficiency means the functional skills necessary for a pupil to achieve a reasonable degree of personal independence as typically identified in the annual IEP goals for a pupil requiring a functional curriculum. To attain self sufficiency, a pupil must maintain skills consistent with the pupil's IEP goals in any of these skill areas:

1. basic self-help, including toileting, eating, feeding, and dressing;
2. muscular control; physical mobility;
3. impulse control;
4. personal hygiene;
5. development of stable relationships with peers and adults;
6. basic communication; or
7. functional academic competency, including basic reading and writing skills, concepts of time and money, numerical or temporal relationships.

Other Factors to be Considered

1. In making its determination of ESY needs the IEP team must consider the following factors, where relevant:
2. The pupil's progress and maintenance of skills during the school year;
3. The pupil's degree of impairment;
4. The pupil's rate of progress;
5. The pupil's behavioral or physical problems;
6. The availability of alternative resources;
7. The pupil's ability and need to interact with nondisabled peers;
8. The areas of the pupil's curriculum which need continuous attention; or the pupil's vocational needs.

What Extended School Year Service Is Not

1. An individual decision. Parents or staff alone cannot determine the need for extended year service. The IEP team needs to agree on this issue as on other programming and service issues.
2. Respite or day care for families who need or would like those services.
3. A continuation of the entire special education services or program as written in the IEP.
4. Summer school. Summer school is permissive and meant to remediate, reinforce, or enrich. Extended year service is meant to retain skills to allow for benefit from a "free appropriate public education".
5. For only the severely handicapped. Although it is most likely that students with more severe handicaps experience problems with regression, recoupment, or self-sufficiency, other students with handicaps could experience significant programs in these areas also.
6. To make up credits for failed classes.

7. To be considered for content area classes that are over after the year or semester. For example, students may lose skills learned in a science or health class, but these are not skills that are indicators of basic self-sufficiency.

ESY CHECKLIST

Student Name	Date of Team Meeting
School	Grade

Extended School Year Determination

School districts are required to provide extended school year (ESY) services to a pupil if the IEP Team determines the services are necessary during a break in instruction in order to provide a free appropriate public education. In making its determination, the IEP Team must consider the following factors:

- Pupil's progress and maintenance of skills during the regular school year;
- Pupil's degree of impairment;
- Pupil's rate of progress;
- Pupil's behavioral or physical problems;
- Availability of alternative resources;
- Pupil's ability and need to interact with non-disabled peers;
- Areas of the pupil's curriculum that need continuous attention; and/or
- Pupil's vocational needs

A. Regression/Recoupment: There will be a significant regression of a skill or acquired knowledge from the pupil's level of performance on an annual goal that requires more than the length of the break in instruction to recoup - unless the IEP team determines a shorter time for recoupment is more appropriate. *[Supported by ongoing data collection, test scores (pre/post break), progress reports, grades, observations, etc.]*

yes no The pupil exhibited significant regression during a prior summer break that required more than the length of the break to recoup.

yes no There are current predictors of significant regression (during short breaks in instruction, such as winter or spring breaks) that required more than the length of the break to recoup.

B. Self-sufficiency: The pupil, who is in a functional curriculum, has the following functional skills identified as goals in their current IEP: (check all that apply)

Basic communication Impulse control Muscular control

Personal hygiene Physical mobility

Basic self-help, including toileting, eating feeding and dressing

Development of stable relationships with peers and adults

Functional academic competency; including basic reading, writing, concepts of time and money, and numerical or temporal relationships

yes no Taking into consideration the pupil's age, level of development, the nature and degree of the disability, the timeliness for teaching the skill, and the critical nature of the functional skill(s) identified above, the longitudinal data (i.e., ongoing data collection, test scores, progress reports, observations, etc.) indicates the pupil is not making reasonable progress toward self-sufficiency as identified in one or more goals from their current IEP.

C. Pupil's Unique Need

yes no Given the student's unique need(s), the Team determines ESY services are necessary to insure the student receives a Free Appropriate Public Education.
[Attach documentation of student's unique need and explanation why ESY services are necessary]

D. ESY Determination

yes no The IEP Team has determined the pupil is eligible for Extended School Year services by answering yes to the questions in items A, B or C.

For students who are eligible for ESY services, identify the IEP goal(s) to be worked on during the break in instruction, and determine the amount of time (i.e., number of sessions and length of each session) necessary to maintain the skill or address the self-sufficiency concern.

IEP Goal	Number Sessions	Session Length

Cost Consideration

Every district must ensure all students with disabilities are provided the special instruction and services which are appropriate to their needs. Where the individual education plan team has determined appropriate goals and objectives based on the student's needs, including the extent to which the student can be included in the least restrictive environment, and where there are essentially equivalent and effective instruction, related services, or assistive technology devices available to meet the student's needs, cost to the district may be among the factors considered by the team in choosing how to provide the appropriate services, instruction, or devices that are to be made part of the student's individual education plan. The individual education plan team shall consider and may authorize services covered by medical assistance according to section [256B.0625](#), subdivision 26.

Minn. Stat. 125A.08(a)(1)

Role of the Regular Education Teacher

The regular education teacher of the pupil, as a member of the IEP team, shall, to the extent appropriate, participate in the development and revision of the IEP, including the determination of appropriate positive behavioral interventions and strategies and the determination of supplementary aids and services, program modifications, and support for school personnel.

Minn. R. 3525.2810

4.03.05 When IEP Must Be in Effect

Legal Citations

"Individualized education program" or "IEP" means a written statement for each pupil that is developed, reviewed, and revised in a meeting in accordance with this part and includes the projected date for the beginning of the services and modifications, and the anticipated frequency, location, and duration of those services and modifications.

Minn. R. 3525.2810, subp. 1(A)(6)

4.03.06 Review and Revision of the IEP

Legal Citations

The district shall ensure that the IEP team reviews the pupil's IEP periodically, but not less than annually to determine whether the annual goals for the pupil are being achieved, and reviews the IEP as appropriate to address:

1. Any lack of expected progress toward the annual goals and in the general curriculum, where appropriate;
2. The results of any reevaluation;
3. Information about the pupil provided to, or by, the parents; or
4. The pupil's anticipated needs and other matters.

Minn. R. 3525.2810, subp. 3(A)

At least annually, the IEP team must determine a pupil is in need of ESY services if the pupil meets the conditions of item A, B, or C.

- A. there will be significant regression of a skill or acquired knowledge from the pupil's level of performance on an annual goal that requires more than the length of the break in instruction to recoup unless the IEP team determines a shorter time for recoupment is more appropriate;
- B. services are necessary for the pupil to attain and maintain self-sufficiency because of the critical nature of the skill; or
- C. the IEP team otherwise determines, given the pupil's unique needs, that ESY services are necessary to ensure the pupil receives a free appropriate public education.

Minn. R. 3525.0755, subp. 3

[INDIVIDUAL EDUCATION PLAN \(IEP\)](#)

4.03.07 Progress Reporting

Legal Citations

"Individualized education program" or "IEP" means a written statement for each pupil that is developed, reviewed, and revised in a meeting in accordance with this part and includes a statement of how the pupil's progress toward the annual goals will be measured, how the pupil's

parents will be regularly informed by such means as periodic report cards, at least as often as parents are informed of their nondisabled student's progress, of the pupil's progress toward the annual goals, and the extent to which that progress is sufficient to enable the pupil to achieve the goals by the end of the year.

Minn. R. 3525.2810, subp. 1(A)(9)

4.03.08 Conditional Intervention Procedures

Legal Citations

Prior to using any conditional procedure, the IEP team must conduct a functional behavioral assessment (FBA) as defined in part [3525.0210](#), subpart 22. The team must also document that it has ruled out any other treatable cause for the behavior, for example, a medical or health condition, for the interfering behavior.

Minn. R. 3525.2710, subp. 4(F)

4.03.09 Transition Services Beginning at Age 14

Legal Citations

Transition services for students with disabilities may be special education, if provided as specially designed instruction, or related service, if required to assist a student with a disability to benefit from special education.

34 C.F.R. 300.43(b)

By grade 9 or age 14, the plan must address the student's needs for transition from secondary services to postsecondary education and training, employment, community participation, recreation, and leisure and home living. In developing the plan, districts must inform parents of the full range of transitional goals and related services that should be considered. The plan must include a statement of the needed transition services, including a statement of the interagency responsibilities or linkages or both before secondary services are concluded.

Minn. Stat. 125A.08(a)(1)

By grade nine or age 14, whichever comes first, the IEP plan shall address the pupil's needs for transition from secondary services to postsecondary education and training, employment and community living.

- A. For each pupil, the district shall conduct an evaluation of secondary transition needs and plan appropriate services to meet the pupil's transition needs. The areas of evaluation and planning must be relevant to the pupil's needs and may include work, recreation and leisure, home living, community participation, and postsecondary training and learning opportunities. To appropriately evaluate and plan for the pupil's secondary transition, additional IEP team members may be necessary and may include vocational education staff members and other community agency representatives as appropriate.
- B. Secondary transition evaluation results must be documented as part of an evaluation report. Current and secondary transition needs, goals, and instructional and related

services to meet the pupil's secondary transition needs must be considered by the team with annual needs, goals, objectives, and services documented on the pupil's IEP.

Minn. R. 3525.2900, subp. 4

Transition Planning Team Considerations

The entire IEP, beginning by age 14, is an outcome oriented process. Beginning at age 14, courses of study that are appropriate for the student's long-range plans are identified. It is strongly encouraged that the case manager develops an agenda to assist the team in addressing the IEP with a transition focus. A "coordinated" plan is developed that will help the student achieve their post-high school goals. The following steps are suggested:

1. Identify the Student's Post-school Desired Goals and Visions: Information must be gathered in order to identify a student's preferences, interests and dreams after high school. These dreams might not seem realistic to the educators, but this is often typical of the process young people go through while making plans for their future. Students should be provided experiences around those dreams so they may better clarify their future plans.
2. Describe the Student's Present Levels of Educational Performance: The student's present level should describe and include how the disability affects the child's involvement and progress in the general education curriculum. Transition planning requires that strengths as well as limitations be identified. The student and the family are critical to the transition planning process. By age 14 (or younger if appropriate), the student must be invited to IEP/IIP meetings. It is important to plan the IEP/IIP meeting so that the student can attend, and provide opportunities for the student to fully participate in these meetings. Student led IEP/IIP training may be necessary for some students. If the student does not attend, other steps must be taken to assure that the student's interest, preferences and needs are considered. The family is a valuable source of information regarding the student's post-school vision. This information should be included in the PLEP in order to develop the goals and objectives to support the anticipated outcome.
3. Designing a Statement of Transition Service Needs (age 14 or younger if appropriate): The statement of transition service needs is required for students by age 14 (or younger if appropriate) and includes a course of study for the high school years. These courses are determined by the student's interests, preferences and needs and may include required, elective, advance placement, modified or specially designed courses as well as experiences in the community. Transition service needs identify the courses necessary for the student to graduate or complete a school program and provides the necessary experiences for achieving post-school goals. This must occur on the IEP for all students in special education by age 14. The long-range plans are evaluated annually and any necessary adjustment and modification of the course of study are included in the IEP/IIP. The statement of transition service needs, beginning at age 14, continues to be reviewed annually by the IEP/IIP team.
4. Designing a Statement of Needed Transition Services: By age 16 (or younger if appropriate) the IEP team must include:
 - a) instruction;
 - b) related services;
 - c) community experiences;
 - d) the development of employment and other post-school adult living objectives; and

- e) if appropriate, acquisition of daily living skills and functional vocational evaluation.

Each of these areas must be considered in order to identify post-school services, supports, experiences and programs the student might need in order to achieve their post-school goals. Developing a "coordinated set of activities" also means that adult service agencies should be identified and linkages established as part of the needed transition services.

5. Determine Annual Goals and Short Term Objectives: After developing a comprehensive plan that includes a coordinated set of activities, annual goals and short-term objectives are determined for those activities that are a direct responsibility of the special education providers. There will be many activities identified for a student. Not all of those activities will be educational activities, or the responsibility of special educators. These activities may be provided in a general or special education setting, in the community or in the home. A general education teacher, career and technical teacher, adult service agency provider or parent may provide opportunities and support for a student. It is only those activities that require the need for special education services that will require a goal on the IEP/IIIP. For example, a student that has identified post-secondary education as the goal after high school may need self-advocacy skills in order to access accommodations on a college campus. These skills might be addressed through a conversation with the student and support at home, or in a general education classroom. Goals addressing self-advocacy would be written for the student if these skills were taught by the special education teacher and required special education services.

Failure to Meet Transition Objectives

Nothing in this part relieves any participating agency, including a State vocational rehabilitation agency, of the responsibility to provide or pay for any transition services that the agency would otherwise provide to children with disabilities who meet the eligibility criteria of that agency

34 C.F.R. 300.342.(c)(2)

Exception for Students with Disabilities Convicted Under State Law

The following requirements do not apply to children with disabilities who are convicted as adults under State law and incarcerated in adult prisons. The requirements in [300.320\(b\)](#) (relating to transition planning and transition services), do not apply with respect to the children whose eligibility under Part B of the Act will end, because of their age, before they will be eligible to be released from prison based on consideration of their sentence and eligibility for early release.

34 C.F.R. 300.324(d)(1)(ii)

4.03.10 Notice of Transfer of Rights

Legal Citations

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

34 .F.R. 300.320(c)

4.03.11 Modification of State and District-Wide Assessments

Legal Citations

"Individualized education program" or "IEP" means a written statement for each pupil that is developed, reviewed, and revised in a meeting in accordance with this part and includes a statement of any individual modifications in the administration of state or district wide assessments of student achievement that are needed in order for the pupil to participate in such assessment. If the IEP team determines that the pupil will not participate in a particular state or district wide assessment of student achievement or part of such an assessment, a statement of why that assessment is not appropriate for the pupil, and how the pupil will be assessed.

Minn. R. 3525.2810, subp.1(A)(5)

Minnesota's Graduation Standards

For up to date information on the Minnesota's Graduation Standards see the Minnesota Department of Education (MDE) web site. There are two parts to the Graduation Standards:

1. Basic Standards which are basic skills tests in reading, mathematics and written composition that students must pass in order to be eligible to graduate. They are a "safety net" to ensure that no student leaves high school without learning basic life skills that every adult needs in order to live and work in today's society; and
2. Minnesota Academic Standards define what students should know, understand and be able to do to demonstrate a high level of achievement. All students must work toward achieving high standards in several areas in order to graduate. To earn credit for a standard, the student must successfully complete a series of assignments. Modifications may be made as needed for students with disabilities and documented through the IEP or 504 planning process.

Basic Standards Testing (BST)

Students with IEPs or Section 504 Accommodation plans may have special consideration on the Basic Standards tests in reading, mathematics and written composition. The IEP or Section 504 team is responsible for determining the type and extent of participation in all testing for the purposes of statewide testing and Graduation Standards requirements. Teams have the authority to make decisions for students based on their individual needs. All decisions must be documented in the IEP or Section 504 plan.

Accommodation Guidelines

What is an Accommodation?

An accommodation is a change in the administration of an assessment, such as presentation format, response mode, setting, timing/scheduling, or any combination of these that does not change the construct intended to be measured by the assessment or the meaning of the resulting scores. Accommodations provided to a student during state assessments must also be provided during classroom instruction, classroom assessments, and district assessments; however, some instructional accommodations are not appropriate for use on statewide assessments, for example,

calculators may not be used on all sections of an assessment even if they are used consistently in the classroom. It's critical that educators become familiar with state policies regarding the appropriate use of accommodations during assessments.

What is the Purpose of an Accommodation?

Accommodations play a key role in promoting access to the general education curriculum. The purpose of accommodations is to reduce or eliminate the effects of a student's disability, or in the case of a student who is identified as LEP, to eliminate barriers to the Minnesota Academic Standards caused by language differences. Accommodations allow students with special needs to show what they know and can do; they do not reduce learning expectations. Three accommodation categories are used in Minnesota:

1. Presentation Accommodations allow students to access information in ways that do not require them to visually read standard print. These alternate modes of access are auditory, multi-sensory, tactile and visual.
2. Response Accommodations allow students to complete activities, assignments, and assessments in different ways or to solve or organize problems using some type of assistive device or organizer.
3. Timing and Scheduling Accommodations increase the allowable length of time to complete an assessment or assignment and perhaps change the way the time is organized. While extended time or frequent breaks may be specified as accommodations in a student's IEP or 504 Plan, they are considered an accommodation only for a student taking the TEAE which is a timed test. For all other Minnesota assessments extended time and frequent breaks are considered a general practice and are available to all students.

A setting accommodation allows students to complete tasks in different settings or under different conditions than are normally provided. While small group or individual administration may be specified as an accommodation in a student's IEP or 504 Plan, there is no need to identify setting accommodations on Minnesota Assessments because they are general practices that are available to all students.

Who May Receive an Accommodation?

Accommodations to NCLB assessments may be considered for three groups of students: students with IEPs, students with 504 Plans and LEP students. When an eligible student demonstrates the need for an accommodation, it must be provided as long as it does not invalidate the assessment.

Who is Responsible for Making Decisions Regarding Accommodations?

For students with IEPs, the IEP Team is responsible for making annual assessment and accommodation decisions which must be based on individual need in accordance with state and federal guidelines. For students with the most significant cognitive disabilities, the IEP Team may determine that the Minnesota Test of Academic Skills (MTAS) is the most appropriate measure of academic skills in reading, mathematics and science. Only students with disabilities under IDEA may be considered for the MTAS.

Students with 504 Plans must be provided accommodations based on individual need as long as the accommodations do not invalidate the assessment. The 504 Team should determine the

appropriateness of an accommodation for a particular student and document the decision in the 504 Plan. Students with 504 Plans are not eligible for the MTAS.

For students who are identified as LEP, the ESL teacher should determine and record which assessments and accommodations are most appropriate.

Selecting Appropriate Accommodations

The best approach when making accommodation decisions is to focus on a student's identified needs within the general education curriculum. Some examples of questions that should be considered prior to the selection of an accommodation are:

1. What specialized instruction (e.g., learning strategies/organizational skills, comprehension strategies) does the student need to achieve grade level content standards?
2. What accommodations will increase the student's access to the general education curriculum? What accommodations address the student's learning needs while reducing the effects of the disability?
3. What accommodations are routinely used by the student during instruction in the classroom and in classroom-, district-, and state-level testing?

The following pages describe accommodations that may be considered by IEP Teams, 504 Teams and ESL teachers. The accommodations in Table 7 are organized under the headings of presentation, timing/scheduling, and response format. Tables 7 and 8 are intended as a reference, and are not an exhaustive list of testing accommodations. If school personnel determine that a student needs a particular accommodation that is not included on these charts, please contact MDE to ensure that the accommodation will not invalidate a specific assessment.

Alternative Assessment

Both NCLB and IDEA 2004 require that all students with disabilities be administered the assessments districts use to hold schools accountable for the academic performance of students. IEP Team members are required to engage in a planning process that addresses:

1. Provision of accommodations that facilitate student access to grade level instruction and Minnesota Assessments
2. Use of alternate assessments to assess the academic achievement of students with the most significant cognitive disabilities.

All Minnesota students, including students with disabilities, must participate in statewide (e.g., Reading and Mathematics MCA-IIs in grades 3-8, 10, and 11) and district-wide assessments. There are some students with significant cognitive disabilities for whom the regular assessment, even with accommodations, is not an appropriate measure of their academic performance. If a student's IEP Team determines that the regular assessment is inappropriate, the student must be administered an alternate assessment linked to grade level Minnesota Academic Standards in reading, mathematics and science. Alternate assessments based on alternate achievement standards such as the Minnesota Test of Academic Skills (MTAS) represent a reduction in the complexity of the standards. Alternate achievement standards describe performance on grade

level Minnesota Academic Standards, but the performances and expected achievement levels are different for students with significant cognitive disabilities.

4.03.12 Student is Placed Out-of-District

If the resident district places a pupil in an out of district placement, the resident district is still responsible to assure that an appropriate IEP is developed, that the pupil is placed in the least restrictive environment, and that due process procedures associated with these responsibilities are followed.

It is the responsibility of the providing district, agency, or academy to implement the IEP, conduct periodic and annual reviews, convene and facilitate the IEP team meeting, and assure that due process procedures associated with these responsibilities are followed.

The annual IEP must be developed jointly by the providing district, agency, or academy and resident district. The resident district may appoint a member of the providing district as its representative.

MN. R. 3525.0800, sub. 4

4.03.13 If the Private School Implements the IEP

Each parentally placed private school child with a disability who has been designated to receive services must have a service plan that describes the specific special education and related services that the district will provide to the child as determined, through the IEP process, that it will make available to parentally-placed private school children with disabilities.

34 .F.R. 300.138(b)

4.04 When IEP Must be in Effect

Legal Citations

At the beginning of each school year, each public agency must have in effect, for each child with a disability within its jurisdiction, an IEP, as defined in [300.320](#).

34 C.F.R. 300.323(a)

Each public agency must ensure that a meeting to develop an IEP for a child is conducted within 30 days of a determination that the child needs special education and related services; and as soon as possible following development of the IEP, special education and related services are made available to the child in accordance with the child's IEP.

34 C.F.R. 300.323(c)

4.04.01 Transfer Students

If a child with a disability (who had an IEP that was in effect in a previous public agency in the same State) transfers to a new public agency in the same State, and enrolls in a new school within the same school year, the new public agency (in consultation with the parents) must provide FAPE to the child (including services comparable to those described in the child's IEP from the previous agency), until the new public agency either:

1. Adopts the child's IEP from the previous public agency; or
2. Develops, adopts, and implements a new IEP that meets the applicable requirements in [300.320](#) through [300.324](#).

34 C.F.R. 300.323(e)

If a child with a disability (who had an IEP that was in effect in a previous public agency in another State) transfers to a public agency in a new State, and enrolls in a new school within the same school year, the new public agency (in consultation with the parents) must provide the child with FAPE (including services comparable to those described in the child's IEP from the previous public agency), until the new public agency:

1. Conducts an evaluation pursuant to [300.304](#) through 300.306, (if determined to be necessary by the new public agency); and
2. Develops, adopts, and implements a new IEP, if appropriate, that meets the applicable requirements in [300.320](#) through 300.324.

34 C.F.R. § 300.323(f)

To facilitate the transition for a child described in this section, the new public agency in which the child enrolls must take reasonable steps to promptly obtain the child's records, including the IEP and supporting documents and any other records relating to the provision of special education or related services to the child, from the previous public agency in which the child was enrolled, pursuant to [33 C.F.R. 99.31\(a\)\(2\)](#) and the previous public agency in which the child was enrolled must take reasonable steps to promptly respond to the request from the new public agency.

34 .F.R. 300.323(g)

4.05 Accessibility and Accountability of IEPs

4.05.01 Teachers

Legal Citations

Each public agency must ensure that the child's IEP is accessible to each regular education teacher, special education teacher, related service provider, and any other service provider who is responsible for its implementation and each teacher and provider is informed of:

- A. His or her specific responsibilities related to implementing the child's IEP; and
- B. The specific accommodations, modifications, and supports that must be provided for the child in accordance with the IEP.

34 C.F.R. 300.323(d)

If changes are made to the child's IEP, the public agency must ensure that the child's IEP Team is informed of those changes.

34 C.F.R. 300.324(a)(4)(ii)

4.05.02 Parents

Legal Citations

The public agency must give the parent a copy of the child's IEP at no cost to the parent.

C.F.R. 300.322(f)

The parents of a child with a disability must be afforded an opportunity to participate in meetings with respect to the identification, evaluation, and educational placement of the child and the provision of FAPE to the child.

34 C.F.R. 300.501(b)(1)

4.05 Annual Review and Revision of IEPs

4.06.01 Review and Revision of an IEP for Students in Public School

Legal Citations

The district shall ensure that the IEP team reviews the pupil's IEP periodically, but not less than annually to determine whether the annual goals for the pupil are being achieved, and revises the IEP as appropriate to address:

1. any lack of expected progress toward the annual goals and in the general curriculum, where appropriate;
2. the results of any reevaluation conducted under part [3525.2710](#);
3. information about the pupil provided to, or by, the parents; or
4. the pupil's anticipated needs and other matters.

Minn. R. 3525.2810, subp. 3(A)

At least annually, the IEP team must determine a pupil is in need of ESY services if the pupil meets the conditions of item A, B, or C.

- A. there will be significant regression of a skill or acquired knowledge from the pupil's level of performance on an annual goal that requires more than the length of the break in instruction to recoup unless the IEP team determines a shorter time for recoupment is more appropriate;
- B. services are necessary for the pupil to attain and maintain self-sufficiency because of the critical nature of the skill addressed by an annual goal, the pupil's age and level of development, and the timeliness for teaching the skill; or
- C. the IEP team otherwise determines, given the pupil's unique needs, that ESY services are necessary to ensure the pupil receives a free appropriate public education.

Minn. R. 3525.0755, subp. 3

4.06.02 Review and Revision of an IEP for Students in Private School

Legal Citations

After a child with a disability enters a private school or facility, any meetings to review and revise the child's IEP may be initiated and conducted by the private school or facility at the discretion of the public agency.

34 C.F.R. 300.325(b)(1)

If the private school or facility initiates and conducts these meetings, the public agency must ensure that the parents and an agency representative:

- A. Are involved in any decision about the child's IEP; and
- B. Agree to any proposed changes in the IEP before those changes are implemented.

34 C.F.R. § 300.325(b)(2)

Even if a private school or facility implements a child's IEP, responsibility for compliance with this part remains with the public agency and the State Education Agency.

34 C.F.R. § 300.325(c)

4.06.03 Student is Placed Out-of-District

If the resident district places a pupil in an out-of-district placement, the resident district is still responsible to assure that an appropriate IEP is developed, that the pupil is placed in the least restrictive environment, and that due process procedures associated with these responsibilities are followed.

It is the responsibility of the providing district, agency, or academy to implement the IEP, conduct periodic and annual reviews, convene and facilitate the IEP team meeting, and assure that due process procedures associated with these responsibilities are followed.

The annual IEP must be developed jointly by the providing district, agency, or academy and resident district. The resident district may appoint a member of the providing district as its representative.

Minn. R. 3525.0800, subp. 4

4.06.04 Modification of the IEP of a Student with a Disability Who is Convicted Under State Law

Legal Citations

The IEP Team of a student with a disability, who is convicted as an adult under State law and incarcerated in an adult prison may modify the child's IEP or placement if the State has demonstrated a bona fide security or compelling penological interest that cannot otherwise be accommodated.

34 C.F.R. 300.324(d)(2)

4.06.05 Significant Change in Program or Placement

Legal Citations

“Significant change in program or placement” means the IEP goals have been completed or require modification based on a progress report; there is a need to add or delete a service based on a progress report or evaluation; there is a change in the type of site or setting in which the pupil receives special education; the amount of time a pupil spends with nondisabled peers is changed; the amount of special education to accomplish the goals or objectives needs to be

increased or decreased; or the team determines there is a need for a conditional intervention procedure.

Minn. R. 3525.0210, subp. 41

4.06 Placement Decisions and Least Restrictive Environment (LRE)

Legal Citations

As defined in this section, every district must ensure to the maximum extent appropriate, children with a disability, including those in public or private institutions or other care facilities, are educated with children who are not disabled and that special classes, separate schooling, or other removal of children with a disability from the regular educational environment occurs only when and to the extent that the nature or severity of the disability is such that education in regular classes with the use of supplementary services cannot be achieved satisfactorily.

Minn. Stat. 125A.08(a)(5)

To the maximum extent appropriate, pupils with disabilities shall be educated with children who do not have disabilities and shall attend regular classes. A pupil with a disability shall be removed from a regular educational program only when the nature or severity of the disability is such that education in a regular educational program with the use of supplementary aids and services cannot be accomplished satisfactorily. Furthermore, there must be an indication that the pupil will be better served outside of the regular program.

Minn. R. 3525.0400

Each district must ensure that pupils are placed in the least restrictive environment according to part [3525.0400](#).

Minn. R. 3525.3010, subp.2

4.07.01 Requirements for Placement in the LRE

Legal Citations

In determining the educational placement of a child with a disability, including a preschool child with a disability, each public agency must ensure that the placement decision is made by a group of persons, including the parents, and other persons knowledgeable about the child, the meaning of the evaluation data, and the placement options and is made in conformity with the Least Restrictive Environment (LRE) provisions.

34 C.F.R. 300.116(a)

When planning programs for the education of children with a disability in the regular classroom, school districts are encouraged to consider the size of the regular class and to provide the support services necessary to ensure successful mainstreaming.

Minn. Stat. 125A.75, subd. 5

4.07.02 Continuum of Alternative Placements

Legal Citations

Each district must ensure that a continuum of alternative placements is available to meet the needs of pupils for special education and related services. The continuum must:

- A. include instruction in regular classes, special classes, special schools, home instruction, and instruction in schools and hospitals; and
- B. make provision for supplementary services, including resource room or itinerant instruction, to be provided in conjunction with regular class placement.

Minn. R. 3525.3010, subp. 1

4.07.03 Provision of Nonacademic and Extracurricular Activities

Legal Citations

In providing or arranging for the provision of nonacademic and extracurricular services and activities, including meals, recess periods, and the services and activities set forth in [300.107](#), each public agency must ensure that each child with a disability participates with nondisabled children in those extracurricular services and activities to the maximum extent appropriate to the need of that child. The public agency must ensure that each child with a disability has the supplementary aids and services determined by the child's IEP Team to be appropriate and necessary for the child to participate in nonacademic settings.

34 C.F.R. 300.117

4.08 Administration of Drugs or Medicine

Legal Citations

This section applies only when the parent of a pupil requests school personnel to administer drugs or medicine to the pupil or when administration is allowed by the individual education plan of a child with a disability.

The request of a parent may be oral or in writing. An oral request must be reduced to writing within two school days, provided that the district may rely on an oral request until a written request is received.

Minn. Stat. 121A.22, subd. 1

For drugs or medicine used by children with a disability, administration may be as provided in the individualized education plan.

Minn. Stat. 121A.22, subd. 5

4.09 Behavioral Intervention Procedures

Legal Citations

This policy is intended to encourage the use of positive approaches to behavioral interventions. The objective of any behavioral intervention must be that pupils acquire appropriate behaviors and skills. It is critical that behavioral intervention programs focus on skills acquisition rather

than merely behavior reduction or elimination. Behavioral intervention policies, programs, or procedures must be designed to enable a pupil to benefit from an appropriate, individualized educational program as well as develop skills to enable them to function as independently as possible in their communities.

Minn. R. 3525.0850

4.09.01 District Policy

Legal Citations

All behavioral interventions not covered in the IEP must be consistent with the district's discipline policy. Continued and repeated use of any element of a district's discipline policy must be reviewed in the development of the individual pupil's IEP.

Minn. R. 3525.2900, subp. 5(B)

Policy describing the district's procedures for implementing the use of conditional interventions with pupils. Policies must be reviewed regularly and shall include, at a minimum, the following components:

- A. ongoing personnel development activities for all staff, contracted personnel, and volunteers who work with pupils who are disabled that:
- B. promote the use of positive approaches;
- C. provide an awareness of how to limit the use of aversive and deprivation procedures;
- D. provide an awareness of how to avoid abuse of such procedures;
- E. provide an awareness of specific cautions for the use of conditional procedures with specific populations of pupils or for the use of certain procedures; and
- F. provide staff training requirements for the design and use of all conditional interventions prior to their use;
- G. documentation procedures of the use of interventions and maintenance and retention of records of use; and
- H. description of the district's procedure for reviewing emergency situations where conditional procedures are used.

Minn. R. 3525.1100, subp. 2(F)

4.09.02 Regulated Intervention Procedures

Legal Citations

There are two types of regulated interventions: conditional procedures and prohibited procedures.

Minn. R. 3525.2900, subp. 5(A)

Conditional Procedures

“Conditional procedures” means interventions that meet the definitions of aversive and deprivation procedures which are not prohibited. Conditional procedures include the use of

manual restraint; the use of mechanical or locked restraints; time out procedures for seclusion; and temporary delay or withdrawal of regularly scheduled meals or water not to exceed 30 minutes.

Minn. R. 3525.0210, subp. 9

Conditional procedures may only be used when included as part of the pupil's IEP or in an emergency situation. In order to utilize a conditional procedure, the IEP team must:

- A. identify the frequency and severity of target behaviors for which the conditional procedure is being considered;
- B. identify at least two positive interventions implemented and the effectiveness of each; and
- C. design and implement regulated interventions based on present levels of performance, needs, goals and objectives, and document in the IEP.

Minn. R. 3525.2900, subp. 5(A)(1)

Emergency Interventions

“Emergency” means a situation in which immediate intervention is necessary to protect a pupil or other individual from physical injury, emotional abuse due to verbal and nonverbal threats and gestures, or to prevent severe property damage. The emergency intervention must be the least intrusive intervention possible to reasonably react to the emergency situation. This subpart does not prohibit staff persons from using reasonable force to protect themselves or other pupils or students as provided in Minnesota Statutes, section [609.379](#).

Minn. R. 3525.0210, subp. 17

Use of Conditional Intervention Procedures in Emergencies

If an emergency intervention is used twice in a month or a pupil's pattern of behavior is emerging that interferes with the achievement of the pupil's educational goals and objectives, a team meeting must be called to determine if the pupil's IEP is adequate, if additional evaluation is needed, and, if necessary, to amend the IEP. Districts may use conditional procedures in emergencies until the IEP team meets, provided the emergency measures are deemed necessary by the district to protect the individual pupil or others from harm. The IEP team shall meet as soon as possible, but no later than five school days after emergency procedures have commenced. District administration and parents must be notified immediately when a regulated procedure is used in an emergency situation.

Minn. R. 3525.2900, subp. 5(C)

4.09.03 Prohibited Procedures

Legal Citations

Prohibited procedures are interventions that are prohibited from use in schools by school district employees, contracted personnel, and volunteers. The procedures or actions listed in sub items a to i are prohibited:

- A. corporal punishment as defined in Minnesota Statutes, section [121A.58](#);

- B. requiring a pupil to assume and maintain a specified physical position, activity, or posture that induces physical pain as an aversive procedure;
- C. presentation of intense sounds, lights, or other sensory stimuli as an aversive stimulus;
- D. use of noxious smell, taste, substance, or spray as an aversive stimulus;
- E. denying or restricting a pupil's access to equipment and devices such as hearing aids and communication boards that facilitate the person's functioning except temporarily when the pupil is perceived to be destroying or damaging equipment or devices;
- F. faradic skin shock;
- G. totally or partially restricting a pupil's auditory or visual sense not to include study carrels when used as an academic intervention;
- H. withholding regularly scheduled meals or water; and
- I. denying a pupil access to toilet facilities.

Minn. R. 3525.2900, subp. 5(A)(2)

4.09.04 Timeout Procedures

Legal Citations

Time-out procedures that seclude a student in a specially designated isolation room or similar space must meet the following conditions:

1. specific criteria for returning the pupil to the routine activities and regular education environment;
2. An evaluation to determine whether seclusion is contraindicated for psychological or physical health reasons;
3. Provision for the pupil to be continuously monitored by trained staff;
4. adequate access to drinking water and to a bathroom for a time-out that exceeds 15 minutes;
5. documentation of the length of time spent in each time-out procedure and the number of occurrences each school day.

Minn. R. 3525.2900, subp. 5(D)(1)-(5)

Isolation Room Specifications

Time-out procedures that seclude a student in a specially designated isolation room or similar space must meet the following conditions:

1. a safe environment for the pupil where all fixtures are tamper proof, walls and floors are properly covered, and control switches are located immediately outside the room;
2. an observation window or other device to permit continuous monitoring of the pupil;
3. a space that is at least five feet by six feet or substantially equivalent to these dimensions and be large enough to allow the pupil to stand, to stretch the pupil's arms, and to lie down;
4. be well-lighted, well-ventilated, adequately heated, and clean; and
5. all applicable fire and safety codes.

Minn. R. 3525.2900, subp. 5(D)(6)-(10)

4.09.05 Parental Right to Withdraw Consent

Legal Citations

A parent has the right to withdraw consent for a behavior intervention plan at any time by notifying the program administrator or designee and the district must stop the procedure immediately. After parental consent is withdrawn and the procedure is stopped, the school must send written acknowledgment to the parent and request parental signature. If a parent's signature to withdraw consent cannot be obtained, the district must document its efforts to communicate and obtain the signature. Parents must be contacted within three school days to determine the need to convene the IEP team to consider a change in program or placement.

Minn. R. 3525.2900, subp. 5(E)

IEP NOTICE REQUIREMENTS AND PROCEDURAL SAFEGUARDS

4.10 Prior Notice Requirements

Legal Citations

A parent must receive prior written notice a reasonable time before the district proposes or refuses to initiate or change the identification, evaluation, educational placement, or the provision of a free appropriate public education to a child with a disability.

MN Statue 125A.091, subd 2

When a district proposes or refuses to initiate or change the identification, evaluation, or educational placement of a pupil, or the provision of FAPE to the pupil, the district must serve prior written notice on the parent. The district must serve the notice on the parent within a reasonable time, and in *no case less than 14 calendar days* before the proposed effective date of change or evaluation. If the notice only includes a refusal of a request, it must be served on the parent within 14 calendar days of the date the request was made.

4.10.01 Contents of Prior Notice

Legal Citations

The notice must include:

1. A description of the action proposed or refused by the agency;
2. An explanation of why the agency proposes or refuses to take the action
3. A description of each evaluation procedure, assessment, record, or report the agency used as a basis for the proposed or refused action;
4. A statement that the parents of a child with a disability have protection under the procedural safeguards of this part and, if this notice is not an initial referral for evaluation, the means by which a copy of a description of the procedural safeguards can be obtained;

5. Sources for parents to contact to obtain assistance in understanding the provisions of this part;
6. A description of other options that the IEP team considered and the reasons why those options were rejected; and
7. A description of other factors that are relevant to the agency's proposal or refusal.

34 F.R. 300.503(b)

The written notice must be understandable to the general public and available in the parent's native language or by another communication form, unless it is clearly not feasible to do so. If the parent's native language or other communication form is not written, the district must take steps to ensure that:

1. the notice is translated orally or by other means to the parent in the parent's native language or other communication form;
2. the parent understands the notice; and
3. written evidence indicates the requirements are met.

Minn. Stat. 125A.091, subd. 4

The notice must also inform the parents that the school district will not proceed with the initial placement and provision of services without prior written consent of the pupil's parents.

Minn. R. 3525.3600(A)

The notice must also inform the parents that except for the initial placement and provision of services, the district will proceed with the proposed placement and provision of services unless the parents object in writing on the enclosed response form or otherwise in writing within 14 calendar days after the receipt of the notice.

Minn. R. 3525.3600(B)

The notice must also inform the parents that if they refuse to provide prior written consent for initial evaluation or initial placement or object in writing to any proposal, or if the district refuses to initiate or change the identification, evaluation, or educational placement or the provision of a free appropriate public education to the pupil, the parent may request a conciliation conference.

The district must provide the parents with a copy of the proposed individual educational program plan whenever the district proposes to initiate or change the content of the IEP.

Minn. R. 3525.3600(C)

PRIOR WRITTEN NOTICE



Prior Written Notice

Student Name: _____ ID: _____ Date: _____
School: _____ Grade: _____ DOB: _____

Dear _____:

You are receiving this notice because the District is proposing and/or refusing the following changes in your child's identification, evaluation, educational placement, or provision of a free appropriate public education (FAPE) as follows:

Description of the action(s) proposed or refused by the district:

Explanation of why the district proposes to take or refused to take the action:

Description of each evaluation procedure, test, record, or report the district used as a basis for the proposed action or for refusing the requested action:

Description of other options the team considered and the reasons why those options were proposed or rejected:

Description of other factors affecting the proposal or refusal:

The Prior Written Notice is to be used in conjunction with the Parental Consent/Objection form when seeking consent or objection to the proposed IEP. It requires the following five questions to be answered for any proposed action or denial of parental request:

1. Description of the actions proposed by the district: Some possible examples include:
 - a) The district is proposing the attached IEP with behavior goals and a behavior intervention plan.

- b) The attached IEP shows continued work on reading and math with an emphasis in reading comprehension.
 - c) The district is refusing the parents request for a one on one paraprofessional throughout the students day.
 - d) The district is refusing the parents request to purchase the Chat PC for the students communication needs.
2. Explanation of why the district proposes to take the action: Provide a brief description of the proposal or refusals. There will often be multiple descriptions of proposals and refusals in a single notice. These descriptions should be clear and succinct. Some possible examples include:
- a) The student is struggling with his behavior issues at this time, but the district is able to meet these needs. With a reduced focus on academics the student is likely to be able to focus more on improving behavior. The intervention plan will allow for consistency across settings.
 - b) The student is continuing to make appropriate progress in reading and writing.
 - c) The district has collected data that indicates the student's behavior can be managed and not disrupt his or others education through the use of cues from the classroom teacher.
 - d) The district considered the Chat PC using the SETT process for assistive technology evaluation. Other devices available in the district were adequate to provide for the students communication.
3. Description of each evaluation procedure, test, record, or report the district used as a basis for the proposed action: The district must describe each evaluation procedure, test, record, or report it used as a basis for its proposed actions and refusals. Some possible examples include:
- a) Classroom observations, teacher interview.
 - b) Classroom assessments
 - c) Review of records
 - d) Review of data charts
 - e) Functional Behavior Assessment
 - f) SETT-Setting Environment Task Tool communication device considerations
4. Description of other options that the team considered and the reasons why those options were proposed or rejected: The district must document other options the team considered in its deliberation over ideas about the proposed IEP. the team's are expected to discuss various options. Given the number of different people required to participate in team meetings, and the different roles they play, there should not be a shortage of options considered. Some possible examples include:
- a) The team considered continuing with the academic goals. Due to significant behavior issues the student is unable to make sufficient gains. The team felt behavior was the higher priority at this time.
 - b) The team considered an alternative reading program but the team felt the student was making sufficient progress given his disability.
 - c) The team considered para professional support in science class but decided the use of the resource room for academic instruction during study hall would better meet the student's needs.

- d) The team considered the Mini Mo and the Step by Step devices. The student demonstrated skills that best worked with the Picture Exchange process for communication.
5. Description of other factors affecting the proposal or refusal: The district must document other factors affecting proposals and refusals. These are items that may not have been covered under the description of other options. If there were no other factors, the district may simply say so. Some possible examples include:
- a) There are no other factors.
 - b) The child's first language is Spanish.
 - c) The student is new to the county.
 - d) The child's health condition.

4.11 Parent Involvement and Consent

4.11.01 Parent Attendance at IEP Meetings

Legal Citations

Each district shall ensure that the parents of each pupil are members of any group that makes decisions on the educational placement of the pupil.

Minn. R. 3525.3010, subp.4

4.11.02 Notice of IEP Meetings and Subject Matter

Legal Citations

Parents of pupils with disabilities have a right to be involved by the school district in the education decision-making process by participating or being afforded the opportunity to participate at each IEP meeting to develop, review, or revise the IEP. At the time of contact, the district shall inform the parents of their right to bring anyone of their choosing to accompany them to the meeting.

Minn. R. 3525.0700

4.11.03 Parent Involvement in Placement Decisions

Legal Citations

Each public agency must ensure that a parent of each child with a disability is a member of any group that makes decisions on the educational placement of the parent's child.

34 C.F.R. 300.501(c)(1)-(2)

4.11.04 Facilitating Parent Participation in the IEP Process

Legal Citations

Alternative Participation When a Parent is Unable to Attend the IEP Meeting

If neither parent can participate in a meeting in which a decision is to be made relating to the educational placement of their child, the public agency must use other methods to ensure their participation, including individual or conference telephone calls, or video conferencing.

34 C.F.R. 300.501(c)(3)

If neither parent can attend an IEP Team meeting, the public agency must use other methods to ensure parent participation, including individual or conference telephone calls.

34 C.F.R. 300.501(c)(3)

Use of Interpreters and Other Actions to Ensure Parent Understanding

The public agency must take whatever action is necessary to ensure that the parent understands the proceedings of the IEP Team meeting, including arranging for an interpreter for parents with deafness or whose native language is other than English.

34 C.F.R. 300.322(e)

When a Meeting May Be Conducted Without a Parent

A placement decision may be made by a group without the involvement of a parent, if the district is unable to obtain the parent's participation in the decision. In this case, the district must have a record of its attempt to ensure their involvement.

34 C.F.R. 300.501(c)(4)

A meeting may be conducted without a parent in attendance if the public agency is unable to convince the parents that they should attend. In this case, the public agency must keep a record of its attempts to arrange a mutually agreed on time and place.

34 C.F.R. 300.322(d)

4.11.05 Parental Consent

Legal Citations

The district must not proceed with the initial evaluation of a child, the initial placement of a child in a special educational program, or the initial provision of special education services for a child without the prior written consent of the child's parent. A district may not override the written refusal of a parent to consent to an initial evaluation or reevaluation.

Minn. Stat. 125A.091, subd. 5

The notice must also inform the parents that except for the initial placement and provision of services, the district will proceed with the proposed placement and provision of services unless the parents object in writing on the enclosed response form or otherwise in writing within 14 calendar days after the receipt of the notice.

Minn. R. 3525.3600(B)

Private Schools

If the private school or facility initiates and conducts these meetings, the public agency must ensure that the parents and a district representative are involved in any decision about the child's IEP and agree to any proposed changes in the IEP before those changes are implemented.

34 C.F.R. 300.325(b)(2)

When Parental Consent is Refused

If the parent of a child fails to respond or refuses to consent to services, the public agency may not use the due process procedures under [300.507](#) through 300.516 in order to obtain agreement or a ruling that the services may be provided to the child.

34 C.F.R. 300.300(b)(3)

A public agency may not use a parent's refusal to consent to one service or activity to deny the parent or child any other service, benefit, or activity of the public agency, except as required by this part.

34 C.F.R. 300.300(d)(3)

If the parent of the child refuses to consent to the initial provision of special education and related services, or the parent fails to respond to a request to provide consent for the initial provision of special education and related services, the district will not be considered to be in violation of the requirement to make available FAPE to the child for the failure to provide the child with the special education and related services for which the district requests consent. The district is not required to convene an IEP Team meeting or develop an IEP for the child for the special education and related services for which the public agency requests such consent.

34 C.F.R. 300.300(b)(4)

4.11.06 Copies of the IEP to the Parent and the Resident District

Legal Citations

The district must provide the parents with a copy of the proposed individual educational program plan, whenever the district proposes to initiate or change the content of the IEP.

Minn. R. 3525.3600 (C)

4.12 Reinstatement of Special Education Services

Legal Citations

Pupils who are discontinued from all special education services may be reinstated within 12 months. If data on the pupil's present levels of performance are available and an evaluation had been conducted within three years pursuant to part [3525.2710](#), the district is not required to document two pre-referral interventions or conduct a new evaluation.

Minn. R. 3525.3100

4.13 Granting A High School Diploma

Legal Citations

Upon completion of secondary school or the equivalent, a pupil with a disability who satisfactorily attains the objectives in the pupil's individual education plan must be granted a high school diploma that is identical to the diploma granted to a pupil without a disability.

Minn. Stat. 125A.04

GENERAL INDIVIDUALIZED FAMILY SERVICE PLAN (IFSP) REQUIREMENTS

Legal Citations

The [Interagency Early Intervention Committee] must develop and implement interagency policies and procedures concerning the following ongoing duties:

- A. assure the development of individualized family service plans for all eligible infants and toddlers with disabilities from birth through age two, and their families, and individual education plans and individual service plans when necessary to appropriately serve children with disabilities, age three and older, and their families and recommend assignment of financial responsibilities to the appropriate agencies;
- B. encourage agencies to develop individual family service plans for children with disabilities, age three and older.

Minn. Stat. 125A.30(b)(4)-(5)

4.14 IFSP Team Meetings

4.14.01 Requirements for Meetings

Legal Citations

IFSP meetings must be conducted in settings and at times that are convenient to families and in the native language of the family, or other mode of communication used by the family, unless it is clearly not feasible to do so.

34 C.F.R. 303.342(d)(1)

Meeting arrangements must be made with, and written notice provided to, the family and other participants early enough before the meeting date to ensure that they will be able to attend.

34 .F.R. 303.342(d)(2)

4.14.02 IFSP Team Members

Legal Citations

Each initial meeting and each annual meeting to evaluate the IFSP must include the following participants:

- A. The parent or parents of the child;
- B. Other family members, as requested by the parent, if feasible to do so;
- C. An advocate or person outside of the family, if the parent requests that the person participate;
- D. The service coordinator who has been working with the family since the initial referral of the child for evaluation, or who has been designated by the public agency to be responsible for implementation of the IFSP;
- E. A person or persons directly involved in conducting the evaluations and assessments; and
- F. As appropriate, persons who will be providing services to the child or family.

If a person listed in above is unable to attend a meeting, arrangements must be made for the person's involvement through other means, including:

- A. Participating in a telephone conference call
- B. Having a knowledgeable authorized representative attend the meeting; or
- C. Making pertinent records available at the meeting

34 .F.R. 303.343(a)

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4.14.03 Required Content of IFSP

Legal Citations

Present Level of Development

The IFSP must include a statement of the child's present levels of physical development (including vision, hearing, and health status), cognitive development, communication development, social or emotional development, and adaptive development that is based on professionally acceptable objective criteria.

34 C.F.R. 303.344(a)

Family Information

The IFSP must include family information, with the consent of the family.

Minn. Stat. 125A.32(b)(2)

Major Outcomes

The IFSP must include a statement of the major outcomes expected to be achieved for the child and family, and the criteria, procedures, and timelines used to determine

1. The degree to which progress toward achieving the outcomes being made; and
2. Whether modifications or revisions of the outcomes or services are necessary.

34 C.F.R. 303.344(c)

Early Intervention Services

The IFSP must include a statement of the specific early intervention services necessary to meet the unique needs of the child and the family to achieve the outcomes identified in paragraph (c) of this section, including:

1. The frequency, intensity, and method of delivering the services;
2. The natural environments, as described in § 303.12(b), and § 303.18 in which early intervention services will be provided, and a justification of the extent, if any, to which the services will not be provided in a natural environment;
3. The location of the services; and
4. The payment arrangements, if any.

34C.F.R.303.344(d)(1)

Frequency and intensity mean the number of days or sessions that a service will be provided, the length of time the service is provided during each session, and whether the service is provided on an individual or group basis.

34 C.F.R. 303.344(d)(2)(i)

Environmental Statement

Preference shall be given to providing special instruction and services to children under age three and their families in the residence of the child with the parent or primary caregiver, or both, present.

Minn. Stat. 125A.05(b)

Starting Date and Duration of Services

The IFSP must include the projected dates for initiation of the services as soon as possible after the IFSP meeting and the anticipated duration of those services.

34C.F.R. 303.344(f)

Service Coordinator

The team developing the IFSP under Minn. Stat. § 125A.32, must select a service coordinator to carry out service coordination activities on an interagency basis. Service coordination must actively promote a family's capacity and competency to identify, obtain, coordinate, monitor, and evaluate resources and services to meet the family's needs. Service coordination activities include:

1. coordinating the performance of evaluations and assessments;

2. facilitating and participating in the development, review, and evaluation of individualized family service plans;
3. assisting families in identifying available service providers;
4. coordinating and monitoring the delivery of available services;
5. informing families of the availability of advocacy services;
6. coordinating with medical, health, and other service providers;
7. facilitating the development of a transition plan at least 90 [calendar] days before the time the child is no longer eligible for early intervention services, if appropriate;
8. managing the early intervention record and submitting additional information to the local primary agency at the time of periodic review and annual evaluations; and
9. notifying a local primary agency when disputes between agencies impact service delivery required by an IFSP.

Minn. Stat. 125A.33(a)

A service coordinator must be knowledgeable about children and families receiving services under Minn. Stat. [125A.33](#), requirements of state and federal law, and services available in the interagency early childhood intervention system.

Minn. Stat. 125A.33(b)

INDIVIDUAL FAMILY SERVICE PLAN

Transition to Preschool Services

The IFSP must include the steps to be taken to support the transition of the child to prepare the child for changes in service delivery, including steps to help the child adjust to, and function in, a new setting and with parental consent, the transmission of information about the child to the district, to ensure continuity of services, including evaluation and assessment information

34 C.F.R. 303.344(h)(2)

In the case of a child who may be eligible for preschool services under Part B of the Act, with the approval of the family of the child, convene a conference among the lead agency, the family, and the local educational agency at least 90 days, and at the discretion of the parties, up to six months, before the child is eligible for the preschool services, to discuss any services that the child may receive.

34 C.F.R. 303.148(b)(2)(i)

In the case of a child who may not be eligible for preschool services under Part B of the Act, with the approval of the family, make reasonable efforts to convene a conference among the lead agency, the family, and providers of other appropriate services for children who are not eligible for preschool services under Part B, to discuss the appropriate services that the child may receive.

34 C.F.R. 303.148(b)(2)(ii)

The IFSP must include medical and other services that the child needs, including funding sources to be used in paying for those services and the steps that will be taken to secure those services through public or private sources.

Minn. Stat. 125A.32(b)(6)

The IFSP must include payment arrangements, if any.

Minn. Stat. 125A.32(b)(5)

The IFSP must include signature of the parent and authorized signatures of the agencies responsible for providing, paying for, or facilitating payment, or any combination of these for early intervention services.

Minn. Stat. 125A.32(b)(10)

Implementation of the IFSP

In the case of a child with a disability aged three through five, the IEP Team must consider an IFSP that contains the IFSP content (including the natural environments statement), and that is developed in accordance with the IEP procedures under this part. The IFSP, may serve as the IEP of the child, if using the IFSP as the IEP is:

1. Consistent with State policy; and
2. Agreed to by the agency and the child's parents.

In implementing the requirements of this section, the district must:

1. Provide to the child's parents a detailed explanation of the difference between an IFSP and an IEP; and
2. If the parent's choose and IFSP, obtain written informed consent from the parents.

34 C.F.R. 300.323(b)

4.16 IFSP Procedural Safeguards

4.16.01 Parent Consent for IFSP

Legal Citations

The contents of the IFSP must be fully explained to the parents and informed written consent from the parents must be obtained prior to the provision of early intervention services described in the plan. If the parents do not provide consent with respect to a particular early intervention service or withdraw consent after first providing it, that service may not be provided. The early intervention services to which parental consent is obtained must be provided.

34 C.F.R. 303.342(e)

If consent is not given, the public agency shall make reasonable efforts to ensure that the parent:

1. Is fully aware of the nature of the evaluation and assessment or the services that would be available and
2. Understands that the child will not be able to receive the evaluation and assessment or services unless consent is given.

34 .F.R. 303.404(b)

4.16.02 IFSP Timelines

Legal Citations

Within 45 days after it receives a referral, the public agency shall complete the evaluation and assessment activities and hold an IFSP meeting.

34 C.F.R. 303.321(e)(2)

For a child who has been evaluated for the first time and determined to be eligible, a meeting to develop the initial IFSP must be conducted within the 45 - day time period.

34 C.F.R. 303.342(a)

4.16.03 IFSP Periodic Review

Legal Citations

A review of the IFSP for a child and the child's family must be conducted every six months, or more frequently if conditions warrant, or if the family requests such a review. The purpose of the periodic review is to determine:

1. The degree to which progress toward achieving the outcomes is being made; and
2. Whether modification or revision of the outcomes or services is necessary.

The review may be carried out by a meeting or by another means that is acceptable to the parents and other participants.

34 C.F.R.303.342(b)

4.16.04 IFSP Annual Review

Legal Citations

A meeting must be conducted on at least an annual basis to evaluate the IFSP for a child and the child's family and, as appropriate, to revise its provisions. The results of any current evaluations conducted, and other information available from the ongoing assessment of the child and family, must be used in determining what services are needed and will be provided.

34 C.F.R. 303.342(c)

4.17 Interim IFSP

Legal Citations

Early intervention services for an eligible child and the child's family may commence before the completion of the evaluation and assessment parental consent is obtained and an interim IFSP is developed that includes:

1. The name of the service coordinator who will be responsible for implementation of the interim IFSP and coordination with other agencies and persons; and
2. The early intervention services that have been determined to be needed immediately by the child and the child's family.
3. The evaluation and assessment are completed within the time period required.

34 C.F.R. 303.345