

The Special Education Process Changes In IDEA 2004

- Definitions
 - Evaluation/reevaluation/IEE
 - IEP excusals, IEP content, and IEP Amendments
 - Procedures for in-state and out-of-state transfers
 - Parentally-placed children with disabilities in private schools
- Resources and handouts for this presentation can be found at the following website <http://dese.mo.gov/divspeced/>. Questions can be submitted to the following mailbox webreplyspe@dese.mo.gov or by calling the Division of Special Education at 573-751-0699.

Other health impairment (CFR 300.8)

- Other health impairment means having limited strength, vitality, or alertness, including a heightened alertness to environmental stimuli, that results in limited alertness with respect to the educational environment that is due to chronic or acute health problems such as
- asthma,
 - attention deficit disorder or attention deficit hyperactivity disorder,
 - diabetes,
 - epilepsy,
 - a heart condition,
 - hemophilia,
 - lead poisoning,
 - leukemia,
 - nephritis,
 - rheumatic fever,
 - sickle cell anemia, and
 - **Tourette syndrome;**
- and adversely affects a child's educational performance.

Related Services (CFR 300.34)

- Related services refers to transportation and such developmental, corrective, and other supportive services as are required to assist a child with disability to benefit from special education
- Related services do not include a medical device that is surgically implanted (e.g., cochlear implant) , the optimization of that device's functioning (e.g., mapping), maintenance of that device, or the replacement of that device.

Related Services (cont.)

- Does not limit
 - right of child to other related services
 - responsibility of public agency to monitor and maintain certain medical devices
 - Breathing devices
 - Nutrition devices
 - Device for operation of other bodily functions
 - responsibility for routine checking of external components of surgically implanted devices

Highly Qualified Teachers (HQT)

- Terms
 - HOUSSE (High Objective Uniform State Standard of Evaluation)
 - Core Academic Subjects
 - English, reading or language arts
 - Mathematics
 - science
 - foreign languages
 - the arts
 - social studies

Highly Qualified Teachers

- In Missouri, for purposes of determining HQ, teachers are classified as either
 - Elementary (K-8), or
 - Secondary (9-12)
- To be “Highly Qualified” must have
 - Bachelor’s degree
 - Appropriate Certification
 - Documentation of Content Expertise
 - Praxis/CBASE or HOUSSE (High Objective Uniform State Standard of Evaluation)

HQT--Scenarios

- Appropriately certificated Special Education teacher **at any level** who is not teaching a core academic subject [not responsible for teaching the subject, does not give a grade, is not the "teacher of record"]
- Appropriately certificated Special Education teacher at elementary level—teaching core subject
 - Teacher has all appropriate certification (special education & elementary)
 - Special Education certification after 1988 (CBASE/Praxis)
 - Special Education certification before 1988 (HOSSE or pass elementary Praxis)
- Special Education teacher at secondary level—teaching core subject
 - Special Education Teacher giving instruction to students working on alternate achievement standards must meet elementary requirements
 - Certificated before 1988 (Have elementary certification, HOSSE or pass elementary Praxis)
 - Certificated after 1988 (HQT based on CBASE/Praxis)

HQT--Scenarios

- **Secondary level—Not Highly Qualified**
 - Teacher with only special education certification who is teaching core academic subject(s) (for which they have no certification) where grades are being awarded as credits toward graduation

Highly Qualified Teachers

- What can a district do to ensure that children with disabilities, especially at the High School level, have Highly Qualified teachers?
 - Consider the Provision of Accommodations/Modifications/Supplementary Aids and Services to allow students with disabilities to remain in the regular education class with HQT
 - Consider alternative instructional formats (co-teaching, CWC), however...
 - Be sure that all staff are adequately trained and supported in whatever model is being used before and after implementation

Response to Intervention (RtI)/ Early Intervening Services (EIS)

- Early Intervening Services (EIS) vs Early Intervention (EI)
- EI
 - Services to infants and toddlers with disabilities, ages birth to 3
 - First Steps Program
- EIS
 - Instruction for non-disabled children in grades K-12 with an emphasis at grades K-3
 - 15% of Part B federal funds
 - Children with IEPs do not qualify

Evaluation

- Timeline
 - 60 days
- Exceptions to the Timeframes
 - If parent repeatedly fails or refuses to produce child for the evaluation
 - Child transfers to another district during an evaluation
 - Extended school breaks that occur during the evaluation period
 - Extended student illness during the evaluation period
- All exceptions to the timelines must be documented in the student's record

Reevaluation

- May not be conducted more than once a year*
*Unless parent and public agency agree otherwise
- Must be conducted at least once every 3 years***
***Unless parent and public agency agree reevaluation is not necessary.

Reevaluation –when not required Summary of Performance--required

- Reevaluation not required when student with a disability
 - graduates high school with a regular diploma
 - Exits the system at age 21
- Summary of Performance required for a student with a disability when
 - graduates high school with a regular diploma
 - Exits the system at age 21

Independent Educational Evaluation (IEE)

- Parent entitled to only one IEE at public expense for each evaluation agency conducts with which the parent disagrees.
- Any party may present results of IEE in a Due Process Hearing
- Agency must consider results of privately funded evaluation, if it meets agency criteria
- Parent not required to share results of privately funded evaluation with public agency, but not considered IEE

IEP Meetings Excusals

- Attendance at the meeting is not required because the member's area of the curriculum or related services is not being modified or discussed in the meeting.
 - Parent and public agency must **agree** in writing to excuse the team member(s) from the meeting
- Attendance at the meeting is excused even though the meeting involves a modification or discussion of the team member's area of curriculum or related services.
 - Written **consent** is required from the parent

IEP Meetings Amendments

- Conditions
 - Initial IEP meeting and Annual review meetings must be held. Amendments may only be made in the interim.
- Amendments made either by
 - Holding an IEP meeting, OR
 - Parent and public agency may agree not to convene IEP meeting to amend child's IEP
- Copy of the IEP with the amendments incorporated provided at parent request
- IEP team informed of any amendments

IEP Content

- The statement of present levels must describe the child's present levels of academic achievement and functional performance.

IEP Content

- Short-term objectives and benchmarks are required only for children with disabilities who take alternate assessment aligned to alternate achievement standards (MAP-A).

NIMAS/NIMAC

- National Instructional Materials Accessibility Standard (NIMAS)
- <http://nimas.cast.org/>
- National Instructional Materials Access Center (NIMAC)
- <http://nimac.us/>

In-State Transfer Students

- Student with known or suspected disability enrolls from another Missouri district
- Implement the IEP
 - IEP in hand or interviews with parent, student, previous district officials to determine IEP content
 - Comparable services=similar or equivalent
- Accept or reject eligibility determination
 - If reject—initiate reevaluation

Out- of- State Transfers

- Student with known or suspected disability enrolls from another State
- IEP in Hand
 - Comparable services=similar or equivalent
 - Initiate evaluation, if determined necessary
 - Develop, adopt, implement new IEP, if appropriate
- Without IEP
 - Place in regular education until evaluation conducted and IEP developed, adopted
- Evaluation is initial evaluation

Transfers Other Considerations

- Summer Transfers
- Transferring the Child's Records

Parentally-Placed Children

- Responsibility for child find, identification and provision of services has changed from district of residence to district in which private school is located
- Statute and regulations identify requirements for consultation with representatives of private schools
- Information and sample forms available on website at <http://dese.mo.gov/divspeced/>

Conclusion

- Special Education Process and IDEA changes
- Questions can be submitted to the following mailbox webreplies@dese.mo.gov or by calling the Division of Special Education at 573-751-0699.

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- Evaluation/reevaluation/IEE
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- Procedures for in-state and out-of-state transfers
- Parentally-placed children with disabilities in private schools

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The Individuals with Disabilities Education Act was reauthorized and signed into law on December 3, 2004 and final federal regulations were published on August 14, 2006. After publication of the final federal regulations, the State of Missouri revised State Regulations and revised the Compliance Program Review Standards and Indicators Manual and numerous model forms. This presentation, The Special education Process and Changes in IDEA, is one in a series of trainings to inform the field of the major changes in state and federal regulations and implementing changes made in the Compliance Standards and Indicators Manual and the state model forms.

Resources and handouts for each of the presentations in the series can be found at the following website <http://dese.mo.gov/divspeced/>

The Division of Special Education welcomes questions that participants may have after viewing the presentations. Questions can be submitted to the following mailbox webreplyspe@dese.mo.gov or by calling the Division of Special Education at 573-751-0699.

We hope you enjoy this series of trainings and find the information useful in your role as an educator, parent, advocate or other individual interested in the education of children and youth with disabilities.

Other topics in this series are:

Other health impairment (CFR 300.8)

- Other health impairment means having limited strength, vitality, or alertness, including a heightened alertness to environmental stimuli, that results in limited alertness with respect to the educational environment that is due to chronic or acute health problems such as
 - asthma,
 - attention deficit disorder or attention deficit hyperactivity disorder,
 - diabetes,
 - epilepsy,
 - a heart condition,
 - hemophilia,
 - lead poisoning,
 - leukemia,
 - nephritis,
 - rheumatic fever,
 - sickle cell anemia, and
 - **Tourette syndrome;**
- and adversely affects a child's educational performance.

One of the first areas in which there were changes in the IDEA in 2004 was in the definitions section. We will cover some of the more significant changes here. The first change occurred with the addition of Tourette syndrome to the definition of Other health impairment. Tourette syndrome can be misunderstood as a behavioral or emotional condition rather than a neurological condition and including it in the Other health impairment definition may help correct this misconception.

Determining whether a child with Tourettes syndrome is eligible for special education services and related services is the decision of the team of qualified professionals and the parents of the child. As with any eligibility determination, the decision must be consistent with the requirements of the Missouri State Plan in Section III and the Federal Regulations, Section 300.306

Related Services (CFR 300.34)

- Related services refers to transportation and such developmental, corrective, and other supportive services as are required to assist a child with disability to benefit from special education
- Related services do not include a medical device that is surgically implanted (e.g., cochlear implant) , the optimization of that device's functioning (e.g., mapping), maintenance of that device, or the replacement of that device.

Related services are services that assist a child with a disability to benefit from special education. A change in the definition of Related Services establishes limitations on the responsibilities of public agencies for children who have surgically implanted devices such as a cochlear implant, insulin pumps, baclofen pumps, pacemakers, G-tubes, and vagus nerve stimulator devices. What this means is that a public agency is not responsible for purchasing such a device as a related service, optimization of the device, such as mapping of a cochlear implant, maintenance of the device or replacement of the device.

The comments to the federal regulations outline what the US Department of Education believes to be the distinguishing factor between services that are not covered under IDEA and those that are covered. That distinguishing factor is the level of expertise that is required. The maintenance and monitoring of surgically implanted devices require the expertise of a licensed physician or an individual with specialized technical expertise beyond that typically available from school personnel. On the other hand, trained lay persons can be taught to first check the externally worn speech processor to make sure it is turned on, that the volume and sensitivity settings are correct and the cable is connected.

Related Services (cont.)

- Does not limit
 - right of child to other related services
 - responsibility of public agency to monitor and maintain certain medical devices
 - Breathing devices
 - Nutrition devices
 - Device for operation of other bodily functions
 - responsibility for routine checking of external components of surgically implanted devices

On the other hand, the regulations make it clear that this exception does not limit the rights of a child with a surgically implanted device to receive other related services that are determined by the IEP team to be necessary for the child to receive FAPE. Nor does it limit the responsibility of a public agency to appropriately monitor and maintain medical devices that are needed to maintain the health and safety of the child, including breathing, nutrition, or operation of other bodily functions.

Highly Qualified Teachers (HQT)

■ Terms

- HOUSSE (**H**igh **O**bjective **U**niform **S**tate **S**tandard of **E**valuation)
- Core Academic Subjects
 - English, reading or language arts
 - Mathematics
 - science
 - foreign languages
 - the arts
 - social studies

The term highly qualified teacher was first defined in the No Child Left Behind Act. The definition in NCLB is the foundation upon which the term has been defined in IDEA 2004. There are a couple of other terms that need to be understood when discussing the issue of Highly Qualified Teacher.

The first term is HOUSSE. This is an acronym for High Objective Uniform State Standard of Evaluation. Basically, this is a rule, that state's are allowed to use, to obtain Highly Qualified status for some teachers (primarily veteran teachers).

The next term to understand is what NCLB identifies as Core Academic Subjects. Knowing which subjects are considered to be core academic subjects is especially important when you talk about content area expertise. According to NCLB, core academic subjects are English, reading or language arts, mathematics, science, foreign language, the arts and social studies.

Highly Qualified Teachers

- In Missouri, for purposes of determining HQ, teachers are classified as either
 - Elementary (K-8), or
 - Secondary (9-12)
- To be “Highly Qualified” must have
 - Bachelor’s degree
 - Appropriate Certification
 - Documentation of Content Expertise
 - Praxis/CBASE or HOUSSE (High Objective Uniform State Standard of Evaluation)

The next thing to understand, is that in Missouri, for the purposes of determining Highly Qualified, all teachers are classified as either Elementary (K-8) or Secondary (9-12). These categories have nothing to do with CERTIFICATION requirements which break the grades down by Early Childhood (Birth to 3), Elementary (1-6), Middle School (5-9) and Subject Area Certificates (various grade spans, including grades 9-12).

Next you must understand the NCLB requirements for Highly Qualified Teachers. Those requirements are that the teacher must

- Have at least a bachelor’s degree
 - Have appropriate certification, and
 - Have documentation of content expertise through either the Praxis/CBASE or the HOUSSE Rule
-
- Now, let’s look at various scenarios for special education teachers in regard to the Highly Qualified requirements...

HQT--Scenarios

- Appropriately certificated Special Education teacher **at any level** who is not teaching a core academic subject [not responsible for teaching the subject, does not give a grade, is not the “teacher of record”]
- Appropriately certificated Special Education teacher at elementary level—teaching core subject
 - Teacher has all appropriate certification (special education & elementary)
 - Special Education certification after 1988 (CBASE/Praxis)
 - Special Education certification before 1988 (HOUSSE or pass elementary Praxis)
- Special Education teacher at secondary level—teaching core subject
 - Special Education Teacher giving instruction to students working on alternate achievement standards must meet elementary requirements
 - Certificated before 1988 (Have elementary certification, HOUSSE or pass elementary Praxis)
 - Certificated after 1988 (HQT based on CBASE/Praxis)

A special education teacher AT ANY GRADE LEVEL can be considered to be Highly Qualified if they are not responsible for teaching core academic subjects. This means that the special education teacher is acting in a supporting role to children with disabilities who are getting the bulk of their instruction in the core academic subjects from the regular education teacher. It is the regular education teacher who is providing the instruction, is giving the grade and is the teacher of record, not the special education teacher.

A special education teacher at the elementary level that is teaching a core subject is Highly Qualified if the teacher has all the appropriate certification (special education and elementary) or has special education certification after 1988 with the CBASE/Praxis or has special education certification before 1988 and has qualified under the HOUSSE rule or has passed the elementary praxis.

Finally, a special education teacher at the secondary level who is teaching students working on alternate achievement standards (MAP-A students) is considered to be Highly Qualified if the teacher meets the elementary requirements as indicated above.

HQT--Scenarios

- **Secondary level—Not Highly Qualified**
 - **Teacher with only special education certification who is teaching core academic subject(s) (for which they have no certification) where grades are being awarded as credits toward graduation**

The biggest problem for special education teachers to be considered Highly Qualified occurs at the secondary level—grades 9-12. If a special education teacher is teaching core academic subjects at the secondary level, they must either have appropriate certification in each of the subject areas in which they are teaching, or if they are a veteran teacher, they might be able to qualify through the HOUSSE rule.

So for new teachers to the field, if they were teaching one or more core subjects at the High School level, they would have to have special education certification **and** subject matter certification for each core subject area in which they were providing instruction and awarding a grade. The HOUSSE rule would not be an option. They could obtain subject area certification either through completing all of the required coursework for that certification or passing the subject area Praxis.

For veteran teachers who have been out of the field and have returned recently, the same criteria as for new teachers would apply. Likewise, the HOUSSE rule would most likely not be an option.

Veteran teachers who have been teaching at the High School level for several years and have been teaching in one or more core content areas, may be able to become Highly Qualified using the HOUSSE rule, but only in those subject areas in which they have been teaching. If they begin teaching in an area in which they have never taught, as with new teachers and veteran teachers returning to the field, the HOUSSE rule would not be an option and they would have to get certification through appropriate coursework or passing the subject area Praxis.

Highly Qualified Teachers

- What can a district do to ensure that children with disabilities, especially at the High School level, have Highly Qualified teachers?
 - Consider the Provision of Accommodations/Modifications/Supplementary Aids and Services to allow students with disabilities to remain in the regular education class with HQT
 - Consider alternative instructional formats (co-teaching, CWC), however...
 - Be sure that all staff are adequately trained and supported in whatever model is being used before and after implementation

Districts are encouraged to look at alternative options for providing instruction to special education students, especially at the High School level, in order to ensure that students are receiving instruction from Highly Qualified Teachers. Many students with disabilities can remain in the regular education classroom if they are provided with appropriate accommodations/modifications and Supplementary Aids and Services. Another option is to implement alternative instructional formats such as co-teaching. In either case, it is important to ensure that all staff, both special education and regular education, receive sufficient training and support both prior to and after implementation.

Response to Intervention (RtI)/ Early Intervening Services (EIS)

- Early Intervening Services (EIS) vs Early Intervention (EI)
- EI
 - Services to infants and toddlers with disabilities, ages birth to 3
 - First Steps Program
- EIS
 - Instruction for non-disabled children in grades K-12 with an emphasis at grades K-3
 - 15% of Part B federal funds
 - Children with IEPs do not qualify

Response to Intervention or RtI and Early Intervening Services or EIS are two new terms in IDEA 2004. There is an entire video training on RtI in this series, so we will not be covering that here. You are encouraged to view the RtI video, if you haven't already done so.

We do want to discuss Early Intervening Services.

First, we want to make the distinction between Early Intervening services or EIS and Early Intervention or EI, as they are sometimes confused. Early Intervention is for infants and toddlers with disabilities, ages birth to three. In Missouri, the program that provides EI services is known as First Steps.

Early Intervening Services are specifically for school-age children in grades K through 12, with an emphasis on children in grades K-3. EIS are about identifying school aged children who are struggling with academic and behavioral problems and intervening as early as possible to provide additional support. Under IDEA 2004, school districts may use up to 15% of their Part B federal funds to develop and provide early intervening services to children who are not currently identified as children with disabilities but who need academic or behavioral support to succeed in the general education environment. EIS services are not services for children with disabilities. In fact, if a child has an IEP, they are not eligible for EIS services.

The rationale behind using IDEA funds to pay for Early Intervening Services is that the earlier school staff can identify children with learning or behavioral problems, the quicker and less expensive will be the task of remediating the problem. Rick Lewis will not begin our second session to speak about evaluation, reevaluation, and independent educational evaluation.

Evaluation

- **Timeline**
 - 60 days
- **Exceptions to the Timeframes**
 - If parent repeatedly fails or refuses to produce child for the evaluation
 - Child transfers to another district during an evaluation
 - Extended school breaks that occur during the evaluation period
 - Extended student illness during the evaluation period
- **All exceptions to the timelines must be documented in the student's record**

IDEA 2004 made some changes in the timelines that must be followed for an evaluation.

The first change was in the timelines for conducting an initial evaluation. Previously, the timeline for conducting an evaluation was not specified in the federal regulations, but was left up to the state. Missouri had an established evaluation timeline of 45 days. In IDEA 2004, the federal regulations specified a timeline of 60 days, if not otherwise specified by the State. Missouri has adopted the federal timeline of 60 days. This means that an evaluation must now be completed within 60 days from the date of parent consent for the evaluation.

The second change that IDEA made in the timelines for evaluation are in the form of exceptions. The regulations clarified that evaluation timelines can be exceeded in certain cases. Those are

- 1) When the parent of a child repeatedly fails or refuses to produce the child for the evaluation or
- 2) When the child transfers from one district to another district during the evaluation. In this case, the exception only applies if the new district is making sufficient progress to ensue prompt completion of the evaluation. This exception does not apply when a child transfers from one school to another in the same district. Other exceptions include extended school breaks and student illness that occur during the evaluation period. As always, all exceptions to the timelines must be documented in the students' record.

Reevaluation

- May not be conducted more than once a year*

*Unless parent and public agency agree otherwise

- Must be conducted at least once every 3 years***

***Unless parent and public agency agree reevaluation is not necessary.

The purpose of a reevaluation is to determine if the child continues to be a child with a disability as defined by IDEA and to identify the child's continuing educational needs.

The two changes in reevaluation this slide addresses are intended to reduce the burden on the public agency and the child of repeated and often costly evaluations.

The first change states that a reevaluation may not be conducted more than once a year, unless the parent and public agency agree otherwise. So, if the parent requests a reevaluation and one has already been conducted during that year, the public agency is not required to conduct the reevaluation unless it agrees that it should be done. On the other hand, if the public agency wants to conduct a reevaluation, but has conducted one already during the year and the parent does not agree, the public agency may not conduct the reevaluation.

The second change applies to the required triennial reevaluation. IDEA 2004 includes a provision for the parents and public agency to agree that the triennial reevaluation is not necessary and does not have to be conducted. However, if either party believes that a triennial evaluation should be conducted (in other words, they do not agree) then the reevaluation may occur.

Reevaluation –when not required Summary of Performance--required

- Reevaluation not required when student with a disability
 - graduates high school with a regular diploma
 - Exits the system at age 21

- Summary of Performance required for a student with a disability when
 - graduates high school with a regular diploma
 - Exits the system at age 21

There are two changes that apply when a student with a disability is graduating from high school with a regular diploma or is exiting the system at age 21.

The first change is that the public agency is not required to conduct a reevaluation in either of these two circumstances.

The second change is that in both of these cases, the public agency is now required to provide the student with a “Summary of Performance”.

The intent of the summary of performance is to provide to the student specific, meaningful, and understandable information regarding the student’s current level of performance to the student so that the information can be shared with the student’s family, and any agency, including postsecondary agencies which may provide services to the student upon transition from high school. The summary must include a statement of the child’s academic achievement and functional performance and recommendations on how to assist the child in meeting the child’s postsecondary goals. The compliance standards require that the Summary of Performance be provided not more than 60 days prior to or more than 30 days after exiting the system due to graduation or reaching maximum age of 21.

The DSE has posted a summary of performance model form on our website.

Independent Educational Evaluation (IEE)

- Parent entitled to only one IEE at public expense for each evaluation agency conducts with which the parent disagrees.
- Any party may present results of IEE in a Due Process Hearing
- Agency must consider results of privately funded evaluation, if it meets agency criteria
- Parent not required to share results of privately funded evaluation with public agency, but not considered IEE

The next change we will discuss applies to Independent Educational Evaluations or IEEs.

This change limits an IEE at public expense to only one each time the public agency conducts an evaluation with which the parent disagrees. This provision allows for a parent's statutory right to an IEE at public expense while recognizing that public agencies should not be required to bear the cost of more than one IEE when a parent disagrees with an evaluation conducted by the public agency.

The regulations now include specific language that permits any party to present the results of the IEE as evidence in a due process hearing. This ensures that public agencies have the opportunity to introduce results of publicly funded IEEs at a due process hearing.

If a privately funded evaluation is shared by the parent with a public agency, that evaluation must be considered by the public agency if it meets agency criteria in any respect to the provision of FAPE to the child and may be presented as evidence in due process hearing.

If a parent obtains an evaluation at private expense, there is nothing that requires a parent to share that evaluation with the public agency. A privately funded evaluation that is not shared with a public agency would not be considered an IEE.

In our final session Janet Hoskins will talk about IEP meeting excusals, IEP meeting amendments, changes in IEP content, NIMAS/NIMAC, In-state and Out-of-State transfers, and parentally placed children.

IEP Meetings Excusals

- Attendance at the meeting is not required because the member's area of the curriculum or related services is not being modified or discussed in the meeting.
 - Parent and public agency must agree in writing to excuse the team member(s) from the meeting

- Attendance at the meeting is excused even though the meeting involves a modification or discussion of the team member's area of curriculum or related services.
 - Written consent is required from the parent

Some major changes occurred in IDEA 2004 in regard to required participants in the IEP meeting.

A child's regular education teacher, the child's special education teacher, the LEA, and the individual who can interpret the instructional implications of the evaluation results may be excused from an IEP meeting under certain circumstances and when certain conditions are met. The latitude to excuse a team member from attending an IEP meeting is intended to reduce the burden placed upon teachers, related services personnel and others who routinely participate in IEP meetings as members of an IEP team. Districts are encouraged to carefully consider, based on the individual needs of the child and the issues that need to be addressed at the IEP Team meeting, whether it makes sense to agree to exclude one or more of the IEP team member from attendance at the IEP meeting.

It is also important that each public agency identify an individual with the authority to make the agreement or provide consent with the parent to excuse an IEP team member from attending the IEP team meeting.

The regulations outline two separate and distinct circumstances that may apply to allow the excusal of an IEP team member

The first circumstance is when the member's area of the curriculum or related services is not being modified or discussed in the meeting so the member may be excused from the meeting in whole or in part if the parent and public agency agree in writing to do so.

Agreement is not the same as consent but instead refers to an understanding between the parent and the district, but the agreement must be in writing.

The second circumstance when attendance is not required is when the member's area of curriculum or related services is being modified or discussed. In this case, the member may still be excused, but they must submit written input into the development of the IEP prior to the meeting. In this circumstance, written consent is required from the parent.

Consent means the same here as elsewhere in the regulations. It means that the parent has been fully informed in his or her native language, or other mode of communication, and understands that the granting of consent is voluntary and may be revoked at any time. The LEA must therefore provide the parent with appropriate and sufficient information to ensure that the parent fully understands that the parent is consenting to excuse the IEP team member from attending an IEP team meeting in which the member's area of the curriculum or related services is being changed or discussed and that if the parent does not consent the IEP team meeting must be held with that IEP team member in attendance.

The IDEA does not specify how far in advance of an IEP team meeting a parent must be notified of an agency's request to excuse an IEP team member. Ideally, public agencies would provide parents with as much notice as possible, especially since in either case the parent must give written agreement or consent. The parent always has the right not to agree or to consent to the excusal of the IEP Team member.

In regard to the written input, the regulations specify that it must be in writing and it must be provided to the parent and the IEP team prior to the meeting. The IDEA does not specify the format or content to be included in the written input nor does it specify how far in advance of the meeting the input must be provided.

The Division of Special Education has a model form for documenting IEP team excusals. The newly revised model form

IEP Meetings Amendments

- **Conditions**
 - Initial IEP meeting and Annual review meetings must be held. Amendments may only be made in the interim.
- **Amendments made either by**
 - Holding an IEP meeting, OR
 - Parent and public agency may agree not to convene IEP meeting to amend child's IEP
- **Copy of the IEP with the amendments incorporated provided at parent request**
- **IEP team informed of any amendments**

Another change made in IDEA 2004 to simplify and streamline the IEP process is a provision that allows for amendments to be made to the IEP after certain conditions have been met.

The amendment option can only be used after the initial or annual IEP meeting has been held. So in the interim between the initial and the first annual IEP review or between annual reviews thereafter, this option may be used.

An amendment can be made to a child's IEP in one of two ways. The first is by holding an IEP meeting and making the amendment to the IEP through the team process. The second is by the parent and the LEA agreeing to make amendments to the IEP without holding a meeting. In either case, the amendment to the IEP must be in writing. Additionally, a copy of the IEP with the amendment incorporated must be made available to the parent if they request it. If the parent needs further information about the proposed changes or believes that a discussion with the IEP team is necessary before deciding to change the IEP, the parent does not have to agree to the public agency's request to amend the IEP without an IEP team meeting.

Finally, the child's IEP team must be informed each time there are changes made to the IEP.

IEP Content

- The statement of present levels must describe the child's present levels of academic achievement and functional performance.

Next, let's look at some changes to the IEP content.

Under IDEA 2004 the concept of present levels is bigger than before. Prior to IDEA 2004, the child's present levels referred to educational performance. One of the changes in IDEA 2004 is the inclusion of academic achievement and functional performance. The present levels must continue to include the child's involvement and progress in the general education curriculum. Although the Department of Education did not include a definition of academic or functional achievement, it stated that academic achievement generally refers to a child's performance in academic areas and functional performance refers to skills or activities that are not considered academic or related to a child's academic achievement. Instead, functional is often used in the context of routine activities of everyday living.

Of course, consideration of the academic and functional performance of child, should be individualized.

The present level statement should be the building block for the remainder of the IEP. It should help the IEP team determine what annual goals, services, supports, and accommodations are necessary to assist the child in meeting those goals.

IEP Content

- Short-term objectives and benchmarks are required only for children with disabilities who take alternate assessment aligned to alternate achievement standards (MAP-A).

Previously benchmarks and short-term objectives were required for every child's IEP. IDEA 2004 changed that requirement. Now short-term objectives/benchmarks are only required for children who are eligible to take the MAP-A. The purpose of the benchmarks and short-term objectives has remained the same. Even though short-term objectives/benchmarks are no longer required except for certain children, a district may choose to continue to use these for some or all other children.

Our revised IEP model form includes a choice of goals pages to allow for the flexibility to either use or exclude the short-term objectives/benchmarks on the IEP document.

NIMAS/NIMAC

- National Instructional Materials Accessibility Standard (NIMAS)
- <http://nimas.cast.org/>
- National Instructional Materials Access Center (NIMAC)
- <http://nimac.us/>

This new provision in IDEA 2004 is about giving children with blindness or other print disabilities access to instructional materials in a timely manner. The adoption of NIMAS is intended to improve the speed, quality, and consistency of instructional materials converted into a specialized format. Textbooks, workbooks, and other instructional materials can be provided in alternate formats such as Braille, audio, digital text, and large print.

Districts must choose whether or not to coordinate with the National Instructional Materials Access Center (NIMAC) when purchasing print instructional materials.

If a district chooses not to coordinate with the NIMAC, the district must provide an assurance to the State that the district will provide instructional materials to blind persons or other persons with print disabilities in a timely manner. The state has defined “timely manner” as generally at the same time that materials are provided to other students (check this with the state regs!!)

Our updated IEP form includes an area that documents the accommodation of instructional materials to be provided in alternate formats for blind persons or persons with print disabilities.

The web addresses shown will give the viewer more information on NIMAS/NIMAC and the procedures to follow for obtaining accessible instructional materials for individuals with blindness or other print disabilities.

In-State Transfer Students

- Student with known or suspected disability enrolls from another Missouri district
- Implement the IEP
 - IEP in hand or interviews with parent, student, previous district officials to determine IEP content
 - Comparable services=similar or equivalent
- Accept or reject eligibility determination
 - If reject—initiate reevaluation

There have been some changes in the requirements for students who transfer into a district from another district.

There are two different scenarios to consider when students transfer. The first scenario is when a student transfers from one district to another district within Missouri and the other scenario is when the student transfers from an out-of-state district to a district in Missouri.

First, let's look at the process to follow when a student with a disability transfers from one Missouri district to another Missouri district.

If a student had an IEP that was in effect in a previous Missouri district and transfers to another Missouri district, the new district must provide FAPE to the child including comparable services to those described in the child's IEP from the previous Missouri district until the new district either adopts the child's IEP from the previous district or develops, adopts, and implements a new IEP.

A question we often get is What are comparable services? The term "comparable" has been interpreted to have the plain meaning of similar or equivalent.

If the parents and public agency do not agree as to what constitutes comparable, the dispute could be resolved through mediation procedures or as appropriate, through a due process hearing.

If at anytime during the process, the new district determines it does not agree with the previous district's eligibility determination for the child, the new district must initiate reevaluation.

Out- of- State Transfers

- Student with known or suspected disability enrolls from another State
- IEP in Hand
 - Comparable services=similar or equivalent
 - Initiate evaluation, if determined necessary
 - Develop, adopt, implement new IEP, if appropriate
- Without IEP
 - Place in regular education until evaluation conducted and IEP developed, adopted
- Evaluation is initial evaluation

If a child transfer from out of state with an IEP in hand, the public agency must provide FAPE to the child in consultation with the child's parents(including comparable services) until the new public agency conducts an evaluation if determined necessary by the new public agency and develops, adopts, and implements a new IEP if appropriate.

There are two major differences between in-state and out- state transfers:

If the child with disability arrives from out of state without an IEP document or evaluation report in hand, the child should be enrolled in the general education curriculum until the public agency can conduct an evaluation to determine if services are necessary and develop, adopt, and implement a new IEP if appropriate.

The district also has the option of providing comparable services.

The other difference is if an evaluation is conducted for a child who is from out of state, the evaluation is considered to be an initial evaluation.

Transfers Other Considerations

- Summer Transfers
- Transferring the Child's Records

Public agencies need to have a means for determining whether children who move into the state during the summer are children with disabilities and for ensuring that an IEP is in effect at the beginning of the school year.

To facilitate the transition for a child who is transferring, 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 agency in which the child was enrolled (pursuant to FERPA) and the previous public agency in which the child was enrolled must take reasonable step to promptly respond to the request from the new public agency.

The Missouri Safe Schools Act requires receiving school districts to request records within two business days of enrollment. Sending Missouri districts are required to send records within five business days of receiving a request for records.

Parentally-Placed Children

- Responsibility for child find, identification and provision of services has changed from district of residence to district in which private school is located
- Statute and regulations identify requirements for consultation with representatives of private schools
- Information and sample forms available on website at <http://dese.mo.gov/divspeced/>

IDEA 2004 made some rather significant changes to the procedures and requirements for locating, identifying and providing services to children who are parentally-placed in private schools.

In the past, when children with disabilities were placed in private school by their parents (and remember that in Missouri, private schools include private, parochial and homeschools), the district of the child's residence was responsible for child find, evaluation, and provision of services.

Under IDEA 2004 the responsibility shifted to the district where the private school is located. For children who attend a private school in the jurisdiction of their parent's residency, this change is not significant. However, this is a major change for those children who attend a private school outside of their district of residence.

As before, IDEA 2004 continues to limit the rights of parentally-placed private school children. These children do not have an entitlement to FAPE. The district is only required to provide services up to an proportionate share on Part B federal funds. The determination of what services will be provided and which children will receive the services is made through consultation with representatives of private school official and parents. IDEA 2004 regulations specify the areas of discussion for this consultation and procedures that must occur for the consultation process.

The Division of Special Education and the US Department of Education has developed numerous guidance documents and model forms for districts to use to guide them through the process of the consultation and provision of services process for parentally-placed private school children. This information can be found on the Division website at <http://dese.mo.gov/divspeced/>.

Conclusion

- Special Education Process and IDEA changes
- Questions can be submitted to the following mailbox webreplies@dese.mo.gov or by calling the Division of Special Education at 573-751-0699.

This concludes our presentation on changes in the special education process under the 2004 IDEA Reauthorization. As we stated at the beginning of this training, the information presented only covered those major changes and not all of the requirements of the process. For complete information on the special education process, the viewer is encouraged to consult the Missouri State Regulations implementing Part B of the IDEA and the Special Education Compliance Program Review Standards and Indicators Manual.

Thank you for the opportunity to share this information on the special education process and IDEA changes due to the reauthorization of 2004. If you have any questions, please do not hesitate to contact us via web reply or telephone. Our email address and phone number are displayed on the screen.