

## Chapter 6

# THE INDIVIDUALIZED EDUCATION PROGRAM

---

### What This Chapter Is About

The Individualized Education Program Team (IEP Team) takes information from evaluations, assessments, and observations and (1) decides whether or not a student is eligible for special education, and (2) creates an individual plan for each student in special education.

IEP Team members include school representatives and teachers. Parents are also team members and must be invited, with the meeting time arranged to meet their needs. The IEP Team may also include other people, including evaluators, advocates, and the student.

IEP Team meetings differ depending on the individual students, but most should follow a predictable pattern of introductions, discussion, and eligibility determination, then planning and completing the actual Individualized Education Program (IEP) document. The IEP Team must take specific steps to allow parental participation in the IEP process.

IEPs are developed and implemented under specific timelines. Parents are entitled to notice during several steps of the process and must consent before some steps can be taken.

Each IEP has a set of core elements defined in the law and set forth in an IEP: functional performance; annual goals; a description of how the child's progress toward meeting the annual goals will be measured and when periodic reports on the progress will be provided; special education and related services; participation in extracurricular activities; what standardized tests will be administered as well as accommodations necessary for testing; beginning dates; specific frequency and duration of related services; specialized transportation; and what general education placements were considered. The IEP also has assurances, certified by the superintendent or designee, that the IEP process was followed and the IEP will be implemented. Finally, the written document must include what options were considered by the team, but not selected, and the reason why.

The decisions that the IEP Team makes about these core elements will be written into the IEP document. It is important to review the document after it has been completed to make sure that everything the team agreed upon is accurately reflected in the written document.

If, during the course of the year the IEP is in place, the IEP Team determines that minor changes need to be made to the IEP, an amendment to the IEP may be written. This does not require a meeting of the entire IEP Team.

## Advocacy Hints in Chapter 6

- ◆ Ask for more frequent staffing or IEP Team meetings to monitor the progress of your child's program (Page 3).
- ◆ Be specific in approving time extensions – do not tolerate long, indeterminate delays (Page 4).
- ◆ Don't stay away from the meeting—it won't help you (Page 4).
- ◆ Before the IEP Team meets, review your child's records, write out your most important questions, and find a friend to go with you (Page 5).
- ◆ Get and read evaluations in advance so you are prepared to discuss them (Page 5).
- ◆ Introduce yourself to the IEP Team members; ask them to do the same (Page 5).
- ◆ If what you want will not fit within the IEP form boxes or lines, add information on another sheet of paper (Page 6).
- ◆ Get to know your school's IEP form so you know where to ask for services or supports your child needs (Page 6).
- ◆ Know what to do when the school brings a draft IEP to the meeting (Page 7).
- ◆ Invite the student, especially the older student (Page 8).
- ◆ Know who has to be at the meeting and who can be excused (Page 9).
- ◆ Know the difference between "consent" (written) and "agreement" (Page 9).
- ◆ Speak up and disagree if the team finds your child ineligible (Page 9).
- ◆ Ask questions about the FAPE factors (Page 10).
- ◆ When present levels of performance do not change from year to year, ask whether or not the services and supports provided are sufficient (Page 11).
- ◆ Relate services you request to a specific IEP goal; the goals and objectives drive and shape the school's duty to provide services (Page 12).
- ◆ Focus on what the student needs, not what the school offers (Page 14).
- ◆ Make sure services are written in the IEP; the school does not have to provide services based upon verbal statements at the meeting (Page 15).
- ◆ Discuss where educational services will be provided by first looking at general education settings with supports (Page 16).

## General Information About the IEP Process

The special education decision-making process centers on evaluation and professional consideration of the individual needs of specific students. In Michigan, the “multi-disciplinary evaluation team” (MET), a team of professionals with different areas of expertise, conducts comprehensive evaluations of students. The educational data and recommendations developed by the MET are then brought to a meeting of the school and parents, which is now called an “individualized education program team” (IEP Team) meeting. At the IEP Team meeting, the IEP Team considers this data, applies the expertise and knowledge of the team members, and makes decisions about the student’s eligibility and services. These decisions are then recorded in a document known as the “individualized education program” (IEP).

An IEP is required for every student eligible for special education. **20 USC 1412(a)(4); 34 CFR 300.112.** The IEP is the cornerstone of the Individuals with Disabilities Education Act (IDEA). It is a way to identify goals for the student and to identify the programs and services needed to achieve these goals.

An IEP Team meeting is convened for each student at least once a year. An IEP Team meeting is also held after the initial MET evaluation. Additionally, either the school or a parent can request that the IEP Team convene to discuss changing the IEP at any time there is concern that the existing IEP is not appropriate. **34 CFR 300.324(b).** Minor changes can be made in an amendment to the IEP if the parent and school agree to it. **34 CFR 300.324(a)(4), (6).**

► **Advocacy Hint: Monitor the program.** IEP Team meetings can be held more than once a year, as there may be a need to review the adequacy of the student’s programs and services or to consider new information. Also, it is good practice to have the IEP require periodic staff meetings during the school year, including parental participation, to review the student’s progress and/or brainstorm about the student’s needs. If one of these “staffings” results in an agreement that the student’s program or goals needs to be changed, the school and parents may agree to use an amendment to change the IEP without rewriting the entire IEP.

Timelines are written into the law to ensure that an IEP is developed for an eligible student in a timely fashion. The school has 10 school days after receiving a written request for an evaluation for a student with a suspected disability to notify the parent of the school’s intent to evaluate the student and to get the parent’s written consent for this evaluation. **R 340.1721.** After receiving the parent’s written consent to evaluate the student, the school then has 30 school days to complete the MET evaluation, convene the IEP Team meeting, decide whether or not the child is eligible for special education services, and either offer services or provide notice that the child is not eligible. **R 340.1721b(1).**

This 30-day timeline can be extended if agreed to by the parent and school. The basic point under both state and federal law is that time is of the essence and long delays are intolerable.

► **Advocacy Hint: Avoid long delays.** Schools sometimes do not have the resources to assure timely evaluations and may therefore seek an extension from the parent, either before or after the delay occurs. Giving the school additional time may be reasonable, but the parent/advocate should make sure the extension is specific (“extended by 14 additional days”) and does not threaten to waste precious education time (for example, a long delay in evaluating a preschooler can waste critical months for specialized instruction during a crucial developmental period of the child’s life). Keep in mind, also, that “school days” do not include weekends, holidays, or school vacations.

### Invitation to Attend the IEP Team Meeting

Parents must be invited to attend the IEP Team meeting. The school must notify the parent early enough to assure the parent an opportunity to attend the meeting and must schedule the meeting “at a mutually agreed on time and place.” **34 CFR 300.322(a)**. The school may contact the parent in person, by phone, or with a written invitation. If it is not possible to attend the meeting at the time that has been suggested, it is important to contact the school immediately to schedule a different time.

When a parent does not attend an IEP Team meeting, the school must carefully document efforts to arrange a mutually agreeable time and place for the meeting, including records of phone calls, letters, and visits to the parent’s home or workplace. **34 CFR 300.322(d)**. IDEA allows for alternative means of meeting participation for IEP Team meetings and other meetings. Members can participate through a telephone conference call or video conferencing. **34 CFR 300.322(c)**.

► **Advocacy Hint: Go to the meeting.** The school district has the responsibility to give parents the opportunity to attend IEP Team meetings, but if a parent does not attend, the IEP Team can complete an IEP without parent participation. Parents cannot “vote with their feet” and forestall changes in a program by refusing to attend. Make sure the meeting is at a mutually convenient day and time, then go to the meeting and speak up, especially if you have questions or do not agree with something the school proposes.

The school must also provide the parent with information about the IEP Team meeting. Before the meeting, the school must contact the parent and explain the purpose of the IEP Team meeting and the role of each person who will be participating in the IEP Team. **34 CFR 300.322(b)**.

At the meeting, the school must take whatever action is necessary to ensure that the parent understands the proceedings, including arranging for an interpreter for parents who are deaf or whose native language is other than English. **34 CFR 300.322(e)**.

► **Advocacy Hint: Be prepared!** There are several things that a parent can do prior to the meeting in order to be prepared to participate fully in the IEP Team meeting. First, obtain and review all recent evaluations and assessments. If test results are unclear or confusing, you may want to schedule a meeting with the person who conducted the assessments to discuss them. If the IEP is not the student's initial IEP, review the student's previous two or three IEPs. Pay special attention to the goals and objectives and whether they have been achieved, since that will help to make clear what programs and supports have proven effective in the past. Make a list of the things that you want to make sure the IEP Team addresses. Then try to narrow that list to four or five most important points. It may be useful to write a note or to email that list of concerns to the school prior to meeting in order to make the meeting productive and efficient. Finally, it may be helpful to arrange for a friend or relative to come to the meeting with you. They can provide support to you in your advocacy efforts.

► **Advocacy Hint: Get evaluations in advance.** Because evaluations are so important, it is reasonable to request (in writing if possible) that copies of new evaluations be provided to the parent/advocate prior to the IEP Team meeting to allow the parent/advocate time to adequately review the information. It is poor practice to provide such detailed and new information to the parent at the IEP Team meeting, as this does not allow enough time for review. If the school does not provide the evaluations in advance, make sure to take enough time during the meeting to review and understand them.

## The IEP Team Meeting

Because each student has individual needs, what happens during an IEP Team meeting may vary widely from one student to another. The following is a description of how an IEP Team meeting agenda might look.

- (1) All present should make introductions.

► **Advocacy Hint: Introduce yourself.** If persons are not introduced, you should request introductions so you will know each of the participants, their positions or relationships to the student, and their reasons for attending.

- (2) The chairperson should state the reasons for the meeting and the ground rules for conducting the meeting.

If the IEP Team is meeting to determine eligibility:

- (3) A summary should be given of the reasons for the initial referral of the student and of the kinds of assessments used to help determine eligibility.
- (4) The team should discuss all information pertinent to determining eligibility.
- (5) If there is disagreement among team members, more information can be obtained. The school district must provide any additional testing the IEP Team recommends.
- (6) The team will determine eligibility.
- (7) If the IEP Team finds the student eligible, the members must write an IEP or reconvene for that purpose.

If the IEP Team is meeting to write or revise an IEP:

- (8) As information is shared, recommendations should be restated, and agreements and disagreements discussed. Ask that the recommendations be read aloud so that you can agree or disagree with the wording.
- (9) After consensus is reached on recommendations, the program that the IEP Team has agreed upon will be recorded on the IEP form.

**The IEP Form**

IDEA includes specific requirements for the content of the IEP document. **34 CFR 300.320**. The IEP form is an important tool for parents and advocates, as there is a place to address almost any issue of concern.

► **Advocacy Hint: Draw outside the lines.** If important information will not fit in lines or boxes provided on the form, it can be attached to the form with a note on the form stating that there is an attachment. This includes IEPs that are recorded on electronic programs. If there is no field or not enough characters available to record the necessary information, create attachments.

The Michigan Department of Education has developed a standard IEP form that is used by many (but not all) schools. While a school may use an IEP form that has a different order or format, the information that is required will be the same.

► **Advocacy Hint: Master your district's IEP form.** A parent or advocate who is preparing for an IEP Team meeting should get a blank IEP form from the school and walk through it before the meeting to identify places where issues of concern can be addressed. It may be helpful to jot notes on the blank form as a reminder of what important matters you want the team to discuss.

► **Advocacy Hint: Dealing with a draft.** The school may come to the IEP Team table with a “Draft IEP” prepared. This is not illegal, as long as it is truly used as a “draft,” with changes made to reflect the input and discussion of the team during the meeting. Obtaining a copy of the draft prior to the meeting can be a good way of preparing to participate in the meeting, since it allows parents and advocates an opportunity to think about the issues and concerns raised by the school in advance of the meeting. Parents and advocates can offer a similar opportunity to the school by sharing with the school the most important concerns they have about the student’s educational needs prior to the meeting.

## IEP Timelines

Michigan law sets the timelines for making decisions about special education services and then actually providing them. All of these timelines refer to “school days,” which do not include weekends, holidays, seasonal breaks, or summer. Under these timelines:

- ◆ The school has **10 school days** from receipt of a written request to conduct any special education evaluation to respond with a request for consent or a notice saying why they will not evaluate. **R 340.1721b(1).**
- ◆ The school has **30 school days** from receipt of consent to 1.) conduct an evaluation; 2.) convene an IEP Team meeting; 3.) decide on eligibility; and 4.) offer appropriate services. **R 340.1721b(1).**
- ◆ The school has **7 school days** from the date of the IEP Team meeting to notify the parent in writing that 1.) services will be offered, 2.) where they will be provided, and 3.) when they will begin. **R 340.1721b(3).** Often this notice is provided directly to the parent at the end of the IEP Team meeting.
- ◆ If the child is receiving special education services for the first time, the parent has **10 school days** from when they receive written notice to consent to services. **R 340.1721b(2).**
- ◆ The school has **15 school days** after notice is issued (or, if the child is receiving services for the first time, after consent is received from the parent) to start providing services, unless the parent appeals. **R 340.1721b(4).**

## Basic Background Information

**IEP Dates:** The IEP form contains some basic background information, beginning with dates. These dates help ensure that the IEP and re-evaluations take place in the proper time frames. “Offer of a FAPE” simply means the date that the IEP was concluded and someone from the school signed it. That is the usual way the school provides notice of what supports and services are being offered. The implementation date will reflect the date that the supports and services actually begin. The school must make sure that the IEP is updated at least annually; putting the dates at the beginning of the IEP form is one way to keep track of this.

**Demographic Information:** This includes important information about the student and his or her family. There is a place for the student’s name and other personal information, including address and

school. There is also a spot for recording the student’s parents’ names and contact information. If the “parent” is someone other than the student’s legal parent or guardian, the relationship to the student will be recorded, along with any special language needs of the student or parent.

**Purpose of Meeting:** This provides information about the purpose of the IEP Team meeting—to discuss initial eligibility, to review or revise an existing IEP, for re-evaluation, to determine whether there is an additional or different disability, or for some other reason.

**Parent Contact:** The school will make a note of the attempts that were made to make sure that the parents were informed about the meeting, its purpose, and who else would be attending. This part of the form provides information about how the school has attempted to allow parents to participate, and what resulted from those efforts.

**Parental Rights and Age of Majority:** The IEP form will have a note that helps remind the IEP Team that the student will have additional rights upon turning 18 unless a guardian has been appointed for the student. Certainly, not all students with an IEP will want or need a guardian, and there are many less restrictive possibilities. Beginning to consider some options at age 17 allows for plenty of time to plan.

**IEP Meeting Participants in Attendance:** The IEP form allows members of the IEP team to sign in to show their attendance at the meeting. In addition to the **parents**, the IEP Team must include:

- ◆ a representative of the school who is qualified to provide or supervise special education programs and is knowledgeable about the general school curriculum and the availability of public resources;
- ◆ a general education teacher, if the student is or may be participating in regular education;
- ◆ a special education teacher or provider; and, an individual who can interpret the educational implications of evaluation results. **34 CFR 300.321(a).**

The student may be invited to any IEP Team meeting, no matter the student’s age, if the student’s attendance would be appropriate. **34 CFR 300.321(a)(7).** If the IEP is to include transition services, the school **must** invite the student and (if appropriate and agreed to by the student) a representative of other agencies likely to be responsible for transition services (such as Michigan Rehabilitation Services). If the student or agency does not attend, the school must take other steps to get their input. **34 CFR 300.321(b).**

► **Advocacy Hint: Whose life is it anyway?** It is good practice to include students in IEP Team meetings, as they can relate their motivations, learning styles, etc. Even if a student’s age or disability prevents him or her from attending the entire meeting, the student could attend part of the meeting to give input and receive information about programs. Older students must be invited, as their futures are being decided under the umbrella of transition services.

**Who may attend?** In addition to the mandatory participants, both the school and parents have discretion to invite other people with knowledge or expertise, including family members, friends, advocates, or related services providers. **34 CFR 300.321(a)(6)**. If the school program is provided in another district or ISD, and that district is conducting the IEPT meeting a representative of the district of residence must attend the meeting. **R 340.1721(e)(7)**.

The 2004 IDEA Amendments allow a member of the IEP Team to be excused from attending an IEP Team meeting, or to attend only part of the meeting, if both the school and the parent agree in writing that it is not necessary for that person to attend because the member’s area of the curriculum or related services are not going to be discussed or modified at the meeting. If the person’s area of responsibility is being discussed or changed, the parent must consent in writing and the person missing the meeting must submit information (regarding what is to be discussed) in writing before the meeting. **34 CFR 300.321(e)**.

**► Advocacy Hint: Too busy is no excuse!** This provision is intended to provide a reasonable means for excusing a member who is not critical to the decision-making process—not to allow teachers or other team members to bow out because of schedule conflicts. If a team member is needed to provide input or answer questions that the other team members raise, they should not be excused from the meeting. Generally, members of the IEP Team are required to attend meetings because their input is necessary to plan an appropriate program. This position was underscored in a court decision: “The rationale for requiring the attendance of a regular education teacher is closely tied to Congress’s ‘least restrictive environment’ mandate. The input provided by a regular education teacher is vitally important in considering the extent to which a disabled student may be integrated into a regular education classroom and how the student’s individual needs might be met within that classroom.” **Deal v Hamilton County Board of Education, 392 F.3d 840 (6<sup>th</sup> Cir. 2004)**. Even when a student is placed in a special education classroom, a general education teacher will be able to provide the team with input necessary for inclusion with nondisabled peers, as well as access to the general curriculum and the determination of appropriate positive behavioral interventions and support.

**► Advocacy Hint: Consent? Agree?** IDEA defines “agree” and “consent” differently. “Consent” must be informed, voluntary, and written, while “agreement” can be written or verbal and need not be informed. **34 CFR 300.9; 71 Fed. Reg. 46551 (8/14/06)**.

**Eligibility for Special Education:** The IEP Team will determine whether or not a student is eligible for special education. (Information regarding eligibility is covered more fully in Chapter 4)

**► Advocacy Hint: Speak up.** Be certain to express your feelings if you disagree with the eligibility decision of the group. You may request a hearing on the issue of eligibility alone.

The team will also determine under which category of eligibility a student qualifies. (Information about

categories of qualification is covered in detail in Chapter 4) In addition to the primary qualifying disability, the team may identify a secondary disability. Remember that, regardless of these categories of qualification, any student who is identified as eligible for special education services is entitled to whatever services are necessary for the student to benefit from his or her education, not just those services related to the student's category of eligibility.

### **Present Level of Academic Achievement and Functional Performance (PLAAFP)**

**Factors to Consider:** The IEP Team is guided in its preliminary discussion by a list of factors to consider in order to ensure the provision of a free appropriate public education (FAPE). The most important criterion in determining appropriateness is that the program must be individually designed to provide educational benefit. The list of factors will assist the team in determining the needs of an individual student. (FAPE is more completely addressed in Chapter 3.)

► **Advocacy Hint: Don't skip the preliminaries!** The key to a service being "appropriate" is that the education program must be designed to meet the unique needs of the student. The parents, teacher, and other professionals may differ in their ideas of what is appropriate; therefore, "appropriateness" of the education program must be decided on a case-by-case basis.

There may be a tendency to rush through discussion of the factors to consider in order to provide FAPE. But considering each factor carefully will ensure that the program that is developed is appropriate for the student. Don't allow the boxes to simply be checked without discussion, and make sure that pertinent comments are recorded on the IEP form. If you have prepared a written statement of your concerns, it can be noted here that they are included as an attachment.

**Recording the PLAAFP:** The information in this section is critical to understanding the needs of the student, which drives the program planning. The PLAAFP statements also require the IEP Team to think carefully about how the student's needs are related to the general education curriculum—the content that all students are expected to master. This focus on academic standards helps to bring the IDEA into alignment with other federal laws and ensures that students with disabilities are given appropriate access to the same challenging curriculum as are their peers.

The present level statement must provide information about the student's current performance in all areas of education that are affected by a student's disability. **34 CFR 300.320(a)(1)**. It should be stated in terms that clearly identify a measurable level of skill that has been achieved. Performance information may come from data collected from a variety of assessments, including standardized achievement tests, diagnostic tests, classroom performance, systematic observations, progress reports, state-wide or district-wide assessments, and parent reports. **Don't forget to add your own observations—write them out beforehand and attach them to the IEP.**

Present level statements are necessary for each area of deficit, so there may be multiple pages with present level statements for different areas of academic achievement and/or functional performance. Present level statements will relate to the goals that have been achieved in the previous year, and they will inform the selection of goals for the IEP that is being written. The present level statement will also impact the team's decision-making about supplementary aids, services and supports, and state-and

district-wide assessments. Present level statements should show an increase in skills from one IEP to the next.

► **Advocacy Hint: Educational benefit.** The issue of whether the services and supports in a student’s program are adequate to confer educational benefit may be revealed in the progress—or the lack of progress—recorded in successive present level statements. See Chapter 3.

## Secondary Transition Considerations

The IEP will provide a place to record the planning necessary to prepare a student for life after high school, which is called secondary transition. The team will consider both the student’s **Postsecondary Goals**, which are intended to capture the student’s desires for adult living, and the **Secondary Transition Services** that will be needed to assist the student in meeting his or her goals. The team will also indicate how the course of study that has been indicated for the student aligns with the goals for adult living that the student has expressed. If the student anticipates a career that requires postsecondary education, for example, the course of study aligned with that plan would lead to a diploma. For more complete information related to planning for transition, please refer to Chapter 10.

## Goals and Objectives/Benchmarks

The IEP must include goals and objectives and include how the district will report on the student’s progress toward achieving those goals and objectives. In developing a goal, the IEP Team will determine what the student is expected to achieve in the year ahead. **34 CFR 300.320(a)(2)**. The team will develop goals for the student in each area related to the student’s disability that impacts the student’s academic achievement and/or functional performance. The goals should address both the student’s access to and progress in the general education curriculum and the student’s other education and transition needs. The goals should logically be related to the present level of academic achievement and functional performance as a starting point. The goals should link to the supports and services written into the IEP by reflecting what support the student needs in order to achieve the goals in the year ahead.

Short-term objectives, or benchmarks, help break down the goal into the intermediate steps needed to achieve the annual goal. Monitoring the student’s progress on short-term objectives is a way to tell if the student is on track to achieve the annual goal. This is an important means of determining whether the supports and services written into the IEP are adequate, by alerting the team of the need to reconvene to add supports or services if necessary, without waiting an entire year. Michigan law requires all IEP goals to include short-term objectives. **R 340.1721e(1)**.

► **Advocacy Hint: Go for the goals and objectives.** The goals and objectives are often overlooked, yet they drive and shape the school’s responsibility to provide services. Make sure any services you request are designed to meet a goal or objective. Goals and objectives must be measurable, and they should be written in a way that makes it clear to anyone—even a stranger—whether or not the goal has been reached. For example, the goal “Will improve reading skills” is not a well-written one, since a stranger would not be able to tell if the goal had been achieved. A goal of “Given first grade reading material, the student will read a passage orally at 50-80 words per minute with no more than five errors” can be measured by anyone.

The goal or objective should express in positive language something that the IEP Team expects the student to do (as opposed to what the student cannot do). The IEP Team should begin by considering what the student can do now (the statement of academic achievement and functional performance will give this information), then set the annual goal or objective based on what the student can be reasonably expected to achieve (with appropriate support) in a year. The goal or objective should also consider what nondisabled students of the same chronological age are expected to achieve, either through district standards or the state’s grade-level standards for academic performance. (For information on the state standards, see [www.michigan.gov/mde](http://www.michigan.gov/mde) and click on the tab for “Academic Standards.”) Writing clear, measurable goals will allow the IEP Team to know if the program is working and will tell others what the school’s expectations of the student are.

**Schedule for Reporting Progress:** The IEP Team will also determine how to measure the student’s progress toward his or her goals and objectives. The team will develop a way to track progress that includes a statement regarding the student’s expected level of performance (what the student will be able to do, and under what circumstances), the procedure that will be used to evaluate the student’s performance (how the school will test the student’s performance), and how frequently the evaluation will be done. The IEP document will also identify who is responsible for working on the goal and who is responsible for reporting on the student’s progress. This is an important mechanism that allows parents to celebrate progress as it occurs and to confer with school staff when progress is not occurring, without waiting for a year to pass between annual IEP meetings.

The IDEA allows a parent and school to agree to meet without convening the entire IEP team if changes are needed after an annual IEP Team meeting has been held. **34 CFR 300.324(a)(4), (a)(6)**. The format for making these changes is the IEP Amendment.

While the law does not itself place any restrictions on the type of changes that may be made in an amendment (stating only that the school and parent must be in agreement), it is important that the changes relate to the existing IEP in a meaningful way. For example, if the student is not making the anticipated progress on goals, an amendment may be a logical way to increase the amount or frequency of the service designed to address the goal. Major changes, such as exiting from special

education, changing placement, or changing eligibility, should be made with broad input from the entire IEP Team, so an amendment would not be appropriate.

If a parent needs further information or believes that a discussion with the entire IEP team is necessary before agreeing to changes proposed by the school, the parent can refuse to agree to the amendment without a meeting of the entire IEP Team. If an amendment is agreed upon, the school must ensure that the rest of the child's IEP Team is informed about what changes were made. **34 CFR 300.324(a)(4)(ii).**

## **Supplementary Aids and Services**

Supplementary aids and services mean the aids, services, program modifications, and/or supports for school personnel that are provided in the general education setting or other educational settings (including extracurricular and other nonacademic activities) so that the student can be educated with nondisabled peers to the maximum extent appropriate. The IEP Team will consider and record what support the student needs, the amount of time that it will be needed, how often it will be provided, and where it will be provided. If the team identifies a need for positive behavior interventions, assistive technology devices and/or services, or any other special factors, the necessary supports can be listed here. Accommodations may also be listed here (or on an attached sheet if they are lengthy). (More information about supplementary aids and services can be found in Chapter 3. Some of these devices and services may also be considered as special education or related services.)

Accommodations and supports should be written to meet the needs of the student in all environments. If a student needs accommodations on state assessments, for example, he or she will also need the same accommodations when taking regular classroom tests. In order for supports and accommodations to be provided consistently across all environments, it is essential that they be written with adequate specificity. Writing "as needed" is likely to result in implementation that is uneven, at best.

Next, the team will explain to what extent the student will be restricted from participating with general education students. This is a reminder of the expectation that students with IEPs are to be educated with their general education peers to the maximum extent appropriate; the team should consider the need for supplementary aids and services to support students in the general education setting. **34 CFR 300.114(a)(2)(ii).**

The consideration of a full range of possible supplementary aids and services is an important part of ensuring that the student is educated in the least restrictive environment. Discussion of the continuum of educational placements should begin here.

► **Advocacy Hint: Focus on the student, not the services.** The IEP Team process is about student need and educational data, not about what services the school district has available for the student. In other words, the discussion should center on what the evaluations say about the student’s need for services, not on whether the student should attend available program A or available program B. Because of this, the details and specific recommendations of the experts and evaluators are of critical importance.

## Assessment—Participation and Provisions

The Elementary and Secondary Education Act (ESEA) addresses the issue of how students with disabilities will be assessed. IDEA includes language that is intended to bring it into alignment with the ESEA on the issue of these assessments. IDEA requires that each state ensure that all students with disabilities are included in all general state and district-wide assessment programs with appropriate accommodations and alternative assessments, where necessary, as indicated in their IEPs. It also requires that the State develop guidelines for alternate assessments for children with disabilities who cannot participate in regular assessments, even with accommodations. Finally, the State must ensure that the alternate assessments are aligned with the State’s challenging academic content standards and challenging student academic achievement standards. **34 CFR 300.320(a)(6).**

The IEP Team will discuss and document what state and district-wide assessments the student will take. The IEP Team will also discuss whether there is a need for the student to take the English Language Proficiency Assessment (ELPA), given to students who speak English as a second language.

The team will then determine whether any of those assessments will be administered during the time period covered by the IEP. If the answer is yes, the team will go on to discuss and document which assessment is appropriate and why it is the appropriate choice. The team will also indicate what, if any, accommodations are needed. Offering assessments with standard accommodations does not change the validity of the test or prevent it from being used in district reporting. More information about standard and nonstandard accommodations can be found at the following web address:

[https://www.michigan.gov/documents/mde/Michigan\\_Accommodations\\_Manual.final\\_480016\\_7.pdf](https://www.michigan.gov/documents/mde/Michigan_Accommodations_Manual.final_480016_7.pdf).

(These accommodations can change rapidly. Updated versions can be found on the MDE website, [www.michigan.gov/mde](http://www.michigan.gov/mde), under the “Student Assessment” tab on the menu bar.)

Federal guidelines cap the percentage of children in each state whose alternate assessment test scores will be counted, but decisions about both the tests and the accommodations are made by the IEP Team. Assessments should be selected to align with the course of study pursued, the student’s present level of performance, and the conditions under which the test will be given, among other factors. Decisions should not be based on the disability label of the student or on the possible impact of the student’s participation on the school’s overall performance.

## Special Education Services and Programs

The IEP must include information about what programs and services are going to be provided. The team will record what related services or special education programs will be provided, how often the student will receive the programs or services (frequency), how long each service will last (duration), and where they will be provided (in the classroom, pull-out, group, individual). If the IEP Team has determined that the student requires a specially designed program for physical education, it will be included here. (Chapter 2 gives more detailed information about what kinds of programs and services are included in this section.) If the program or service will be provided for a different period of time than that covered by the IEP, that will be noted under “Duration.”

Special education services must be based, to the extent practicable, on peer-reviewed research. **34 CFR 300.320(a)(4)**. This does not give parents the right to dictate the choice of school methodology, **71 Fed.Reg. 46664-5 (8/14/06)**, but one may ask if the services offered meet the standard in the law.

► **Advocacy Hint: Get all the services in writing.** Make sure every service your child needs is listed on the IEP. Remember to include services such as special transportation, physical education, speech or physical therapy, extended school year, or other services the student needs. The school does not have to provide services promised verbally unless they are noted in the IEP itself.

**Extended School Year:** The IEP Team must consider whether the student needs extended time beyond the regular school year in order to receive FAPE. In making this decision, the IEP team will look at current IEP goals and consider: the nature and severity of the student’s disability; whether the gains made by the student will be lost and not recoverable in a reasonable period of time without the extended school year; and whether the student is at a critical point in learning that would make the gap in instruction particularly damaging. Extended school year services should be considered at every IEP Team meeting and must be evaluated in sufficient time to allow services to be implemented or, if necessary, appealed by the parent. **34 CFR 300.106; R340.1721e(2)**.

**Instructional Time:** This is where the IEP Team will record the amount of time that the student is receiving general education instruction each week, along with the amount of time the student is receiving special education instruction each week. When added together, these two numbers should equal the total number of hours that students are in school each week.

**Educational Environment:** The information captured here is intended to clarify *where* instruction is taking place: general education or in a separate special education setting. The IEP Team determines the educational placement of the student from a continuum of alternative placements. **34 CFR 300.115**.

► **Advocacy Hint: Moving down the continuum.** The law requires the IEP Team to consider each step on the continuum of placements for the student—ranging from full-time placement in regular education to placement in a special school. The best practice and the one most consistent with the law is to begin at the most typical setting to determine if the student’s goals can be met there.

The IEP Team should first consider whether the student’s goals can be met in the general education class with supplementary aids and supports. Only after the IEP Team concludes this is not appropriate (and documents the reasons why on the IEP form) should it look at the next step on the continuum—for example, part-time placement in regular education classes and part-time placement in a special education classroom.

This provision is a powerful tool for parents and advocates seeking a less restrictive setting for a student. **34 CFR 300.114(a)(2)(ii)**. The “Notice” section on the last page of the IEP form requires documentation of the reason that an option was considered, but not selected. The reason should capture a rationale—something more than “is not appropriate.” Documentation should capture the facts that went into the determination—*why* the option is not appropriate.

The percentages for participation time in general education are related to targets for Least Restrictive Environment that have been set by the Office of Special Education Programs (OSEP). This is a way of tracking whether schools are complying with the least restrictive environment provisions of IDEA.

**Whatever the extent of time spent in general education; all students should have access to the general curriculum.** (Chapter 7 covers Least Restrictive Environment in greater detail.)

**Special Transportation:** If the IEP Team determines that no special transportation is needed, the student will use the same transportation provided for all students. If, however, the student needs a specific accommodation or service (for example, regular bus with paraprofessional assistance, wheelchair lift bus, or reimbursed personal transportation), that must be recorded here.

## Notice for Provision of Services and Programs

IDEA requires prior written notice before a school changes or refuses to change all or part of a student’s IEP or program. The notice must include:

- ◆ The action proposed or refused, and why;
- ◆ The facts relied upon by the team in making its decision;
- ◆ A statement that parents have procedural rights and how to get them;
- ◆ Sources of assistance for parents in understanding their rights; and,
- ◆ Other options considered and other factors influencing the team’s decision. **34 CFR 300.503.**

The superintendent or designee must also ensure that the least restrictive environment rights of the student have been enforced. **34 CFR 300.116.**

If the IEP is the student's initial IEP (the first IEP written for the student), the notice page may have a different title as compared to later IEPs. For example, the initial IEP notice page might be titled, "Notice for Initial Provision of Services and Programs." For any other IEP, the form might be titled, "Notice for Provision of Services and Programs." The biggest difference between the two notice documents is in the signatures required.

The initial provision of services and programs cannot begin without the parent's consent. **34 CFR 300.300(b).** The school has no obligation to provide FAPE to a student with a disability if, even after the school has made reasonable efforts to obtain consent, the parent fails to respond or fails to provide consent. The only way that services for the student can begin is for the parent to **sign** the first IEP.

If the IEP is written to replace an existing IEP, a parent signature is not required. The only way for a parent to prevent the school from implementing an unacceptable plan is to file a due process hearing notice. (More information about due process hearings can be found in Chapter 8.)

A parent can revoke consent to special education services, but this may cause the student to lose the benefit of any services or supports offered in the IEP as well as the due process protections under IDEA and state law. **34 CFR 300.300(b)(4).** The school cannot use a parent's refusal to consent to one service or activity to deny all services, benefits, or activities, however. **34 CFR 300.300(d)(3).**

Any member of the IEP Team who disagrees with all or part of the IEP may attach a report outlining the points of disagreement. **R 340.1721e(3).** There are procedural safeguards outlined in the law to protect the rights of parents of the student with a disability. Some of them, such as the complaint process and mediation, relate to parents' rights when there is a dispute related to the IEP. There is more information about this in Chapter 8.