



## Guidance

# Individualized Education Program (IEP) Development: Special Education Programs and Services

**Michigan Department of Education Office of Special Education  
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The purpose of this document is to support the development of an IEP based on the unique needs of the student, which are described in the Present Level of Academic Achievement and Functional Performance (PLAAFP). Development starts with the PLAAFP and then based on the description of need, supports are identified. The supports include special education programs and services necessary to meet the needs of the student and ensure progress. As a reminder, parents must be members of any group that make decisions on educational placement of their child. 34 CFR §300.327

When an IEP Team determines special education programs and services, the team must review and align the following IEP components:

- present level of academic achievement and functional performance
- secondary transition considerations
- supplementary aids and services
- goals and objectives/benchmarks

## Free Appropriate Public Education (FAPE) Requirements

Students who are eligible for special education programs and services are entitled to a FAPE, which according to 34 CFR §300.17 means special education and related services that:

- are provided at public expense, under public supervision and direction, and without charge.

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- meet the standards of the Michigan Department of Education, including the requirements of the Individuals with Disabilities Education Act (IDEA).
- include an appropriate preschool, elementary school, or secondary school education in the State involved; and
- are provided in conformity with an IEP that meets the requirements of 34 CFR §§300.320 through 300.324.

The purpose of IDEA is to ensure all students with disabilities have available to them a FAPE that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment, and independent living. 34 CFR §300.1(a)

In *Endrew F. v. Douglas County School District* (2017), the Supreme Court noted the following:

- A school must offer an IEP reasonably calculated to enable a student to make progress appropriate in light of the student's circumstances.
- An IEP is not a form and so must be constructed only after careful consideration of the student's present levels.

The IEP must focus on the individual student, the unique needs of the student, specially designed instruction, and an individualized program.

- address the unique needs of the student that result from the student's disability.
- ensure access of the student to the general education curriculum, so the student can meet the educational standards that apply to all students.
- advance appropriately towards attaining annual goals.
- be involved in and make progress in the general curriculum and participate in extracurricular and other non-academic activities.
- be educated and participate with other student with disabilities and nondisabled students. 34 CFR §300.320(a)(4)

## Least Restrictive Environment (LRE)

Districts have an obligation to ensure students with IEPs are educated in the least restrictive environment. The IDEA presumes general education to be the LRE for all students.

Therefore, IEP Teams must consider the LRE when determining appropriate programs and services. Districts must ensure, and IEP Teams must consider, the following:

- To the maximum extent appropriate, students with disabilities, including students in public or private institutions or other care facilities, are educated with students who are nondisabled.
- Special classes, separate schooling, or other removal of students with disabilities from the regular educational environment occurs only if the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily. 34 CFR §300.114(a)(2)

LRE can be determined for each part of the student's day and may vary from subject to subject, depending on what is determined least restrictive by the IEP Team. However, the IDEA is very clear in 34 CFR § 300.116(e) that a student with a disability is not to be removed from education in age-appropriate regular classrooms solely because of modifications that are needed in the general education curriculum. Nonacademic and extracurricular activities must also be included in LRE considerations for each student. It is important that IEP Teams understand the LRE described in one IEP in no way predicts the LRE for future IEPs.

## What is Special Education?

According to 34 CFR §300.39(a)(1) special education means specially designed instruction, at no cost to the parents, to meet the unique needs of a student with a disability, including instruction conducted in the classroom, in the home, in hospitals and institutions, and in other settings, and instruction in physical education.

34 CFR §300.39(b)(3) defines specially designed instruction as adapting, as appropriate to the needs of an eligible student, the content, methodology, or delivery of instruction to:

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- address the unique needs of the student that result from the student's disability.
- ensure access of the student to the general education curriculum, so the student can meet the educational standards that apply to all students.

IEP development must consider the student's strengths, the parents' educational concerns, the results of recent evaluations and the academic, developmental and functional needs of the student. The special education programs and services and supplementary aids and services in an IEP must be based on peer-reviewed research, to the extent practicable, and the IEP must include a statement of program modifications or supports that will enable the student to:

- advance appropriately towards attaining annual goals.
- be involved in and make progress in the general curriculum and participate in extracurricular and other non-academic activities.
- be educated and participate with other students with disabilities and nondisabled students. 34 CFR §300.320(a)(4)

### Continuum of Alternative Placements

In accordance with 34 CFR §300.115, each public agency must ensure that a continuum of alternative placements is available to meet the needs of students with disabilities for special education and related services. The continuum must—

- include the alternative placements listed in the definition of special education under §300.39 (instruction in regular classes, special classes, special schools, home instruction, and instruction in hospitals and institutions).
- make provision for supplementary services (such as resource program or itinerant instruction) to be provided in conjunction with regular class placement.

When the IEP Team has fully considered the individual needs of the student as described in the PLAAFP, the programs and services will be determined based on those needs. Programs and services shall not be restricted to programs and services currently available. R 340.1721e(4). Therefore, the district may need to consider partnering with another district when a student is in need of a program or service that the district does not have.

## Related Services

When developing the IEP, related services are determined based on an individual student's needs that are described in the PLAAFP prior to determining programs to ensure to the maximum extent appropriate, students with disabilities are educated with students who are nondisabled.

According to 34 CFR §300.34(a) related services means transportation and such developmental, corrective, and other supportive services as are required to assist a student with a disability to benefit from special education, and includes speech-language pathology and audiology services, interpreting services, psychological services, physical and occupational therapy, recreation, including therapeutic recreation, early identification and assessment of disabilities in students, counseling services, including rehabilitation counseling, orientation and mobility services, and medical services for diagnostic or evaluation purposes. Related services also include school health services and school nurse services, social work services in schools, and parent counseling and training.

During IEP development, the IEP Team determines the type, frequency, duration, and the location in which the services will be delivered. Student needs may differ in intensity and focus during the student's school years and could differ in intensity within a school calendar year.

## Special Transportation

After determining the programs and services, a student's IEP Team must consider whether the program is outside of the student's regular attendance area and as such requires special transportation, or whether the student requires special transportation due to the medical, health, or behavior related needs.

Special transportation ensures a student has access to and is able to participate in the programs and services identified as appropriate by the IEP Team and is both a component of FAPE and ensures a student is able to receive a FAPE.

Transportation is a related service and includes the following:

- travel to and from school and between schools

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- travel in and around school buildings
- specialized equipment (such as special or adapted buses, lifts, and ramps), if required to provide special transportation for a student with a disability 34 CFR §300.34(c)(16)

Types of special transportation may be corner to corner, curb to curb, and door to door or specialized equipment as mentioned above.

A student's IEP Team is responsible for determining if transportation is required to assist a student with a disability to benefit from special education and related services and how those services should be implemented if required.

### Implementation of Programs and Services

For an initial IEP, the parent has 10 days from the receipt of written notification of the offer of FAPE to provide written consent for the initial provision of special education. IEP implementation must begin within 15 school days of receipt of parental consent unless the parent has filed an appeal.

For all other subsequent IEPs, implementation of an IEP must begin as soon as possible and not more than 15 school days after parent receipt of written notification of the offer of FAPE, unless the parent has filed an appeal.

The IEP Team can agree to a later initiation date as identified within the IEP document. However, an initiation date later than 15 school days cannot be used to deny or delay programs or services because they are unavailable and shall not be used for administrative convenience. R 340.1721b(4)

The district superintendent or designee appoints a staff person to be responsible for the implementation of the IEP, including services provided by other agencies. This staff person can be the principal of the student's building or another staff person who will be working with the student and is generally accessible to the staff. R 340.1722

### Review and Revision of the IEP

After the completion of the IEP, 34 CFR §300.324(b)(1) requires the IEP Team to review the IEP periodically, but not less than annually, to determine whether the annual goals are being achieved and revise the IEP, as appropriate to address:

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- any lack of expected progress towards annual goals
- the results of any reevaluation
- information about the student provided by the student's parents
- the student's anticipated needs

The LRE provisions under 34 CFR §300.316 require that a student's placement is determined annually, is based on the student's needs as described in the IEP and is close as possible to the student's home. Further, the student must be educated in the school that the student would attend if the student did not have a disability, unless the student's IEP requires some other arrangement. These provisions make it clear that IEP Teams must consider a student's LRE annually to the extent that general education in the school nearest to the student's home is where the annual LRE discussion starts. The LRE discussion should not start with the student's current placement.

The IEP document should be responsive and meet the unique needs of the student. Those needs may change over the course of the year. The IEP Team must ensure all students with disabilities have a FAPE which emphasizes special education and related services that are designed to meet their unique educational needs, provide an educational benefit, and prepare them for further education, employment, and independent living.