

Compliance Corner

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The IEP: Both a Product and a Process- Tips for Making It a Success! (Part 1 of 3-Preparing for the IEP)

Over the last two years, I've written articles about various components of the IEP (Individualized Education Program) and the rules and regulations that specify what school districts must follow to be in compliance. The articles focus on the contents of the IEP, namely what must be included according to the Individuals with Disabilities Education Act (IDEA), the New Mexico Administrative Code (NMAC) and other sources that govern the field of special education.

Knowing the IEP is both a product and a process, perhaps it's time to discuss the importance of the factors to consider regarding the meeting itself. Work needs to be done prior to the meeting to assist parents and staff in conducting an IEP that allows for meaningful and informed discussions among all IEP Team members. Doing your homework and devoting time and energy to federal and state requirements as well as addressing any anticipated concerns can stave off many surprises and issues.

Whether you are prepping for the meeting, conducting the meeting or following up with tasks after the meeting, it's important to think about the people involved, the processes to be implemented and any problems that may arise. There are important tasks to consider with each phase of the process before the IEP has been developed as well as after the IEP has concluded.

People:

IDEA specifies role groups that must be represented at IEPs. Parents are required members. They are invited to discuss their child's needs, concerns and ways in which to enhance their child's education. Their input is invaluable in helping others learn more about their child from various perspectives. This can allow members of the IEP Team to make informed decisions regarding the services and supports the student may need.

At times, however, some parents may be hesitant to offer their views, ideas and opinions in an IEP meeting. For some parents, the process is new. Others may feel overwhelmed by the document, the special education terminology or the number of participants represented by the

Local Education Agency (LEA). As a result, school personnel may find it difficult to obtain valuable information from the parent.

For those parents who may have difficulty expressing their thoughts and concerns during a meeting, the New Mexico Public Education Department (NM PED) has a parent questionnaire that could be given to a parent ahead of an IEP. This form gathers much needed information from the parent while allowing them to gather their thoughts to later be considered and discussed during the meeting. Once the parent has completed the form, it can be provided to the school to be inputted into the IEP document.

[\(See Appendix A: Parent Report Questionnaire, Developing Quality IEPs. Technical Assistance Manual, 2011, pp. 81-82\).](#)

For those parents who are new to the process or for those parents who may need more information about the process, the NM PED also provides a guidance document that contains information to help understand what an IEP is, who to expect to be involved in developing the IEP, what they can do to prepare for the IEP and what to expect both during and after the IEP. Sharing this document with each child's parent(s) will not only provide parents with important information involving the IEP process but also helps reinforce your commitment to involving them as crucial members of the IEP Team and valuing their input.

[\(See Appendix A: Parents' Guide to an IEP, Developing Quality IEPs. Technical Assistance Manual, 2011, pp. 83-84\).](#)

In addition to ensuring parents have the opportunity to attend, school personnel need to ensure the required and other appropriate members are able to participate as well. IDEA 34 CFR §300.321(a)(b) specifies who must be in attendance. For more information, please refer to the March 2022 edition and the April 2022 edition of Compliance Corner regarding the requirements, including instances when required members cannot attend, in whole or in part. However, aside from the requirements under the IDEA, school personnel attending the IEP, especially the facilitator, should be familiar with the IEP process, the IEP document and many of the requirements under federal and state regulations. The designee, usually the facilitator, in addition to being able to provide or supervise services to students in special education, be knowledgeable about the general education curriculum and be knowledgeable about the availability of resources should also possess other characteristics and skills that would prove beneficial in the special education process. These characteristics will be discussed in Part 2 of the November edition of Compliance Corner when we discuss facilitating the IEP meeting.

Consideration needs to be given to the logistics of the room and equipment. Will the IEP meeting be held in an area that would allow for the confidentiality of the information or will it be located in an area that will experience a lot of foot traffic? It's important to ensure that conversations will not be overheard by other students and staff. Also important is ensuring that all equipment, such as the projector and printer, are working and documents such as the parent's procedural safeguards are available. Finally, it's important to consider the room

arrangement. Will everyone be able to see one another? Will the parent be seated in such a way to avoid creating an “Us vs. Them” atmosphere? Having the parent seated alongside staff members will create a welcoming environment and make the parent feel a part of the team.

Process:

Prior to the IEP, school personnel must provide the parent with a Prior Written Notice (PWN) of IEP Meeting. This is a formal invitation for the parent to attend. This invitation should inform parents of the date, time and location of the meeting as well as the purpose of the meeting and who will be in attendance. The IDEA specifically states that this meeting must be at a mutually agreeable time and place. It should also occur early enough so that parents have an opportunity to prepare for the meeting. Parents may need this time to invite someone to attend who is knowledgeable about their child or possibly can provide guidance regarding the IEP process. This perhaps may not occur on a day of the week when schools normally set aside time for IEPs. School personnel need to be flexible in working with parents when scheduling an IEP that will work for both the parent and school staff. The IDEA requires the following when providing a PWN of the meeting:

34 CFR §300.322(b):

1) The notice required under [paragraph \(a\)\(1\)](#) of this section must—

i) Indicate the purpose, time, and location of the meeting and who will be in attendance; and

ii) Inform the parents of the provisions in [§ 300.321\(a\)\(6\)](#) and [\(c\)](#) (relating to the participation of other individuals on the IEP Team who have knowledge or special expertise about the child), and [§ 300.321\(f\)](#) (relating to the participation of the Part C service coordinator or other representatives of the Part C system at the initial IEP Team meeting for a child previously served under Part C of the Act).

*(2) For a child with a disability beginning not later than the first IEP to be in effect when the child turns 16, **(age 14 in the state of New Mexico)** or younger if determined appropriate by the IEP Team, the notice also must—*

(i) Indicate—

(A) That a purpose of the meeting will be the consideration of the postsecondary goals and transition services for the child, in accordance with [§ 300.320\(b\)](#); and

(B) That the agency will invite the student; and

ii) Identify any other agency that will be invited to send a representative.

Should there be a need for interpretation services for the parent due to the inability in understanding English or to hear spoken language, school personnel must secure an interpreter to ensure the parent has the opportunity to understand the provisions of the meeting. Failing to do so could prevent the parent from participating meaningfully and could result in a denial of a free appropriate public education (FAPE) to the child.

Problem:

Prior to the meeting, it would be prudent to review the IEP to ensure that those who provide services for the student have had the opportunity to input their information. This would allow any last-minute additions to take place so as not to delay the meeting. Some school districts, as a matter of practice, provide the parent with a draft copy of the IEP ahead of the meeting. This practice would require school personnel to prepare the document sooner so that parents are familiar with the contents of the IEP prior to the meeting.

It's important to investigate whether there is any unfinished business that needs to be taken care of prior to the meeting. Are there custodial issues that might make the meeting more contentious with both parents attending? If so, what plans are in place to address this? Did an evaluation take place for which information needs to be reviewed? It is imperative to make sure any loose ends are taken care of prior to the meeting.

Conclusion:

It is important to think about the IEP as not just the document to be filled out indicating what services and supports the student is to receive but to also think about it as a process. The composition of the IEP Team will be diverse as will the issues that need to be considered. The better prepared participants are, the smoother the IEP meeting will flow. Join me for next month's edition when we will discuss tricks of the trade when it comes to facilitating the meeting.

The information included herein is not intended to provide legal advice. Should you need legal advice or guidance on any issue involving special education, please contact the appropriate person for your district