

IDEA 2004 Final Regulations: Referral, Reevaluation, IEP Team Meetings, and IEPs

Statutory/Regulatory Change	Analysis of Comments and Changes	Implications for Members
<p>Request for Initial Evaluation §300.301(b) [20 USC 1414(a)(1)(B)]</p> <p>Consistent with the consent requirements in 34 CFR 300.300, either a parent of a child or a public agency may initiate a request for an initial evaluation to determine if the child is a child with a disability.</p>	<p>Who can initiate an evaluation?</p> <p>Sec. 300.301(b) states that either a parent or a public agency may initiate a request for an initial evaluation. The language does not include employees of SEAs or LEAs (e.g., teachers and related services providers), unless they are acting for the SEA or LEA, or of other State agencies (e.g., probation officers, social workers, or staff from State agencies that are not public agencies as defined in Sec. 300.33).</p> <p>Child find vs. initiating an evaluation</p> <p>The requirements in Sec. 300.301(b) pertain to the initiation of an evaluation under Sec. Sec. 300.301 through 300.305 and should not be confused with the State's child find responsibilities in Sec. 300.111 and section 612(a)(3) of the Act. The child find requirements permit referrals from any source that suspects a child may be eligible for special education and related services. Child find activities typically involve some sort of screening process to determine whether the child should be referred for a full evaluation to determine eligibility for special education and related services. Therefore, persons such as employees of</p>	

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	<p>the SEA, LEA, or other public agencies responsible for the education of the child may identify children who might need to be referred for an evaluation. However, it is the parent of a child and the public agency that have the responsibility to initiate the evaluation procedures in Sec. Sec. 300.301 through 300.311 and section 614 of the Act.</p>	
<p>Reevaluation Procedures §300.303 [20 U.S.C. 1414(a)(2)]</p> <p>(a) General. A public agency must ensure that a reevaluation of each child with a disability is conducted in accordance with Sec. Sec. 300.304 through 300.311--</p> <p>(1) If the public agency determines that the educational or related services needs, including improved academic achievement and functional performance, of the child warrant a reevaluation; or</p> <p>(2) If the child's parent or teacher requests a reevaluation.</p> <p>(b) Limitation. A reevaluation conducted under paragraph (a) of this section--</p>	<p>State reporting and parent information regarding reevaluation is too burdensome</p> <p>Section 300.303(b)(2), consistent with section 614(a)(2)(B)(ii) of the Act, requires a reevaluation to occur at least once every three years, unless the parent and the public agency agree that a reevaluation is unnecessary. It would be overly burdensome to require an LEA to report to the State the number of children with disabilities who qualified for, but were not given a three-year reevaluation. Similarly, it would be overly burdensome to require LEAs to inform parents that information from the most recent evaluation will be used to develop a child's IEP or to justify to the parent in writing the LEA's reasons for not conducting a reevaluation every three years if the parent and the agency have already agreed that a</p>	

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<p>(1) May occur not more than once a year, unless the parent and the public agency agree otherwise; and</p> <p>(2) Must occur at least once every 3 years, unless the parent and the public agency agree that a reevaluation is unnecessary.</p>	<p>reevaluation is unnecessary.</p> <p>Consent override for evaluation optional</p> <p>In situations where a public agency believes a reevaluation is necessary, but the parent disagrees and refuses consent for a reevaluation, new Sec. 300.300(c)(1)(ii) is clear that the public agency may, but is not required to, pursue the reevaluation by using the consent override procedures described in Sec. 300.300(a)(3).</p> <p>Trust public agencies to discuss advantages and disadvantages of reevaluation</p> <p>We believe that in reaching an agreement that a reevaluation is unnecessary, as provided for in Sec. 300.303(b), the parent and public agency will discuss the advantages and disadvantages of conducting a reevaluation, as well as what effect a reevaluation might have on the child's educational program. Therefore, we do not agree with the commenter that additional procedural safeguards are necessary to ensure that parents who agree that a reevaluation is unnecessary are aware of the implications of their decision.</p>	

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	<p>Waiver occurs <i>before</i> discussion of need for additional data</p> <p>The review of existing data is part of the reevaluation process. Section 300.305(a), consistent with section 614(c)(1) of the Act, is clear that, as part of any reevaluation, the IEP Team and other qualified professionals, as appropriate, must review existing evaluation data, and on the basis of that review, and input from the child's parents, identify what additional data, if any, are needed to determine whether the child continues to have a disability, and the educational needs of the child. Therefore, the opportunity for a parent and the public agency to agree that a reevaluation is unnecessary occurs before a reevaluation begins.</p> <p>Waiver must not be routine practice.</p> <p>It is not necessary to add language clarifying that waiving three-year reevaluations must not be a routine agency policy or practice because the regulations are clear that this is a decision that is made individually for each child by the parent of the child and the public agency.</p>	

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	<p>Waiver requires agreement not consent.</p> <p>An <i>agreement</i> between a parent and a public agency is not the same as parental <i>consent</i> in Sec. 300.9. Rather, an agreement refers to an understanding between a parent and the public agency and does not need to meet the requirements for parental consent in Sec. 300.9</p>	
<p>Evaluations before change in eligibility §300.305(e) [20 USC 1414(c)(5)]</p> <p>(1) Except as provided in paragraph (e)(2) of this section, a public agency must evaluate a child with a disability in accordance with §§300.304 through 300.311 before determining that the child is no longer a child with a disability.</p> <p>(2) The evaluation described in paragraph (e)(1) of this section is not required before the termination of a child's eligibility under this part due to graduation from secondary school with a regular diploma, or due to exceeding the age eligibility for FAPE under State</p>	<p>No requirement to evaluate to meet requirements of other institutions or agencies.</p> <p>We do not believe that the regulations should require public agencies to conduct evaluations for children to meet the entrance or eligibility requirements of another institution or agency because to do so would impose a significant cost on public agencies that is not required by the Act. While the requirements for secondary transition are intended to help parents and schools assist children with disabilities transition beyond high school, section 614(c)(5) in the Act does not require a public agency to assess a child with a disability to determine the child's eligibility to be considered a child with a disability in another agency, such as a vocational rehabilitation program, or a college or other postsecondary setting.</p>	

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<p>law. (3) For a child whose eligibility terminates under the circumstances described in 34 CFR 300.305(e)(2), a public agency must provide the child with a summary of the child's academic achievement and functional performance, which shall include recommendations on how to assist the child in meeting the child's postsecondary goals.</p>	<p>State and local officials determine content of summary for students who graduate or age out.</p> <p>[T]he summary required when a child graduates with a regular diploma or exceeds the age eligibility under State law must include information about the child's academic achievement and functional performance, as well as recommendations on how to assist the child in meeting the child's postsecondary goals. The Act does not otherwise specify the information that must be included in the summary and we do not believe that the regulations should include a list of required information. Rather, we believe that State and local officials should have the flexibility to determine the appropriate content in a child's summary, based on the child's individual needs and postsecondary goals.</p>	
<p>Special Rule for Eligibility Determination §300.306(b) [20 USC 1414(b)(5)]</p> <p>A child must not be determined to be a child with a disability under this part – (1) If the determinant factor for that</p>	<p>No eligibility if lack of access to State content standards is determinant factor</p> <p>[A] child should not be determined to be a child with a disability if the determinant factor is lack of access to State content standards, and we believe this is implicit in section 614(b)(5) of the Act, which states that a child must not be</p>	

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<p>determination is-</p> <p>(i) lack of appropriate instruction in reading, including the essential components of reading instruction (as defined in section 1208(3) of the ESEA);</p> <p>(ii) Lack of appropriate instruction in math; or</p> <p>(iii) Limited English proficiency; and</p> <p>(2) If the child does not otherwise meet the eligibility criteria under Sec. 300.8(a).</p>	<p>determined to be a child with a disability if the determinant factor is lack of appropriate instruction in reading (including the essential components of reading instruction, as defined in the ESEA) or lack of instruction in math.</p> <p>No eligibility if low achievement is the result of limited English proficiency or lack of access to appropriate instruction</p> <p>However, if a child's low achievement is a result of limited English proficiency or lack of access to instruction in reading, the child must not be determined to be a child with a disability, consistent with section 614(b)(5) of the Act.</p> <p>State and local officials determine whether a child has received “appropriate instruction”</p> <p>Whether a child has received "appropriate instruction" is appropriately left to State and local officials to determine. While information regarding the quality of instruction a child received in the past may be helpful in determining whether a child is eligible for special education services, it is not essential. Schools, however, must ensure that the determinant factor in deciding that a child is a child with a disability is not a lack of appropriate instruction in reading</p>	

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	<p>and math.</p> <p>ESSENTIAL COMPONENTS OF READING INSTRUCTION- The term "essential components of reading instruction" means explicit and systematic instruction in -</p> <ul style="list-style-type: none"> (A) phonemic awareness; (B) phonics; (C) vocabulary development; (D) reading fluency, including oral reading skills; and (E) reading comprehension strategies 	
<p>IEP Team Attendance §300.321(e) [20 USC 1414(d)(1)(C)]</p> <p>(1) A member of the IEP Team described in paragraphs (a)(2) through (a)(5) of this section is not required to attend an IEP Team meeting, in whole or in part, if the parent of a child with a disability and the public agency agree, in writing, that the attendance of the member is not necessary because the member's area of the curriculum or related services is not being modified or discussed in the</p>	<p>Flexibility is intent of excusal provisions.</p> <p>Allowing IEP Team members to be excused from attending an IEP Team meeting is intended to provide additional flexibility to parents in scheduling IEP Team meetings and to avoid delays in holding an IEP Team meeting when an IEP Team member cannot attend due to a scheduling conflict.</p> <p>Excusal is not optional for States.</p> <p>Under section 614(d)(1)(C) of the Act, a State must allow a parent and an LEA to agree to excuse a member of the IEP Team. Section</p>	

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<p>meeting.</p> <p>(2) A member of the IEP Team described in paragraph (e)(1) of this section may be excused from attending an IEP Team meeting, in whole or in part, when the meeting involves a modification to or discussion of the member's area of the curriculum or related services, - if</p> <p>(i) The parent, in writing and the public agency consent to the excusal; and</p> <p>(ii) The member submits, in writing to the parent and the IEP Team, input into the development of the IEP prior to the meeting.</p>	<p>300.321(e) reflects this requirement and we do not have the authority to make this optional for States. We also do not have the authority to allow a State to restrict, or otherwise determine, when an IEP Team member can be excused from attending a meeting, or to prohibit the excusal of an IEP Team member when the LEA and parent agree to the excusal. Whether a State must have policies and procedures to excuse IEP Team members from attending an IEP Team meeting will depend on whether such policies and procedures are required by a State to implement this statutory requirement. However, every State must allow a parent and an LEA to agree to excuse an IEP Team member from attending an IEP Team meeting.</p> <p>Consent vs. agreement for excusals</p> <p>Whether a parent must provide consent to excuse a member of the IEP Team from attending an IEP Team meeting depends on whether the member's area of the curriculum or related services is being modified or discussed at the IEP Team meeting. We cannot eliminate the different procedures for different types of excusals because section 614(d)(1)(C) of the Act clearly differentiates between circumstances in which parental consent is required and when an agreement is required to</p>	

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	<p>excuse an IEP member from attending an IEP Team meeting.</p> <p>If the member's area is not being modified or discussed, § 300.321(e)(1), consistent with section 614(d)(1)(C) of the Act, provides that the member may be excused from the meeting if the parent and LEA agree in writing that the member's attendance is not necessary. An agreement is not the same as consent, but instead refers to an understanding between the parent and the LEA. Section 614(d)(1)(C) of the Act specifically requires that the agreement between a parent and an LEA to excuse a member's attendance at an IEP Team meeting must be in writing. If, however, the member's area is being modified or discussed, § 300.321(e)(2), consistent with section 614(d)(1)(C)(ii) of the Act, requires the LEA and the parent to provide written informed consent. We believe it is important to give public agencies and parents wide latitude about the content of the agreement and, therefore, decline to regulate on the specific information that an LEA must provide in a written agreement to excuse an IEP Team member from attending the IEP Team meeting when the member's area of the curriculum or related services is not being modified or discussed.</p>	

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	<p>When an IEP Team member's area is being modified or discussed, §300.321(e)(2), consistent with §614(d)(1)(C)(ii) of the Act, requires the LEA and the parent to provide written informed consent. Consistent with § 300.9, <i>consent</i> 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 an 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.</p> <p>Consent requirement adequately protects parents from being pressured to excuse members.</p> <p>We also do not believe it is necessary to add a regulation permitting States to establish additional procedural safeguards for parents who consent to excuse an IEP Team member, as recommended by one commenter, because we believe the safeguard</p>	

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	<p>of requiring consent will be sufficient to prevent parents from feeling pressured to excuse an IEP Team member. Furthermore, parents who want to confer with an excused team member may ask to do so before agreeing or consenting to excusing the member from attending the IEP Team meeting, but it would be inappropriate to add a regulation that limited parent rights by requiring a conference before the parent could agree or consent to the excusal of an IEP Team member.</p> <p>Public agency – not parent – determines specific personnel who participate on team.</p> <p>With regard to the recommendation that the notice state that the parent has a legal right to require an IEP Team member to participate in an IEP Team meeting, it is important to emphasize that it is the public agency that determines the specific personnel to fill the roles for the public agency’s required participants at the IEP Team meeting. A parent does not have a legal right to require other members of the IEP Team to attend an IEP Team meeting. Therefore, if a parent invites other public agency personnel who are not designated by the LEA to be on the IEP Team, they are not required to attend.</p>	

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	<p>Excusals should not be routine or unilateral.</p> <p>An LEA may not routinely or unilaterally excuse IEP Team members from attending IEP Team meetings as parent agreement or consent is required in each instance. We encourage LEAs 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 offer to hold the IEP Team meeting without a particular IEP Team member in attendance or whether it would be better to reschedule the meeting so that person could attend and participate in the discussion. However, we do not believe that additional regulations on this subject are warranted.</p> <p>An LEA that routinely excuses IEP Team members from attending IEP Team meetings would not be in compliance with the requirements of the Act, and, therefore, would be subject to the State’s monitoring and enforcement provisions.</p> <p>Excusal provisions only apply to federally mandated members.</p> <p>We believe that the excusals from IEP Team meetings apply to the members of the IEP Team in paragraphs (a)(2) through (5) in § 300.321, that</p>	

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	<p>is, to the regular education teacher of the child (if the child is, or may be participating in the regular education environment); not less than one special education teacher of the child (or where appropriate, not less than one special education provider of the child); a representative of the public agency who meets the requirements in § 300.321(a)(4); and an individual who can interpret the instructional implications of evaluation results. We do not believe it is necessary to require consent or a written agreement between the parent and the public agency to excuse individuals who are invited to attend IEP Team meetings at the discretion of the parent or the public agency because such individuals are not required members of an IEP Team.</p> <p>Which regular education teacher participates? Must the teacher participate in the entire meeting?</p> <p>With regard to situations in which there is more than one regular education teacher, the IEP Team need not include more than one regular education teacher. The regular education teacher who serves as a member of a child’s IEP Team should be a teacher who is, or may be, responsible for implementing a portion of the IEP so that the teacher can participate in discussions about how</p>	

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	<p>best to instruct the child. If the child has more than one regular education teacher responsible for carrying out a portion of the IEP, the LEA may designate which teacher or teachers will serve as the IEP member(s), taking into account the best interest of the child. An LEA could also agree that each teacher attend only the part of the meeting that involves modification to, or discussion of, the teacher's area of the curriculum.</p> <p>Who can serve as the special education teacher?</p> <p>Section 300.321(a)(3) requires the IEP Team to include not less than one special education teacher or where appropriate, not less than one special education provider of the child. As explained earlier, a special education provider is a person who is, or will be, responsible for implementing the IEP. Therefore, if a speech pathologist, occupational therapist, or other special education provider, other than the child's special education teacher is on the IEP Team, written consent from the parent would be required for the speech pathologist, occupational therapist, or other special education provider to be excused from attending an IEP Team meeting, in whole or in part, when the IEP Team meeting involves a modification to, or discussion of, the IEP Team</p>	

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	<p>member's related service or area of the curriculum.</p> <p>Impermissible limitations on excusals</p> <p>[I]t would be inconsistent with §614(d)(1)(C) of the Act to set a limit on the number of times an IEP Team member could be excused; prohibit excusals for initial IEP Team meetings; restrict the number of excusals per meeting; prohibit certain IEP Team members from being excused from attending an IEP Team meeting; or otherwise restrict or limit parents and LEAs from agreeing to excuse IEP Team members from attending an IEP Team meeting. Likewise, it would be inconsistent with §614(d)(1)(C) of the Act for an LEA to unilaterally excuse an IEP Team member from attending an IEP Team meeting.</p> <p>State and local officials determine whether non-mandated members can attend.</p> <p>The public agency determines the specific personnel to fill the roles for the public agency's required participants at the IEP Team meeting. Whether other teachers or service providers who are not the public agency's required participants at the IEP Team meeting can attend an IEP Team</p>	

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	<p>meeting is best addressed by State and local officials.</p> <p>Team member participation in excusal decisions is not required.</p> <p>There is no requirement that the excused IEP Team member agree to be excused from the IEP Team meeting, that a teacher be included as one of the parties that decides whether a teacher should be excused from attending the IEP Team meeting, or that other IEP Team members agree to excuse a member's attendance.</p> <p>Who is authorized to enter into excusal agreements (or provide consent) on behalf of LEAs?</p> <p>It is up to each public agency to determine the individual in the LEA with the authority to make the agreement (or provide consent) with the parent to excuse an IEP Team member from attending an IEP Team meeting. The designated individual must have the authority to bind the LEA to the agreement with the parent or provide consent on behalf of the LEA.</p>	

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	<p>Parent options if additional information is needed.</p> <p>The IEP Team is expected to act in the best interest of the child. As with any IEP Team meeting, if additional information is needed to finalize an appropriate IEP, there is nothing in the Act that prevents an IEP Team from reconvening after the needed information is obtained, as long as the IEP is developed in a timely manner, consistent with the requirements of the Act and these regulations. The parent can request an additional IEP Team meeting at any time and does not have to agree to excuse an IEP Team member. Likewise, if a parent learns at the IEP Team meeting that a required participant will not be at the meeting, the parent can agree to continue with the meeting and request an additional meeting if more information is needed, or request that the meeting be rescheduled.</p> <p>How far in advance must a parent be notified of an agency's request to excuse a member?</p> <p>The Act does not specify how far in advance of an IEP Team meeting a parent must be notified of an agency's request to excuse a member from attending an IEP Team meeting or when the parent and LEA must sign a written agreement or</p>	

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	<p>provide consent to excuse an IEP Team member. Ideally, public agencies would provide parents with as much notice as possible to request that an IEP Team member be excused from attending an IEP Team meeting, and have agreements or consents signed at a reasonable time prior to the IEP Team meeting. However, this might not always be possible, for example, when a member has an emergency or an unavoidable scheduling conflict. To require public agencies to request an excusal or obtain a signed agreement or consent to excuse a member a specific number of days prior to an IEP Team meeting would effectively prevent IEP Team members from being excused from IEP Team meetings in many situations and, thus, be counter to the intent of providing additional flexibility to parents in scheduling IEP Team meetings. Furthermore, if an LEA requests an excusal at the last minute or a parent needs additional time or information to consider the request, the parent always has the right not to agree or consent to the excusal of the IEP Team member. We, therefore, decline to regulate on these matters.</p> <p>How far in advance must written input of excused member be provided?</p> <p>Section 614(d)(1)(C)(ii)(II) of the Act requires</p>	

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	<p>that input into the development of the IEP by the IEP Team member excused from the meeting be provided prior to the IEP Team meeting that involves a modification to, or discussion of the member's area of the curriculum or related services. The Act does not specify how far in advance of the IEP Team meeting that the written input must be provided to the parent and IEP Team members. For the reasons stated earlier, we do not believe it is appropriate to impose a specific timeframe for matters relating to the excusal of IEP Team members. Parents can always reschedule an IEP Team meeting or request that an IEP Team meeting be reconvened if additional time is needed to consider the written information.</p> <p>Who determines format and content of excused member's written input?</p> <p>The Act does not specify the format or content to be included in the written input provided by an excused member of the IEP Team. Neither does the Act specify the method(s) by which a public agency provides parents and the IEP Team with the excused IEP Team member's written input. We believe that such decisions are best left to local officials to determine based on the circumstances and needs of the individual child,</p>	

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	<p>parent, and other members of the IEP Team, and therefore decline to regulate in this area.</p> <p>IEP must be accessible. State and local officials determine how information is shared with excused member(s).</p> <p>Section 300.323(d) already requires each public agency to ensure that the child’s IEP is accessible to each regular education teacher, special education teacher, related services provider and other service provider who is responsible for its implementation, regardless of whether the IEP Team member was present or excused from an IEP Team meeting. How and when the information is shared with the IEP Team member who was excused from the IEP Team meeting is best left to State and local officials to determine.</p> <p>State and local officials determine how parent’s questions are addressed and information is shared with them.</p> <p>The manner in which the parent’s questions and concerns are addressed, and how the information is shared with the parent, are best left for State and local officials to determine.</p>	

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<p>Agreement §300.324(a)(4) [20USC 1414(d)(3)(D)]</p> <p>(e)(i) In making changes to a child’s IEP after the annual IEP team meeting for a school year, the parent of a child with a disability and the public agency may agree not to convene an IEP Team meeting for the purposes of making those changes, and instead may develop a written document to amend or modify the child’s current IEP.</p> <p>(ii) If changes are made to the child’s IEP in accordance with paragraph (a)(4)(i) of this section, the public agency must ensure that the child’s IEP Team is informed of those changes.</p>	<p>IDEA does not restrict the types of changes that can be made without a meeting.</p> <p>The Act does not place any restrictions on the types of changes that may be made, so long as the parent and the public agency agree. Accordingly, we do not believe it would be appropriate to include restrictions on such changes in the regulations.</p> <p>Amendment to IEP cannot replace annual review.</p> <p>We do not believe that an amendment to an IEP can take the place of an annual IEP Team meeting. It is unnecessary to regulate on this issue because §614(d)(4)(A)(i) of the Act clearly requires the IEP Team to review the child’s IEP annually to determine whether the annual goals for the child are being achieved. We believe that the procedural safeguards in §§ 300.500 through 520 are sufficient to ensure that a child’s IEP is not changed without prior notice by a public agency and an opportunity to discuss any changes with the public agency.</p>	

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	<p>Agreement to change IEP does not need to be in writing.</p> <p>Section 614(d)(3)(D) of the Act does not require the agreement between the parent and the public agency to be in writing. In addition, the parent is not required to provide <i>consent</i>, as defined in § 300.9, to amend the IEP without an IEP Team meeting. However, it would be prudent for the public agency to document the terms of the agreement in writing, in the event that questions arise at a later time. Of course, changes to the child’s IEP would have to be in writing. If the parent needs further information about the proposed change 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.</p> <p>When IEP is changed without a meeting, personnel responsible for implementing the revised IEP must be informed, but timeframe is up to State and local officials.</p> <p>We agree that when the parent and the public agency agree to change the IEP without an IEP Team meeting, it is important that the personnel responsible for implementing the revised IEP be</p>	

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	<p>notified and informed of the changes with respect to their particular responsibilities. We will add language to address this in § 300.324(a)(4). We do not believe that it is necessary to regulate on the timeframe within which a public agency must make the IEP accessible to the service providers responsible for implementing the changes, or otherwise notify them of the changes, as this will vary depending on the circumstances (e.g., whether the changes are minor or major changes) and is, therefore, best left to State and local public agency officials to determine.</p> <p>States must allow changes to IEPs without a meeting.</p> <p>The provisions in section 614(d)(3)(D) of the Act are intended to benefit parents by providing the flexibility to amend an IEP without convening an IEP Team meeting. Therefore, a State must allow changes to an IEP without an IEP Team meeting when a parent and public agency agree not to convene an IEP Team meeting, and instead develop a written document to amend or modify a child's current IEP, consistent with §300.324(a)(4) and §614(d)(3)(D) of the Act.</p>	

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<p>Amendments §300.324(a)(6)[20 USC 1414(d)(3)(F)]</p> <p>Changes to the IEP may be made either by the entire IEP Team at an IEP Team meeting, or as provided in paragraph (a)(4) of this section, by amendment the IEP rather than by redrafting the entire IEP. Upon request, a parent must be provided with a revised copy of the IEP with the amendments incorporated.</p>	<p>IDEA only requires parents to be given a revised copy of the IEP upon request.</p> <p>The requirement for a public agency to provide a parent with a revised copy of the IEP upon the request of a parent is in section 614(d)(3)(F) of the Act. There is nothing in the Act that would prevent a school from providing a copy of a revised IEP to a parent whenever amendments are made. However, under the Act, the school is not required to provide the parent a copy of the revised IEP absent the parent’s request for a copy. It would be inconsistent with the Act to include such a requirement in the regulations.</p>	
<p>Definition of Individualized Education Program – Annual Goals §300.320 [20 USC 1414(d)(1)(A)]</p> <p>(a) General. As used in this part, the term individualized education program or IEP means a written statement for each child with a disability that is developed, reviewed and revised in a meeting in accordance with §§300.320</p>	<p>IDEA does not require goals for each specific discipline or use of specific assessment tools.</p> <p>The Act does not require goals to be written for each specific discipline or to have outcomes and measures on a specific assessment tool. Furthermore, to the extent that the commenters are requesting that we mandate that IEPs include specific content not in section 614(d)(1)(A)(i) of the Act, under section 614(d)(1)(A)(ii)(I), we cannot interpret section 614 to require that additional content. IEPs may include more than</p>	

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<p>through 300.324, and that must include-</p> <p style="text-align: center;">* * * * *</p> <p>(2)(i) A statement of measurable annual goals, including academic and functional goals designed to –</p> <p>(A) Meet the child’s needs that result from the child’s disability to enable the child to be involved in and make progress in the general education curriculum; and</p> <p>(B) Meet each of the child’s other educational needs that result from the child’s disability;</p> <p>(ii) For children with disabilities who take alternate assessments aligned to alternate achievement standards, a description of benchmarks or short-term objectives;</p>	<p>the minimum content, if the IEP Team determines the additional content is appropriate.</p> <p>States can continue to require benchmarks and short-term objectives for students other than those who are assessed against alternate achievement standards.</p> <p>Benchmarks and short-term objectives were specifically removed from §614(d)(1)(A)(i)(II) of the Act. However, because benchmarks and short-term objectives were originally intended to assist parents in monitoring their child’s progress toward meeting the child’s annual goals, we believe a State could, if it chose to do so, determine the extent to which short-term objectives and benchmarks would be used. However, consistent with § 300.199(a)(2) and sections 608(a)(2) and 614(d)(1)(A)(ii)(I) of the Act, a State that chooses to require benchmarks or short-term objectives in IEPs in that State would have to identify in writing to the LEAs located in the State and to the Secretary that such rule, regulation, or policy is a State-imposed requirement, which is not required by Part B of the Act or the Federal regulations.</p>	

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	<p>No requirement to write a benchmark or a short-term objective for each alternate achievement standard.</p> <p>Section 300.320(a)(2)(ii) requires benchmarks or short-term objectives only for children with disabilities who take alternate assessments aligned to alternate achievement standards. By “teaching to the test,” we assume that the commenter believes that a benchmark or short-term objective must be written for each alternate achievement standard. There is no such requirement in the Act or these regulations there is nothing in the Act that requires a child’s IEP goals to be aligned with the State’s alternate assessment based on alternate achievement standards. Additionally, for some children, goals may be needed for activities that are not closely related to a State’s academic content and academic achievement standards.</p>	
<p>Definition of Individualized Education Program - Periodic Progress Reports §300.320(a) [20 USC 1414(d)(1)(A)]</p> <p>(3) A description of – (i) How the child’s progress toward</p>	<p>State and local officials determine time, manner and format of progress reports.</p> <p>The Act does not require report cards or quarterly report cards. Report cards and quarterly report cards are used as examples in § 300.320(a)(3)(ii) of when periodic reports on the child’s progress</p>	

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<p>meeting the annual goals described in paragraph (2) of this section will be measured; and</p> <p>(ii) When periodic reports on the progress the child is making toward meeting the annual goals (such as through the use of quarterly or other periodic reports, concurrent with the issuance of report cards) will be provided</p>	<p>toward meeting the annual goals might be provided. The specific times that progress reports are provided to parents and the specific manner and format in which a child’s progress toward meeting the annual goals is reported is best left to State and local officials to determine.</p>	
<p>Definition of Individualized Education Program – Statement of Special Education and Related Services §300.320(a)(4)[20 USC 1414(d)(1)(A)]</p> <p>(4) A statement of the special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided to enable the child -</p> <p>(i) To advance appropriately toward</p>	<p>What is peer-reviewed research?</p> <p>“Peer-reviewed research” generally refers to research that is reviewed by qualified and independent reviewers to ensure that the quality of the information meets the standards of the field before the research is published. However, there is no single definition of “peer reviewed research” because the review process varies depending on the type of information to be reviewed. We believe it is beyond the scope of these regulations to include a specific definition of “peer-reviewed research” and the various processes used for peer reviews.</p> <p>What is the intent of the phrase “to the extent practicable?”</p>	

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<p>attaining the annual goals; (ii) To be involved in and make progress in the general education curriculum in accordance with paragraph (a)(1) of this section, and to participate in extracurricular and other nonacademic activities; and (iii) To be educated and participate with other children with disabilities and nondisabled children in the activities described in this section.</p>	<p>The phrase “to the extent practicable,” as used in this context, generally means that services and supports should be based on peer-reviewed research to the extent that it is possible, given the availability of peer-reviewed research.</p> <p>Research-based methods do not have to be discussed in all IEP team meetings.</p> <p>We decline to require all IEP Team meetings to include a focused discussion on research-based methods or require public agencies to provide prior written notice when an IEP Team refuses to provide documentation of research-based methods, as we believe such requirements are unnecessary and would be overly burdensome.</p> <p>Failure to provide services based on research-based methods does not automatically mean that the child has been denied FAPE.</p> <p>States, school districts, and school personnel must, therefore, select and use methods that research has shown to be effective, to the extent that methods based on peer-reviewed research are available. This does not mean that the service with the greatest body of research is the service necessarily required for a child to receive FAPE.</p>	

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	<p>Likewise, there is nothing in the Act to suggest that the failure of a public agency to provide services based on peer-reviewed research would automatically result in a denial of FAPE.</p> <p>Special education and related services are based on the child’s needs and may or may not be based on peer-reviewed research.</p> <p>The final decision about the special education and related services, and supplementary aids and services that are to be provided to a child must be made by the child’s IEP Team based on the child’s individual needs. Special education and related services, and supplementary aids and services based on peer-reviewed research are only required “to the extent practicable.” If no such research exists, the service may still be provided, if the IEP Team determines that such services are appropriate. A child with a disability is entitled to the services that are in his or her IEP whether or not they are based on peer-reviewed research. The IEP Team, which includes the child’s parent, determines the special education and related services, and supplementary aids and services that are needed by the child to receive FAPE.</p>	

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	<p>IDEA does not require IEP to include instructional methodologies but the child’s IEP team may decide to do so.</p> <p>There is nothing in the Act that requires an IEP to include specific instructional methodologies. Therefore, consistent with §614(d)(1)(A)(ii)(I) of the Act, we cannot interpret section 614 of the Act to require that all elements of a program provided to a child be included in an IEP. The Department’s longstanding position on including instructional methodologies in a child’s IEP is that it is an IEP Team’s decision. Therefore, if an IEP Team determines that specific instructional methods are necessary for the child to receive FAPE, the instructional methods may be addressed in the IEP.</p> <p>IDEA does not require all programs to be research-based.</p> <p>While the Act clearly places an emphasis on practices that are based on scientific research, there is nothing in the Act that requires all programs provided to children with disabilities to be research-based with demonstrated effectiveness in addressing the particular needs of a child where not practicable.</p>	

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<p>Definition of Individualized Education Program – Transition Services §300.320(b) [20USC 1414(d)(1)(A)]</p> <p>Beginning not later than the first IEP to be in effect when the child turns 16, or younger if determined appropriate by the IEP team, and updated annually, thereafter, the IEP must include –</p> <p>(1) Appropriate measurable postsecondary goals based upon age appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills; and</p> <p>(2) The transition services (including courses of study) needed to assist the child in reaching those goals.</p>	<p>Transition services begin at age 16 or younger, if appropriate.</p> <p>Section 614(d)(1)(A)(i)(VIII) of the Act requires that transition services begin no later than the first IEP to be in effect when the child turns 16. Because IEP Team decisions must always be individualized, we have included the phrase “or younger if determined appropriate by the IEP Team” in § 300.320(b).</p> <p>States can require transition services to begin before age 16 for all children.</p> <p>The Department believes that a State could require transition services, if it chose to do so, to begin before age 16 for all children in the State. However, consistent with § 300.199(a)(2) and section 608(a)(2) of the Act, a State that chooses to require transition services before age 16 for all children would have to identify in writing to its LEAs and to the Secretary that such rule, regulation, or policy is a State-imposed requirement that is not required by Part B of the Act and Federal regulations.</p>	

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	<p>IDEA does not require IEPs to address vocational and career training or workplace accommodations.</p> <p>The Act does not require IEPs to include vocational and career training or documentation of workplace accommodations. Consistent with section 614(d)(1)(A)(ii)(I) of the Act, we cannot interpret section 614 of the Act to require IEPs to include information beyond what is specifically required in the Act. It is up to each child’s IEP Team to determine the transition services that are needed to meet the unique transition needs of the child.</p> <p>IDEA funds can be used for college and community based transition programs.</p> <p>[I]f a child’s IEP Team determines that a child’s needs can best be met through participation in transitional programs on college campuses or in community-based settings, and includes such services on the child’s IEP, funds provided under Part B of the Act may be used for this purpose.</p>	

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	<p>State accountability for transition services is through State performance plans.</p> <p>Transition services are specifically being addressed in State performance plans. We believe that these changes to the monitoring and enforcement requirements will ensure that States and LEAs are held accountable for the transition services they provide.</p>	