



**Council for
Exceptional
Children**

The voice and vision of special education



Council for Exceptional Children Policy and Advocacy Services



Understanding IDEA 2004 Regulations

**CEC's Side-by-Side
Comparison and Analysis**

Individualized Education Programs and Development of the IEP

INDIVIDUALIZED EDUCATION PROGRAMS AND THE DEVELOPMENT OF THE IEP

Final IDEA 2004 Regulations	IDEA 1997 Regulations	CEC Comments/Analysis
<p>§300.22 <u>Individualized education program.</u> <i>Individualized education program</i> or <i>IEP</i> means a written statement for a child with a disability that is developed, reviewed, and revised in accordance with §§300.320 through 300.324. (Authority: 20 U.S.C. 1401(14)) <i>CEC Note: Same language as proposed regulations.</i></p>	<p>§300.15 <u>Individualized education program.</u> As used in this part, the term <i>individualized education program</i> or <i>IEP</i> has the meaning given the term in §300.340(a). (Authority: 20 U.S.C. 1401(11))</p>	<p>In general, regulatory language under IDEA 2004 is consistent with regulatory language under IDEA 1997.</p>
<p>§300.23 <u>Individualized education program team.</u> <i>Individualized education program team</i> or <i>IEP Team</i> means a group of individuals described in §300.321 that is responsible for developing, reviewing, or revising an IEP for a child with a disability. (Authority: 20 U.S.C. 1414(d)(1)(B)) <i>CEC Note: Same language as proposed regulations.</i></p>	<p>§300.16 <u>Individualized education program team.</u> As used in this part, the term <i>individualized education program team</i> or <i>IEP team</i> means a group of individuals described in §300.344 that is responsible for developing, reviewing, or revising an IEP for a child with a disability. (Authority: 20 U.S.C. 1221e-3)</p>	<p>In general, regulatory language under IDEA 2004 is consistent with regulatory language under IDEA 1997.</p>
<p>§300.24 <u>Individualized family service plan.</u> <i>Individualized family service plan</i> or <i>IFSP</i> has the meaning given the term in section 636 of the Act. (Authority: 20 U.S.C. 1401(15)) <i>CEC Note: Same language as proposed regulations.</i></p>	<p>§300.17 <u>Individualized family service plan.</u> As used in this part, the term <i>individualized family service plan</i> or <i>IFSP</i> has the meaning given the term in 34 CFR 303.340(b) (Authority: 20 U.S.C. 1401(12))</p>	<p>In general, regulatory language under IDEA 2004 is consistent with regulatory language under IDEA 1997.</p>

INDIVIDUALIZED EDUCATION PROGRAMS AND THE DEVELOPMENT OF THE IEP

Final IDEA 2004 Regulations	IDEA 1997 Regulations	CEC Comments/Analysis
<p><u>§300.112 Individualized education programs (IEP).</u> The State must ensure that an IEP, or an IFSP that meets the requirements of section 636(d) of the Act, is developed, reviewed, and revised for each child with a disability in accordance with §§300.320 through 300.324, except as provided in §300.300(b)(4)(ii). (Authority: 20 U.S.C. 1412(a)(4)) <i>CEC Note: Same language as proposed regulations.</i></p>	<p><u>§300.128 Individualized education programs.</u> (a) <i>General.</i> The State must have on file with the Secretary information that shows that an IEP, or an IFSP that meets the requirements of section 636(d) of the Act, is developed, reviewed, and revised for each child with a disability in accordance with §§300.340-300.350. (b) <i>Required information.</i> The information described in paragraph (a) of this section must include— (1) A copy of each State statute, policy, and standard that regulates the manner in which IEPs are developed, implemented, reviewed, and revised; and (2) The procedures that the SEA follows in monitoring and evaluating those IEPs or IFSPs. (Authority: 20 U.S.C. 1412(a)(4))</p> <p><u>§300.341 Responsibility of SEA and other public agencies for IEPs.</u> (a) The SEA shall ensure that each public agency— (1) Except as provided in §§300.450– 300.462, develops and implements an IEP for each child with a disability served by that agency; and (2) Ensures that an IEP is developed and implemented for each eligible child placed in or referred to a private school or facility by the public agency. (b) Paragraph (a) of this section applies to— (1) The SEA, if it is involved in providing direct services to children with disabilities, in</p>	<p>The IDEA 2004 final regulations add an exception, at §300.300(b)(4)(ii), requiring the development of an IEP if the parent of a child with a disability refuses to respond to a request for consent or fails to provide consent for the initial provision of special education and related services. Under these conditions, a district is not required to convene an IEP Team meeting or develop an IEP.</p> <p>IDEA 1997 regulatory language in this section was deleted.</p>

INDIVIDUALIZED EDUCATION PROGRAMS AND THE DEVELOPMENT OF THE IEP

Final IDEA 2004 Regulations	IDEA 1997 Regulations	CEC Comments/Analysis
<p>§300.320 Definition of individualized education program.</p> <p>(a) <i>General.</i> As used in this part, the term <i>individualized education program</i> or <i>IEP</i> means a written statement for each child with a disability that is developed, reviewed, and revised in a meeting in accordance with §§300.320 through 300.324, and that must include—</p> <p><i>CEC Note: Same language as proposed regulations.</i></p>	<p>§300.341(b)(1) <u>Responsibility of SEA and other public agencies for IEPs.</u> (cont.)</p> <p>accordance with §300.370(a) and (b)(1); and</p> <p>(2) Except as provided in §300.600(d), the other public agencies described in §300.2, including LEAs and other State agencies that provide special education and related services either directly, by contract, or through other arrangements.</p> <p>(Authority: 20 U.S.C. 1412(a)(4), (a)(10)(B))</p> <p>§300.340 <u>Definitions related to IEPs.</u></p> <p>(a) <i>Individualized education program.</i></p> <p>As used in this part, the term <i>individualized education program</i> or <i>IEP</i> means a written statement for a child with a disability that is developed, reviewed, and revised in a meeting in accordance with §§300.341–300.350.</p> <p>(b) <i>Participating agency.</i> As used in §300.348, <i>participating agency</i> means a State or local agency, other than the public agency responsible for a student's education, that is financially and legally responsible for providing transition services to the student.</p> <p>(Authority: 20 U.S.C. 1401(11), 1412(a)(10)(B))</p>	<p>The U.S. Department of Education removed the definition of “participating agency” contained in the IDEA 1997 regulations noting that the term was unnecessary.</p>
<p>(1) A statement of the child's present levels of academic achievement and functional performance, including--</p> <p>(i) How the child's disability affects the child's involvement and progress in the general education curriculum (i.e., the same curriculum as</p>	<p>§300.347 <u>Content of IEP.</u></p> <p>(a) <i>General.</i> The IEP for each child with a disability must include—</p> <p>(1) A statement of the child's present levels of educational performance, including—</p> <p>(i) How the child's disability affects the child's involvement and progress in the general curriculum (i.e., the same curriculum as for</p>	<p>CEC notes that the U.S. Department of Education did not, as CEC recommended, add additional language clarifying how present levels of academic achievement and functional performance adequately relate to preschool children with disabilities, i.e. “developmentally and age appropriate curriculum.”</p> <p>In the “Analysis of Comments and Changes”</p>

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Final IDEA 2004 Regulations	IDEA 1997 Regulations	CEC Comments/Analysis
<p>§300.320(a)(1)(i) Definition of individualized education program. (cont.)</p> <p>(ii) For preschool children, as appropriate, how the disability affects the child’s participation in appropriate activities.</p> <p><i>CEC Note: Same language as proposed regulations.</i></p>	<p>§300.347(a)(1)(i) Content of IEP. (cont.)</p> <p>nondisabled children); or</p> <p>(ii) For preschool children, as appropriate, how the disability affects the child’s participation in appropriate activities.</p>	<p>section of the final regulations, the Department describes “functional” as “a term that is generally understood to refer to skills or activities that are not considered academic or related to a child’s academic achievement. Instead, ‘functional’ is often used in the context of routine activities of everyday living.”</p> <p>Further, in response to a commenter’s suggestion that regulatory language be included clarifying that statements of functional performance and goals be included only if determined appropriate by the IEP Team, the Department declined, stating “the Act requires an IEP to include a statement of the child’s present levels of academic achievement and functional performance.”</p> <p>CEC notes that the U.S. Department of Education did not, as CEC recommended, add additional language clarifying that for preschoolers with disabilities, goals should specifically address the child’s developmental needs. Responding to a commenter’s suggestions that states be permitted to require the use of benchmarks and short-term objectives for all children, the Department declined but stated, “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</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><i>CEC Note: Same language as proposed regulations.</i></p>	<p>(2) A statement of measurable annual goals, including benchmarks or short term objectives, related to--</p> <p>(i) Meeting the child’s needs that result from the child’s disability to enable the child to be involved in and progress in the general curriculum (i.e., the same curriculum as for nondisabled children), or for preschool children, as appropriate, to participate in appropriate activities; and</p> <p>(ii) Meeting each of the child’s other educational needs that result from the child’s disability;</p>	<p>CEC notes that the U.S. Department of Education did not, as CEC recommended, add additional language clarifying that for preschoolers with disabilities, goals should specifically address the child’s developmental needs. Responding to a commenter’s suggestions that states be permitted to require the use of benchmarks and short-term objectives for all children, the Department declined but stated, “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</p>

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Final IDEA 2004 Regulations	IDEA 1997 Regulations	CEC Comments/Analysis
		<p>benchmarks would be used.”</p> <p>Further, the Department states that “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.” CEC requested clarification on the use of benchmarks or short-term objectives for preschoolers with disabilities in relation to alternate assessments and alternate achievement standards. While no additional regulatory language was provided, the Department responded in the “Analysis of Comments and Changes” with regard to children, preschool through grade 2, as follows: “This would apply to preschool children and children with disabilities in kindergarten through grade 2 only if these children are assessed in a State or districtwide assessment program and the State has opted to develop an alternate assessment based on alternate achievement standards. Under title 1 of the ESEA, States are only required to assess children in grades 3 through 8 and once in high school, so it is unlikely that even States that choose to develop alternate achievement standards will include this age population in a Statewide assessment program or develop an alternate achievement standard for these children.”</p>

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Final IDEA 2004 Regulations	IDEA 1997 Regulations	CEC Comments/Analysis
<p><u>§300.320(a)</u> Definition of individualized education program. (cont.)</p> <p>(3) A description of--</p> <p>(i) How the child's progress toward 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><i>CEC Note: Same language as proposed regulations.</i></p>	<p><u>§300.347(a)</u> Content of IEP. (cont.)</p> <p>(7) A statement of--</p> <p>(i) How the child's progress toward the annual goals described in paragraph (a)(2) of this section will be measured; and</p> <p>(ii) How the child's parents will be regularly informed (through such means as periodic report cards), at least as often as parents are informed of their nondisabled children's progress, of--</p> <p>(A) Their child's progress toward the annual goals; and</p> <p>(B) The extent to which that progress is sufficient to enable the child to achieve the goals by the end of the year.</p>	<p>CEC is disappointed that the U.S. Department of Education did not include language in the final regulations, as CEC recommended and as included in the IDEA 1997 regulations, requiring that parents of children with disabilities be informed of their child's progress at least as often as parents are informed of their non-disabled children's progress. The Department states there was no statutory authority to add this language and, "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>(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 attaining the annual goals;</p> <p>(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</p>	<p>(3) A statement of the special education and related services and supplementary aids and services 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 for the child--</p> <p>(i) To advance appropriately toward attaining the annual goals;</p> <p>(ii) To be involved and progress in the general curriculum in accordance with paragraph (a)(1) of this section and to participate in extracurricular and other nonacademic activities; and</p>	<p>The U.S. Department of Education declined to include a definition of "peer-reviewed research" in the regulations as recommended by multiple commenters. In the "Analysis of Comments and Changes," the Department states there is no single definition; "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."</p> <p>The Department further notes, "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</p>

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<p><u>§300.320(a)(4) Definition of individualized education program. (cont.)</u> (iii) To be educated and participate with other children with disabilities and nondisabled children in the activities described in this section; <i>CEC Note: Same language as proposed regulations.</i></p>	<p><u>§300.347(a)(3) Content of IEP. (cont.)</u> (iii) To be educated and participate with other children with disabilities and nondisabled children in the activities described in this section;</p>	<p>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. 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. 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.”</p> <p>CEC notes that the Department also provided a number of other comments that are significant to understanding these requirements. “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> <p>Further, “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>

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Final IDEA 2004 Regulations	IDEA 1997 Regulations	CEC Comments/Analysis
<p><u>§300.320(a)</u> Definition of individualized education program. (cont.)</p> <p>(5) An explanation of the extent, if any, to which the child will not participate with nondisabled children in the regular class and in the activities described in paragraph (a)(4) of this section;</p> <p>CEC Note: Final regulatory language changed the phrase “regular education environment” to “regular class.”</p>	<p><u>§300.347(a)</u> Content of IEP. (cont.)</p> <p>(4) An explanation of the extent, if any, to which the child will not participate with nondisabled children in the regular class and in the activities described in paragraph (a)(3) of this section;</p>	<p>CEC is pleased that the U.S. Department of Education agreed with the CEC recommendation that the term “regular class” be maintained and that the phrase “regular education environment” as used in the proposed regulations not be used because it could be misinterpreted.</p> <p>However, the Department declined to accept CEC’s recommendation that “regular class” for preschool children means “settings with typically developing peers” stating, “We do not believe it is necessary to change the regulations in the manner suggested by the commenter because the ‘regular class’ includes a preschool setting with typically developing peers.”</p>
<p>(6)(i) A statement of any individual appropriate accommodations that are necessary to measure the academic achievement and functional performance of the child on State and districtwide assessments consistent with section 612(a)(16) of the Act; and</p> <p>(ii) If the IEP Team determines that the child must take an alternate assessment instead of a particular regular State or districtwide assessment of student achievement, a statement of why—</p> <p>(A) The child cannot participate in the in the regular assessment; and</p> <p>(B) The particular alternate assessment selected is appropriate for the child; and</p> <p>CEC Note: The final regulatory language at §300.321(a)(6)(i) references the statute at 612(a)(16). The proposed regulations had</p>	<p>(5)(i) A statement of any individual modifications in the administration of State or district-wide assessments of student achievement that are needed in order for the child to participate in the assessment; and</p> <p>(ii) If the IEP team determines that the child will not participate in a particular State or district-wide assessment of student achievement (or part of an assessment), a statement of—</p> <p>(A) Why that assessment is not appropriate for the child; and</p> <p>(B) How the child will be assessed;</p>	<p>CEC notes the U.S. Department of Education is planning publication of additional Part B regulations on this provision in accordance with ESEA title 1 considerations. In the “Analysis of Comments and Changes” in the final regulations, the Department notes, “final regulations for §300.160, which will incorporate the requirements in §612(a)(16) of the Act and provide further clarification regarding the participation of children with disabilities in assessments, will be published in a separate document.” The Department also indicated recommendations received in response to the proposed changes to §300.160 will be considered during that activity.</p>

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<p>§300.320(a)(6)(i) Definition of individualized education program. (cont.)</p> <p>referenced proposed §300.160 “Participation in Assessments.” According to the U.S. Department of Education, 34 CFR 300.160 is “reserved” pending publication of expected regulations under title 1 of ESEA.</p> <p>(7) The projected date for the beginning of the services and modifications described in paragraph (a)(4) of this section, and the anticipated frequency, location, and duration of those services and modifications.</p> <p><i>CEC Note: Same language as proposed regulations.</i></p>	<p>§300.347(a) Content of IEP. (cont.)</p> <p>(6) The projected date for the beginning of the services and modifications described in paragraph (a)(3) of this section, and the anticipated frequency, location, and duration of those services and modifications.</p>	<p>CEC has provided comments on these proposed regulations and will notify its membership when they are finalized.</p>
		<p>The U.S. Department of Education provides clarifying language on the term “duration” stating, “The meaning of the term ‘duration’ will vary, depending on such things as the needs of the child, the service being provided, the particular format used in an IEP, and how the child’s day and IEP are structured. What is required is that the IEP include information about the amount of services that will be provided to the child, so that the level of the agency’s commitment of resources will be clear to parents and other IEP Team members. The amount of time to be committed to each of the various services to be provided must be appropriate to the specific service, and clearly stated in the IEP in a manner that can be understood by all involved in the development and implementation of the IEP.”</p>

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Final IDEA 2004 Regulations	IDEA 1997 Regulations	CEC Comments/Analysis
<p>§300.320 <u>Definition of individualized education program.</u> (cont.)</p> <p>(b) <i>Transition services.</i> 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><i>CEC Note: Same language as proposed regulations.</i></p>	<p>§300.347 <u>Content of IEP.</u> (cont.)</p> <p>(b) <i>Transition services.</i> The IEP must include—</p> <p>(1) For each student with a disability beginning at age 14 (or younger, if determined appropriate by the IEP team), and updated annually, a statement of the transition service needs of the student under the applicable components of the student’s IEP that focuses on the student’s courses of study (such as participation in advanced-placement courses or a vocational education program); and</p> <p>(2) For each student beginning at age 16 (or younger, if determined appropriate by the IEP team), a statement of needed transition services for the student, including, if appropriate, a statement of the interagency responsibilities or any needed linkages.</p>	<p>CEC is pleased the final regulations include an option for the IEP Team to include transition goals and services before a child reaches age 16. The U.S. Department of Education indicates a State may “require transition services” for a child prior to age 16, but would have to notify the LEAs and the Department that the State exceeds federal requirements in this matter.</p> <p>In addition, the Department declined to comment on whether “transition assessments are formal evaluations or competency assessments” stating, “We do not believe the requested clarification is necessary because the specific transition assessments used to determine appropriate measurable postsecondary goals will depend on the individual needs of the child, and are, therefore, best left to States and districts to determine on an individual basis.”</p>
<p>(c) <i>Transfer of rights at age of majority.</i> Beginning not later than one year before the child reaches the age of majority under State law, the IEP must include a statement that the child has been informed of the child’s rights under Part B of the Act, if any, that will transfer to the child on reaching the age of majority under §300.520.</p> <p><i>CEC Note: Same language as proposed regulations.</i></p>	<p>(c) <i>Transfer of rights.</i> In a State that transfers rights at the age majority, beginning at least one year before a student reaches the age of majority under State law, the student’s IEP must include a statement that the student has been informed of his or her rights under Part B of the Act, if any, that will transfer to the student on reaching the age of majority, consistent with §300.517.</p>	<p>In general, the regulatory language under IDEA 2004 is consistent with the regulatory language under IDEA 1997.</p>

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<p><u>§300.320</u> Definition of individualized education program. (cont.)</p> <p>(d) <i>Construction.</i> Nothing in this section shall be construed to require—</p> <p>(1) That additional information be included in a child’s IEP beyond what is explicitly required in section 614 of the Act; or</p> <p>(2) The IEP Team to include information under one component of a child’s IEP that is already contained under another component of the child’s IEP.</p> <p>(Authority: 20 U.S.C. 1414(d)(1)(A) and (d)(6))</p> <p>CEC Note: With the exceptions of changing “regular education environment” to “regular class” and the removal of proposed regulations regarding “statewide and districtwide assessments” noted above, the definition of an IEP contains the same language as proposed regulations.</p>	<p><u>§300.346</u> Development, review, and revision of IEP.</p> <p>(e) <i>Construction.</i> Nothing in this section shall be construed to require the IEP Team to include information under one component of a child’s IEP that is already contained under another component of the child’s IEP.</p> <p>(Authority: 20 U.S.C. 1414(d)(3) and (4)(B) and (e))</p>	<p>In its discussion of the change made to this requirement in the IDEA 2004 statute, the U.S. Department of Education states, “There is nothing in the Act that limits States and LEAs from adding elements to the IEP, so long as the elements are not inconsistent with the Act or these regulations, and States do not interpret the Act to require these additional elements. However, if a State requires IEPs to include information beyond that which is explicitly required ... the State must identify in writing to its LEAs and the Secretary that it is a State-imposed requirement and not one based on the Act or these regulations....”</p>
<p><u>§300.321</u> IEP Team.</p> <p>(a) <i>General.</i> The public agency must ensure that the IEP Team for each child with a disability includes--</p> <p>(1) The parents of the child;</p> <p>(2) Not less than one regular education teacher of the child (if the child is, or may be, participating in the regular education environment);</p> <p>(3) Not less than one special education teacher of the child, or where appropriate, not less than one special education provider of the child;</p> <p>(4) A representative of the public agency who--</p> <p>(i) Is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children with disabilities;</p>	<p><u>§300.344</u> IEP Team.</p> <p>(a) <i>General.</i> The public agency shall ensure that the IEP Team for each child with a disability includes—</p> <p>(1) The parents of the child;</p> <p>(2) At least one regular education teacher of the child (if the child is, or may be, participating in the regular education environment);</p> <p>(3) At least one special education teacher of the child, or if appropriate, at least one special education provider of the child;</p> <p>(4) A representative of the public agency who—</p> <p>(i) Is qualified to provide, or supervise the provision of, specially designed instruction to</p>	<p>In general, the regulatory language under IDEA 2004 is consistent with the regulatory language under IDEA 1997.</p>

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Final IDEA 2004 Regulations	IDEA 1997 Regulations	CEC Comments/Analysis
<p><u>§300.321(a)(4) IEP Team. (cont.)</u> (ii) Is knowledgeable about the general education curriculum; and (iii) Is knowledgeable about the availability of resources of the public agency. (5) An individual who can interpret the instructional implications of evaluation results, who may be a member of the team described in paragraphs (a)(2) through (a)(6) of this section; (6) At the discretion of the parent or the agency, other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate; and (7) Whenever appropriate, the child with a disability. <i>CEC Note: Same language as proposed regulations.</i></p>	<p><u>§300.344(a)(4)(i) IEP Team. (cont.)</u> meet the unique needs of children with disabilities; (ii) Is knowledgeable about the general curriculum; and (iii) Is knowledgeable about the availability of resources of the public agency; (5) An individual who can interpret the instructional implications of evaluation results, who may be a member of the team described in paragraphs (a)(2) through (6) of this section; (6) At the discretion of the parent or the agency, other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate; and (7) If appropriate, the child.</p>	
<p><u>§300.321 IEP Team. (cont.)</u> (b) <i>Transition services participants.</i> (1) In accordance with paragraph (a)(7) of this section, the public agency must invite a child with a disability to attend the child's IEP Team meeting if a purpose of the meeting will be the consideration of the postsecondary goals for the child and the transition services needed to assist the child in reaching those goals under §300.320(b). (2) If the child does not attend the IEP Team meeting, the public agency must take other steps to ensure that the child's preferences and interests are considered. (3) To the extent appropriate, with the consent of the parents or a child who has reached the age of majority, in implementing the requirements of</p>	<p><u>§300.344 IEP Team. (cont.)</u> (b) <i>Transition services participants.</i> (1) Under paragraph (a)(7) of this section, the public agency shall invite a student with a disability of any age to attend his or her IEP meeting if a purpose of the meeting will be the consideration of— (i) The student's transition services needs under §300.347(b)(1); (ii) The needed transition services for the student under §300.347(b)(2); or (iii) Both. (2) If the student does not attend the IEP meeting, the public agency shall take other steps to ensure that the student's preferences and interests are considered. (3)(i) In implementing the requirements of</p>	<p>The final regulation at §300.321(b)(3) adds language requiring invitation of representatives of any participating agency that is likely to be responsible for providing or paying for transition services only “to the extent appropriate with the consent of the parents or a child who has reached the age of majority.” CEC had recommended the consent language not be added.</p> <p>The “Analysis of Comments and Changes” section of the IDEA 2004 final regulations provides rationale for the new language, as follows. “Section 300.321(b)(3) was included in the regulations specifically to address issues related to the confidentiality of information.</p>

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Final IDEA 2004 Regulations	IDEA 1997 Regulations	CEC Comments/Analysis
<p>§300.321(b)(3) IEP Team. (cont.) paragraph (b)(1) of this section, the public agency must invite a representative of any participating agency that is likely to be responsible for providing or paying for transition services. <i>CEC Note: Same language as proposed regulations.</i></p>	<p>§300.344(b)(3)(i) IEP Team. (cont.) §300.347(b)(2), the public agency also shall invite a representative of any other agency that is likely to be responsible for providing or paying for transition services. (ii) If an agency invited to send a representative to a meeting does not do so, the public agency shall take other steps to obtain participation of the other agency in the planning of any transition services.</p>	<p>Under section 617(c) of the Act, the U.S. Department of Education must ensure the protection of the confidentiality of any personally identifiable data, information, and records collected or maintained by the Secretary and by SEAs and LEAs pursuant to Part B of the Act, irrespective of the requirements under FERPA.</p> <p>The Department did not accept CEC's recommendation to retain the language in the 1997 regulations at §300.344(b)(3)(ii) and states, "The Act has never given public agencies the authority to compel other agencies to participate in the planning of transition services for a child with a disability, including when the requirements in §300.344(b)(3)(ii) were in effect. Without the authority to compel other agencies to participate in the planning of transition services, public agencies have not been able to meet the requirement in current §300.344(b)(3)(ii) to 'ensure' the participation of other agencies in transition planning. Therefore, while we believe that public agencies should take steps to obtain the participation of other agencies in the planning of transition services for a child, we believe it is unhelpful to retain current § 300.344(b)(3)(ii)."</p>

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Final IDEA 2004 Regulations	IDEA 1997 Regulations	CEC Comments/Analysis
<p>§300.321 IEP Team. (cont.) (c) <i>Determination of knowledge and special expertise.</i> The determination of the knowledge or special expertise of any individual described in paragraph (a)(6) of this section must be made by the party (parents or public agency) who invited the individual to be a member of the IEP Team. <i>CEC Note: Same language as proposed regulations.</i></p>	<p>§300.344 IEP Team. (cont.) (c) <i>Determination of knowledge and special expertise.</i> The determination of the knowledge or special expertise of any individual described in paragraph (a)(6) of this section shall be made by the party (parents or public agency) who invited the individual to be a member of the IEP.</p>	<p>In general, the regulatory language under IDEA 2004 is consistent with the regulatory language under IDEA 1997.</p>
<p>(d) <i>Designating a public agency representative.</i> A public agency may designate a public agency member of the IEP Team to also serve as the agency representative, if the criteria in this section are satisfied. <i>CEC Note: Same language as proposed regulations.</i></p>	<p>(d) <i>Designating a public agency representative.</i> A public agency may designate another public agency member of the IEP Team to also serve as the agency representative, if the criteria in paragraph (a)(4) of this section are satisfied. (Authority: 20 U.S.C. 1401(30), 1414(d)(1)(A)(7), (B))</p>	<p>In general, the regulatory language under IDEA 2004 is consistent with the regulatory language under IDEA 1997.</p>
<p>(e) <i>IEP Team attendance.</i> (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 meeting. <i>CEC Note: Same language as proposed regulations.</i></p>		<p>This language is new to the IDEA 2004 regulations. The U.S. Department of Education provides the following language regarding the 'content' of the agreement as follows. "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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Final IDEA 2004 Regulations	IDEA 1997 Regulations	CEC Comments/Analysis
<p>§300.321(e) IEP Team. (cont.)</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>CEC Note: Final regulatory language added cross-references to required members of the IEP Team.</p>		<p>This language is new to the IDEA 2004 regulations.</p> <p>The U.S. Department of Education included clarification that with regard to consent, "Consistent with §300.9, 'consent' 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>The language further states that, "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.... 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>

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Final IDEA 2004 Regulations	IDEA 1997 Regulations	CEC Comments/Analysis
		<p>CEC notes that the Department did not accept its recommendation to require the member of the team who is being excused to also consent to the excusal and be provided with a copy of the new or amended IEP.</p> <p>The Department also clarified this requirement in situations in which there is more than one regular education teacher. “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 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>In addition, clarification was provided with regard to situations where a child had both a special education teacher and one or more special education providers as follows. “Section 300.321(a)(3) requires the IEP Team</p>

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Final IDEA 2004 Regulations	IDEA 1997 Regulations	CEC Comments/Analysis
<p><u>§300.321 IEP Team. (cont.)</u> (f) <i>Initial IEP Team meeting for child under Part C.</i> In the case of a child who was previously served under Part C of the Act, an invitation to the initial IEP Team meeting must, at the request of the parent, be sent to the Part C service coordinator or other representatives of the Part C system to assist with the smooth transition of services. (Authority: 20 U.S.C. 1414(d)(1)(B)-(d)(1)(D)) <i>CEC Note: Same language as proposed regulations.</i></p>		<p>to include not less than one special education teacher or where appropriate, not less than one special education provider of the child. As explained above, 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 member's related service or area of the curriculum."</p>
		<p>This language is new to the IDEA 2004 regulations.</p> <p>CEC is pleased that the U.S. Department of Education addressed its recommendation that parents be informed of their right to invite a Part C representative to the initial IEP meeting by including language at §300.322(b)(1)(ii).</p>

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Final IDEA 2004 Regulations	IDEA 1997 Regulations	CEC Comments/Analysis
<p>§300.322 Parent participation.</p> <p>(a) <i>Public agency responsibility—general.</i> Each public agency must take steps to ensure that one or both of the parents of a child with a disability are present at each IEP Team meeting or are afforded the opportunity to participate, including--</p> <p>(1) Notifying parents of the meeting early enough to ensure that they will have an opportunity to attend; and</p> <p>(2) Scheduling the meeting at a mutually agreed on time and place.</p> <p><i>CEC Note: Same language as proposed regulations.</i></p> <p>(b) <i>Information provided to parents.</i></p> <p>(1) The notice required under paragraph (a)(1) of this section must--</p> <p>(i) Indicate the purpose, time, and location of the meeting and who will be in attendance; and</p> <p>(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</p> <p>§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).</p> <p>CEC Note: Final regulations include language requiring the IEP notice include a statement that the parent may request a representative from Part C to be invited to the initial IEP meeting.</p>	<p>§300.345 Parent participation.</p> <p>(a) <i>Public agency responsibility—general.</i> Each public agency shall take steps to ensure that one or both of the parents of a child with a disability are present at each IEP meeting or are afforded the opportunity to participate, including—</p> <p>(1) Notifying parents of the meeting early enough to ensure that they will have an opportunity to attend; and</p> <p>(2) Scheduling the meeting at a mutually agreed on time and place.</p> <p>(b) <i>Information provided to parents.</i></p> <p>(1) The notice required under paragraph (a)(1) of this section must—</p> <p>(i) Indicate the purpose, time, and location of the meeting and who will be in attendance; and</p> <p>(ii) Inform the parents of the provisions in §300.344(a)(6) and (c) (relating to the participation of other individuals on the IEP team who have knowledge or special expertise about the child).</p> <p>(2) For a student with a disability beginning at age 14, or younger, if appropriate, the notice must also—</p> <p>(i) Indicate that a purpose of the meeting will be the development of a statement of the transition services needs of the student required in §300.347(b)(1); and</p> <p>(ii) Indicate that the agency will invite the student.</p>	<p>In general, regulatory language under IDEA 2004 is consistent with e regulatory language under IDEA 1997.</p>
		<p>The U.S. Department of Education, in its discussion of the notice requirement under this provision, states, “The purpose of the notice requirement ... is to inform parents about the IEP Team meeting and provide them with relevant information (e.g., the purpose, time, and place of the meeting, and who will be in attendance). This is not the same as the procedural safeguards notice that informs parents of their rights under the Act.”</p> <p>CEC is pleased that the IDEA 2004 final regulations include a provision at §300.322(b)(1)(ii) that includes the participation of a Part C coordinator in an initial IEP meeting addressing transitional services.</p>

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Final IDEA 2004 Regulations	IDEA 1997 Regulations	CEC Comments/Analysis
<p>§300.322(b) Parent participation. (cont.)</p> <p>(2) For a child with a disability 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, the notice also must—</p> <p>(i) Indicate--</p> <p>(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</p> <p>(B) That the agency will invite the student; and</p> <p>(ii) Identify any other agency that will be invited to send a representative.</p> <p><i>CEC Note: Same language as proposed regulations.</i></p> <p>(c) <i>Other methods to ensure parent participation.</i> If neither parent can attend an IEP Team meeting, the public agency must use other methods to ensure parent participation, including individual or conference telephone calls, consistent with §300.328 (related to alternative means of meeting participation).</p> <p><i>CEC Note: Same language as proposed regulations.</i></p> <p>(d) <i>Conducting an IEP Team meeting without a parent in attendance.</i> A meeting may be conducted without a parent in attendance if the public agency is unable to convince the parents that they should attend. In this case, the public agency must keep a record of its attempts to arrange a mutually agreed on time and place, such as--</p> <p>(1) Detailed records of telephone calls made or attempted and the results of those calls;</p> <p>(2) Copies of correspondence sent to the parents and any responses received; and</p>	<p>§300.345(b)(2) Parent participation. (cont.)</p> <p>(3) For a student with a disability beginning at age 16, or younger, if appropriate, the notice must—</p> <p>(i) Indicate that a purpose of the meeting is the consideration of needed transition services for the student required in §300.347(b)(2);</p> <p>(ii) Indicate that the agency will invite the student; and</p> <p>(iii) Identify any other agency that will be invited to send a representative.</p> <p>(c) <i>Other methods to ensure parent participation.</i> If neither parent can attend, the public agency shall use other methods to ensure parent participation, including individual or conference telephone calls.</p> <p>(d) <i>Conducting an IEP meeting without a parent in attendance.</i> A meeting may be conducted without a parent in attendance if the public agency is unable to convince the parents that they should attend. In this case the public agency must have a record of its attempts to arrange a mutually agreed on time and place, such as—</p> <p>(1) Detailed records of telephone calls made or attempted and the results of those calls;</p> <p>(2) Copies of correspondence sent to the parents and any responses received; and</p>	<p>The U.S. Department of Education, in its discussion of this provision, notes, “Parents are free to provide input into their child’s IEP through a written report if they so choose.”</p> <p>CEC is pleased that its recommendation to retain this IDEA 1997 requirement in the 2004 regulations was accepted by the U.S. Department of Education. By retaining this language, the regulatory language under IDEA 2004 is consistent with the regulatory language under IDEA 1997.</p>

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Final IDEA 2004 Regulations	IDEA 1997 Regulations	CEC Comments/Analysis
<p>§300.322(d) Parent participation. (cont.)</p> <p>(3) Detailed records of visits made to the parent’s home or place of employment and the results of those visits.</p> <p>CEC Note: The final regulations retained this IDEA 1997 requirement regarding documenting “attempts to arrange a mutually agreed on time and place” that had been deleted in the proposed regulations.</p>	<p>§300.345(d) Parent participation. (cont.)</p> <p>(3) Detailed records of visits made to the parent’s home or place of employment and the results of those visits.</p>	
<p>(e) <i>Use of interpreters or other action, as appropriate.</i> The public agency must take whatever action is necessary to ensure that the parent understands the proceedings of the IEP Team meeting, including arranging for an interpreter for parents with deafness or whose native language is other than English.</p> <p>CEC Note: The final regulations retained this IDEA 1997 requirement regarding use of interpreters that had been deleted in the proposed regulations.</p>	<p>(e) <i>Use of interpreters or other action, as appropriate.</i> The public agency shall take whatever action is necessary to ensure that the parent understands the proceedings at the IEP meeting, including arranging for an interpreter for parents with deafness or whose native language is other than English.</p>	<p>CEC is pleased that its recommendation to retain this IDEA 1997 requirement in the 2004 regulations was accepted by the U.S. Department of Education. Retaining this language makes the regulatory language under IDEA 2004 consistent with the regulatory language under IDEA 1997.</p>
<p>(f) <i>Parent copy of child’s IEP.</i> The public agency must give the parent a copy of the child’s IEP at no cost to the parent.</p> <p>(Authority: 20 U.S.C. 1414(d)(1)(B)(i))</p> <p><i>CEC Note: Same language as proposed regulations.</i></p>	<p>(f) <i>Parent copy of child’s IEP.</i> The public agency shall give the parent a copy of the child’s IEP at no cost to the parent.</p> <p>(Authority: 20 U.S.C. 1414(d)(1)(B)(i))</p>	<p>In general, the regulatory language under IDEA 2004 is consistent with the regulatory language under IDEA 1997.</p>
<p>§300.323 When IEPs must be in effect.</p> <p>(a) <i>General.</i> At the beginning of each school year, each public agency must have in effect, for each child with a disability within its jurisdiction, an IEP, as defined in §300.320.</p> <p><i>CEC Note: Same language as proposed regulations.</i></p>	<p>§300.342 When IEPs must be in effect.</p> <p>(a) <i>General.</i> At the beginning of each school year, each public agency shall have an IEP in effect for each child with a disability within its jurisdiction.</p>	<p>In general, the regulatory language under IDEA 2004 is consistent with the regulatory language under IDEA 1997.</p>

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Final IDEA 2004 Regulations	IDEA 1997 Regulations	CEC Comments/Analysis
<p>§300.323 When IEPs must be in effect. (cont.) (b) <i>IEP or IFSP for children aged three through five.</i> (1) In the case of a child with a disability aged three through five (or, at the discretion of the SEA, a two-year-old child with a disability who will turn age three during the school year), the IEP Team must consider an IFSP that contains the IFSP content (including the natural environments statement) described in section 636(d) of the Act and its implementing regulations (including an educational component that promotes school readiness and incorporates pre-literacy, language, and numeracy skills for children with IFSPs under this section who are at least three years of age), and that is developed in accordance with the IEP procedures under this part. The IFSP may serve as the IEP of the child, if using the IFSP as the IEP is-- (i) Consistent with State policy; and (ii) Agreed to by the agency and the child's parents. (2) In implementing the requirements of paragraph (b)(1) of this section, the public agency must-- (i) Provide to the child's parents a detailed explanation of the differences between an IFSP and an IEP; and (ii) If the parents choose an IFSP, obtain written informed consent from the parents. <i>CEC Note: Same language as proposed regulations.</i></p>	<p>§300.342 When IEPs must be in effect. (cont.) (c) <i>IEP or IFSP for children aged 3 through 5.</i> (1) In the case of a child with a disability aged 3 through 5 (or, at the discretion of the SEA a 2-year-old child with a disability who will turn age 3 during the school year), an IFSP that contains the material described in section 636 of the Act, and that is developed in accordance with §§300.341–300.346 and §§300.349–300.350, may serve as the IEP of the child if using that plan as the IEP is— (i) Consistent with State policy; and (ii) Agreed to by the agency and the child's parents. (2) In implementing the requirements of paragraph (c)(1) of this section, the public agency shall— (i) Provide to the child's parents a detailed explanation of the differences between an IFSP and an IEP; and (ii) If the parents choose an IFSP, obtain written informed consent from the parents.</p>	<p>CEC is disappointed that the U.S. Department of Education did not add language requiring the IEP Team to explain the changes in services and settings in the initial IEP meeting.</p>

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Final IDEA 2004 Regulations	IDEA 1997 Regulations	CEC Comments/Analysis
<p>§300.323 When IEPs must be in effect. (cont.)</p> <p>(c) <i>Initial IEPs; provision of services.</i> Each public agency must ensure that--</p> <p>(1) A meeting to develop an IEP for a child is conducted within 30 days of a determination that the child needs special education and related services; and</p> <p>(2) As soon as possible following development of the IEP, special education and related services are made available to the child in accordance with the child's IEP.</p> <p><i>CEC Note: Same language as proposed regulations.</i></p> <p>§300.323 When IEPs must be in effect. (cont.)</p> <p>(d) <i>Accessibility of child's IEP to teachers and others.</i> Each public agency must ensure that--</p> <p>(1) The child's IEP is accessible to each regular education teacher, special education teacher, related services provider, and any other service provider who is responsible for its implementation; and</p> <p>(2) Each teacher and provider described in paragraph (d)(1) of this section is informed of--</p> <p>(i) His or her specific responsibilities related to implementing the child's IEP; and</p> <p>(ii) The specific accommodations, modifications, and supports that must be provided for the child in accordance with the IEP.</p> <p>CEC Note: The final regulations added the language at §300.323(d)(2) which had been deleted in the proposed regulations.</p>	<p>§300.343 IEP Meetings.</p> <p>(b)(2) In meeting the requirement in paragraph (b)(1) of this section, a meeting to develop an IEP for the child must be conducted within 30-days of a determination that the child needs special education and related services.</p> <p>§300.342 When IEPs must be in effect.</p> <p>(b) <i>Implementation of IEPs.</i> Each public agency shall ensure that--</p> <p>(2) The child's IEP is accessible to each regular education teacher, special education teacher, related service provider, and other service provider who is responsible for its implementation; and</p> <p>(3) Each teacher and provider described in paragraph (b)(2) of this section is informed of--</p> <p>(i) His or her specific responsibilities related to implementing the child's IEP; and</p> <p>(ii) The specific accommodations, modifications, and supports that must be provided for the child in accordance with the IEP.</p>	<p>In response to multiple commenters' recommendation that the 30-day timeline for conducting a meeting to develop an IEP be either "removed", "reduced", or "extended", the U.S. Department of Education declined indicating that it was a longstanding requirement and goes back to the 1997 final regulations.</p> <p>CEC is pleased that the U.S. Department of Education accepted its recommendation to retain the language in the IDEA 1997 regulations requiring that members of the IEP Team be informed of their responsibilities in relation to the implementation of the IEP. Retaining this language made the regulatory language under IDEA 2004 consistent with the regulatory language under IDEA 1997.</p>

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Final IDEA 2004 Regulations	IDEA 1997 Regulations	CEC Comments/Analysis
<p>§300.323 When IEPs must be in effect. (cont.) (e) <i>IEPs for children who transfer public agencies in the same State.</i> If a child with a disability (who had an IEP that was in effect in a previous public agency in the same State) transfers to a new public agency in the same State, and enrolls in a new school within the same school year, the new public agency (in consultation with the parents) must provide FAPE to the child (including services comparable to those described in the child's IEP from the previous public agency), until the new public agency either-- (1) Adopts the child's IEP from the previous public agency; or (2) Develops, adopts, and implements a new IEP that meets the applicable requirements in §§300.320 through §300.324. <i>CEC Note: Same language as proposed regulations.</i></p>		<p>This language is new to the IDEA 2004 regulations. CEC is concerned that the U.S. Department of Education chose to provide minimal guidance on the term "comparable services" stating, "We do not believe it is necessary to define 'comparable services' in these regulations because the Department interprets 'comparable' to have the plain meaning of the word, which is 'similar' or 'equivalent.'" The Department's response to CEC's recommendation for further clarification did not address the real possibility of broad interpretation of this term by LEAs.</p>
<p>(f) <i>IEPs for children who transfer from another State.</i> If a child with a disability (who had an IEP that was in effect in a previous public agency in another State) transfers to a public agency in a new State, and enrolls in a new school within the same school year, the new public agency (in consultation with the parents) must provide the child with FAPE (including services comparable to those described in the child's IEP from the previous public agency), until the new public agency-- (1) Conducts an evaluation pursuant to §§300.304 through 300.306 (if determined to be necessary by the new public agency); and (2) Develops, adopts, and implements a new IEP, if appropriate, that meets the applicable</p>		<p>This language is new to the IDEA 2004 regulations. CEC is concerned that the U.S. Department of Education's response to CEC's request for further clarification on the differences in eligibility criteria for students who transfer from State to State did not address the issue of a district's liability for providing special education and related services to a student who may not be eligible for these services in the first place. In a related issue, the Department did clarify that an evaluation of a child who transfers from</p>

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Final IDEA 2004 Regulations	IDEA 1997 Regulations	CEC Comments/Analysis
<p>§300.323(f) When IEPs must be in effect. (cont.) requirements in §§300.320 through 300.324. CEC Note: Final regulations restructured proposed section §300.323(e) into three separate paragraphs, renamed them, and added clarifying language.</p>		<p>another state would be considered “an initial evaluation by the new public agency which would require parental consent.” Furthermore, for students who move into a state during the summer, the Department notes, “Section 614(d)(2)(a) is clear that at the beginning of each school year, each LEA, SEA, or other State agency, as the case may be, must have an IEP in effect for each child with a disability in the agency’s jurisdiction. Therefore, public agencies need to have a means for determining whether children who move into the State during the summer are children with disabilities and for ensuring that an IEP is in effect at the beginning of the school year.”</p>
<p>§300.323 When IEPs must be in effect. (cont.) (g) <i>Transmittal of records.</i> To facilitate the transition for a child described in paragraphs (e) and (f) of this section-- (1) The new public agency in which the child enrolls must take reasonable steps to promptly obtain the child’s records, including the IEP and supporting documents and any other records relating to the provision of special education or related services to the child, from the previous public agency in which the child was enrolled, pursuant to 34 CFR 99.31(a)(2); and (2) The previous public agency in which the child was enrolled must take reasonable steps to promptly respond to the request from the new public agency. (Authority: 20 U.S.C. 1414(d)(2)(A)-(C)) <i>CEC Note: Same language as proposed regulations.</i></p>		<p>This language is new to the IDEA 2004 regulations. In response to several commenters’ request for the regulations to require a specific timeframe for obtaining or responding to requests for records, the U.S. Department of Education notes, “There is nothing in the Act that would prevent a State from requiring its public agencies to obtain a child’s records or respond to requests for a child’s records within a specific timeframe. This is an issue appropriately left to States to determine.” The reference in “transmittal of records” to 34 CFR 99.31(a)(2) is to the Family Educational Rights and Privacy Act (FERPA).</p>

INDIVIDUALIZED EDUCATION PROGRAMS AND THE DEVELOPMENT OF THE IEP

Final IDEA 2004 Regulations	IDEA 1997 Regulations	CEC Comments/Analysis
<p>§300.324 <u>Development, review, and revision of IEP.</u></p> <p>(a) <i>Development of IEP.</i> (1) <i>General.</i> In developing each child's IEP, the IEP Team must consider--</p> <ul style="list-style-type: none"> (i) The strengths of the child; (ii) The concerns of the parents for enhancing the education of their child; (iii) The results of the initial or most recent evaluation of the child; and (iv) The academic, developmental, and functional needs of the child. <p><i>CEC Note: Same language as proposed regulations.</i></p>	<p>§300.346 <u>Development, review, and revision of IEP.</u></p> <p>(a) <i>Development of IEP.</i> (1) <i>General.</i> In developing each child's IEP, the IEP team, shall consider—</p> <ul style="list-style-type: none"> (i) The strengths of the child and the concerns of the parents for enhancing the education of their child; (ii) The results of the initial or most recent evaluation of the child; and (iii) As appropriate, the results of the child's performance on any general State or district-wide assessment programs. <p>§300.343 <u>IEP meetings.</u></p> <p>(a) <i>General.</i> Each public agency is responsible for initiating and conducting meetings for the purpose of developing, reviewing, and revising the IEP of a child with a disability (or, if consistent with §300.342(c), an IFSP).</p> <p>(2) <i>Consideration of special factors.</i> The IEP team also shall—</p> <ul style="list-style-type: none"> (i) In the case of a child whose behavior impedes his or her learning or that of others, consider, if appropriate, strategies, including positive behavioral interventions, strategies, and supports to address that behavior; (ii) In the case of a child with limited English proficiency, consider the language needs of the child as those needs relate to the child's IEP; (iii) In the case of a child who is blind or visually impaired, provide for instruction in Braille and the use of Braille unless the IEP team determines, after an evaluation of the child's reading and 	
<p>(2) <i>Consideration of special factors.</i> The IEP Team must--</p> <ul style="list-style-type: none"> (i) In the case of a child whose behavior impedes the child's learning or that of others, consider the use of positive behavioral interventions and supports, and other strategies, to address that behavior; (ii) In the case of a child with limited English proficiency, consider the language needs of the child as those needs relate to the child's IEP; (iii) In the case of a child who is blind or visually impaired, provide for instruction in Braille and the use of Braille unless the IEP Team determines, after an evaluation of the child's reading and 		<p>The U.S. Department of Education deleted this specific requirement contained in the IDEA 1997 regulations because the Department felt that the provision was contained in multiple sections under the IDEA 2004 regulations (e.g., §300.112).</p> <p>Although the U.S. Department of Education did not take CEC's recommendation to add the phrase "based on functional behavioral assessments" to (2)(i), the Department's discussion of this issue indicated that the regulations follow the statute, which "focuses on interventions and strategies, not on assessments, to address the needs of a child whose behavior impedes the child's learning or that of others. Therefore, while conducting a functional behavioral assessment typically precedes developing positive behavioral intervention strategies, we do not believe it is appropriate to include this language in</p>

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Final IDEA 2004 Regulations	IDEA 1997 Regulations	CEC Comments/Analysis
<p>§300.324 (a)(2)(iii) Development, review, and revision of IEP. (cont.)</p> <p>writing skills, needs, and appropriate reading and writing media (including an evaluation of the child's future needs for instruction in Braille or the use of Braille), that instruction in Braille or the use of Braille is not appropriate for the child;</p> <p>(iv) Consider the communication needs of the child, and in the case of a child who is deaf or hard of hearing, consider the child's language and communication needs, opportunities for direct communications with peers and professional personnel in the child's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the child's language and communication mode; and</p> <p>(v) Consider whether the child needs assistive technology devices and services.</p> <p><i>CEC Note: Same language as proposed regulations.</i></p> <p>(3) <i>Requirement with respect to regular education teacher.</i> A regular education teacher of a child with a disability, as a member of the IEP Team, must, to the extent appropriate, participate in the development of the IEP of the child, including the determination of—</p> <p>(i) Appropriate positive behavioral interventions and supports and other strategies for the child; and</p> <p>(ii) Supplementary aids and services, program modifications, and support for school personnel consistent with §300.320(a)(4).</p> <p><i>CEC Note: Same language as proposed regulations.</i></p>	<p>§300.343(a)(2)(iii) IEP meetings. (cont.)</p> <p>writing skills, needs, and appropriate reading and writing media (including an evaluation of the child's future needs for instruction in Braille or the use of Braille), that instruction in Braille or the use of Braille is not appropriate for the child;</p> <p>(iv) Consider the communication needs of the child, and in the case of a child who is deaf or hard of hearing, consider the child's language and communication needs, opportunities for direct communications with peers and professional personnel in the child's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the child's language and communication mode; and</p> <p>(v) Consider whether the child requires assistive technology devices and services.</p> <p>(d) <i>Requirement with respect to regular education teacher.</i> The regular education teacher of a child with a disability, as a member of the IEP team, must, to the extent appropriate, participate in the development, review, and revision of the child's IEP, including assisting in the determination of—</p> <p>(1) Appropriate positive behavioral interventions and strategies for the child; and</p> <p>(2) Supplementary aids and services, program modifications or supports for school personnel that will be provided for the child, consistent with §300.347(a)(3).</p>	<p>§300.324(a)(2)(i).”</p> <p>In general, regulatory language under IDEA 2004 is consistent with regulatory language under IDEA 1997.</p>

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Final IDEA 2004 Regulations	IDEA 1997 Regulations	CEC Comments/Analysis
<p><u>§300.324 (a) Development, review, and revision of IEP. (cont.)</u></p> <p>(4) <i>Agreement.</i> (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>CEC Note: Final regulatory language added a provision requiring that the IEP Team be informed of changes when an IEP meeting is not held.</p>		<p>In responding to multiple comments regarding a parent and public agency "agreement" to make changes to an IEP without convening an IEP Team meeting, and instead, developing a written document to amend or modify a child's current IEP, the U.S. Department of Education noted: "We do not believe that an amendment to an IEP can take the place of an annual IEP Team meeting...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...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> <p>"[T]he 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 "consent", ... 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."</p>

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Final IDEA 2004 Regulations	IDEA 1997 Regulations	CEC Comments/Analysis
<p><u>§300.324(a) Development, review, and revision of IEP.</u> (cont.)</p> <p>(5) <i>Consolidation of IEP Team meetings.</i> To the extent possible, the public agency must encourage the consolidation of reevaluation meetings for the child and other IEP Team meetings for the child.</p> <p><i>CEC Note: Same language as proposed regulations.</i></p> <p>(6) <i>Amendments.</i> 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 amending 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>CEC Note: Final regulatory language added the phrase “at an IEP Team meeting” that was, according to the U.S. Department of Education, inadvertently omitted in the proposed regulations.</p>		<p>This language is new to the IDEA 2004 regulations.</p> <p>The U.S. Department of Education did not report any comments received on this provision.</p>
<p>(b) <i>Review and revision of IEPs.</i> -- (1) <i>General.</i> Each public agency must ensure that, subject to paragraphs (b)(2) and (b)(3) of this section, the IEP Team—</p> <p>(i) Reviews the child’s IEP periodically, but not less than annually, to determine whether the annual goals for the child are being achieved; and</p> <p>(ii) Revises the IEP, as appropriate, to address--</p> <p>(A) Any lack of expected progress toward the annual goals described in §300.320(a)(2), and in the general education curriculum, if appropriate;</p> <p>(B) The results of any reevaluation conducted under §300.303;</p> <p>(C) Information about the child provided to, or by,</p>		<p>This language is new to the IDEA 2004 regulations.</p> <p>CEC’s recommendation to require that the parent and the entire IEP Team receive a revised copy of the IEP with amendments incorporated without having to request it was not included in the final regulations. However, the U.S. Department of Education did add a provision at §300.324(a)(4)(ii) requiring that the IEP Team be informed of the changes.</p>
<p>(b) <i>Review and revision of IEPs.</i> -- (1) <i>General.</i> Each public agency must ensure that, subject to paragraphs (b)(2) and (b)(3) of this section, the IEP Team—</p> <p>(i) Reviews the child’s IEP periodically, but not less than annually, to determine whether the annual goals for the child are being achieved; and</p> <p>(ii) Revises the IEP, as appropriate, to address--</p> <p>(A) Any lack of expected progress toward the annual goals described in §300.320(a)(2), and in the general education curriculum, if appropriate;</p> <p>(B) The results of any reevaluation conducted under §300.303;</p> <p>(C) Information about the child provided to, or by,</p>	<p><u>§300.343 IEP meetings.</u></p> <p>(c) <i>Review and revision of IEPs.</i> Each public agency shall ensure that the IEP team—</p> <p>(1) Reviews the child’s IEP periodically, but not less than annually, to determine whether the annual goals for the child are being achieved; and</p> <p>(2) Revises the IEP as appropriate to address -</p> <p>(i) Any lack of expected progress toward the annual goals described in §300.347(a), and in the general curriculum, if appropriate;</p> <p>(ii) The results of any reevaluation conducted under §300.536;</p> <p>(iii) Information about the child provided to, or</p>	<p>In general, regulatory language under IDEA 2004 is consistent with regulatory language under IDEA 1997.</p>

INDIVIDUALIZED EDUCATION PROGRAMS AND THE DEVELOPMENT OF THE IEP

Final IDEA 2004 Regulations	IDEA 1997 Regulations	CEC Comments/Analysis
<p><u>§300.324(b)(1)(iii)(c)</u> Development, review, and revision of IEP. (cont.) the parents, as described under §300.305(a)(2); (D) The child's anticipated needs; or (E) Other matters. <i>CEC Note: Same language as proposed regulations.</i></p> <p><u>§300.324(b)</u> Development, review, and revision of IEP. (cont.) (2) <i>Consideration of special factors.</i> In conducting a review of the child's IEP, the IEP Team must consider the special factors described in paragraph (a)(2) of this section. CEC Note: Final regulations retained this IDEA 1997 requirement regarding "consideration of special factors" that had been deleted in the proposed regulations.</p> <p>(3) <i>Requirement with respect to regular education teacher.</i> A regular education teacher of the child, as a member of the IEP Team, must, consistent with paragraph (a)(3) of this section, participate in the review and revision of the IEP of the child. <i>CEC Note: Same language as proposed regulations.</i></p>	<p><u>§300.343(c)(2)(iii)</u> IEP meetings. (cont.) by, the parents, as described in §300.533(a)(1); (iv) The child's anticipated needs; or (v) Other matters.</p> <p><u>§300.346</u> Development, review, revision of IEP. (cont.) (b) Review and Revision of IEP. In conducting a meeting to review, and, if appropriate, revise a child's IEP, the IEP team shall consider the factors described in paragraph (a) of this section.</p> <p>(d) <i>Requirement with respect to regular education teacher.</i> The regular education teacher of a child with a disability, as a member of the IEP team, must, to the extent appropriate, participate in the development, review, and revision of the child's IEP, including assisting in the determination of— (1) Appropriate positive behavioral interventions and strategies for the child; and (2) Supplementary aids and services, program modifications or supports for school personnel that will be provided for the child, consistent with §300.347(a)(3).</p>	<p>CEC is pleased that the longstanding policy and practice of the IEP Team considering special factors when an IEP is reviewed or revised has been retained from the IDEA 1997 regulations. CEC believes this policy is good for children, families and school personnel alike. Retaining this language made the regulatory language under IDEA 2004 consistent with the regulatory language under IDEA 1997.</p> <p>In general, regulatory language under IDEA 2004 is consistent with regulatory language under IDEA 1997.</p>

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Final IDEA 2004 Regulations	IDEA 1997 Regulations	CEC Comments/Analysis
<p><u>§300.324 Development, review, and revision of IEP.</u> (cont.)</p> <p>(c) <i>Failure to meet transition objectives—(1) Participating agency failure.</i> If a participating agency, other than the public agency, fails to provide the transition services described in the IEP in accordance with §300.320(b), the public agency must reconvene the IEP Team to identify alternative strategies to meet the transition objectives for the child set out in the IEP.</p> <p>(2) <i>Construction.</i> Nothing in this part relieves any participating agency, including a State vocational rehabilitation agency, of the responsibility to provide or pay for any transition service that the agency would otherwise provide to children with disabilities who meet the eligibility criteria of that agency.</p> <p><i>CEC Note: Same language as proposed regulations.</i></p> <p><u>§300.324 Development, review, and revision of IEP.</u> (cont.)</p> <p>(d) <i>Children with disabilities in adult prisons—</i></p> <p>(1) <i>Requirements that do not apply.</i> The following requirements do not apply to children with disabilities who are convicted as adults under State law and incarcerated in adult prisons:</p> <p>(i) The requirements contained in section 612(a)(16) of the Act and §300.320(a)(6) (relating to participation of children with disabilities in general assessments).</p> <p>(ii) The requirements in §300.320(b) (relating to transition planning and transition services) do not apply with respect to the children whose eligibility</p>	<p><u>§300.348 Agency responsibilities for transition services.</u></p> <p>(a) If a participating agency, other than the public agency, fails to provide the transition services described in the IEP in accordance with §300.347(b)(1), the public agency shall reconvene the IEP team to identify alternative strategies to meet the transition objectives for the student set out in the IEP.</p> <p>(b) Nothing in this part relieves any participating agency, including a State vocational rehabilitation agency, of the responsibility to provide or pay for any transition service that the agency would otherwise provide to students with disabilities who meet the eligibility criteria of that agency. (Authority: 20 U.S.C. 1414(d)(5); 1414(d)(1)(A)(vii))</p>	<p>In general, regulatory language under IDEA 2004 is consistent with regulatory language under IDEA 1997.</p>
<p>(cont.)</p> <p>(1) <i>Requirements that do not apply.</i> The following requirements do not apply to students with disabilities in adult prisons:</p> <p>(i) The requirements contained in §300.138 and §300.347(a)(5)(i) (relating to participation of children with disabilities in general assessments).</p> <p>(ii) The requirements in §300.347(b) (relating to transition planning and transition services), with respect to the students whose eligibility under Part B of the Act will end, because of their age, before</p>	<p><u>§300.311 FAPE requirements for students with disabilities in adult prisons.</u></p> <p>(b) <i>Requirements that do not apply.</i> The following requirements do not apply to students with disabilities who are convicted as adults under State law and incarcerated in adult prisons:</p> <p>(1) The requirements contained in §300.138 and §300.347(a)(5)(i) (relating to participation of children with disabilities in general assessments).</p> <p>(2) The requirements in §300.347(b) (relating to transition planning and transition services), with respect to the students whose eligibility under Part B of the Act will end, because of their age, before</p>	<p>In general, regulatory language under IDEA 2004 is consistent with regulatory language under IDEA 1997.</p>

INDIVIDUALIZED EDUCATION PROGRAMS AND THE DEVELOPMENT OF THE IEP

Final IDEA 2004 Regulations	IDEA 1997 Regulations	CEC Comments/Analysis
<p><u>§300.324(d)(1)(ii)</u> Development, review, and revision of IEP. (cont.) under Part B of the Act will end, because of their age, before they will be eligible to be released from prison based on consideration of their sentence and eligibility for early release. <i>CEC Note: Same language as proposed regulations.</i></p> <p><i>(2) Modifications of IEP or placement.</i> (i) Subject to paragraph (d)(2)(ii) of this section, the IEP Team of a child with a disability who is convicted as an adult under State law and incarcerated in an adult prison may modify the child's IEP or placement if the State has demonstrated a bona fide security or compelling penological interest that cannot otherwise be accommodated. (ii) The requirements of §§300.320 (relating to IEPs), and 300.112 (relating to LRE), do not apply with respect to the modifications described in paragraph (d)(2)(i) of this section. (Authority: 20 U.S.C. 1412(a)(1), 1412(a)(12)(A)(i), 1414(d)(3), (4)(B), and (7); and 1414(e)) <i>CEC Note: Same language as proposed regulations.</i></p>	<p><u>§300.311(b)(2)</u> FAPE requirements for students with disabilities in adult prisons. (cont.) they will be eligible to be released from prison based on consideration of their sentence and eligibility for early release.</p> <p><i>(c) Modifications of IEP or placement.</i> (1) Subject to paragraph (c)(2) of this section, the IEP team of a student with a disability, who is convicted as an adult under State law and incarcerated in an adult prison, may modify the student's IEP or placement if the State has demonstrated a bona fide security or compelling penological interest that cannot otherwise be accommodated. (2) The requirements of §§300.340(a) and 300.347(a) relating to IEPs, and 300.550(b) relating to LRE, do not apply with respect to the modifications described in paragraph (c)(1) of this section. (Authority: 20 U.S.C. 1412(a)(1), 1414(d)(6))</p> <p><u>§300.347</u> Content of IEP. (d) Students with disabilities convicted as adults and incarcerated in adult prisons. Special rules concerning the content of IEPs for students with disabilities convicted as adults and incarcerated in adult prisons are contained in §300.311(b) and (c). (Authority: 20 U.S.C. 1414(d)(1)(A) and (d)(6)(A)(ii))</p>	<p>In general, regulatory language under IDEA 2004 is consistent with regulatory language under IDEA 1997.</p> <p>This provision in the IDEA 1997 regulations was deleted, as it is no longer necessary</p>

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Final IDEA 2004 Regulations	IDEA 1997 Regulations	CEC Comments/Analysis
<p>§300.325 Private school placements by public agencies.</p> <p>(a) <i>Developing IEPs.</i> (1) Before a public agency places a child with a disability in, or refers a child to, a private school or facility, the agency must initiate and conduct a meeting to develop an IEP for the child in accordance with §§300.320 and 300.324.</p> <p>(2) The agency must ensure that a representative of the private school or facility attends the meeting. If the representative cannot attend, the agency must use other methods to ensure participation by the private school or facility, including individual or conference telephone calls.</p> <p><i>CEC Note: Same language as proposed regulations.</i></p> <p>(b) <i>Reviewing and revising IEPs.</i></p> <p>(1) After a child with a disability enters a private school or facility, any meetings to review and revise the child's IEP may be initiated and conducted by the private school or facility at the discretion of the public agency.</p> <p>(2) If the private school or facility initiates and conducts these meetings, the public agency must ensure that the parents and an agency representative—</p> <p>(i) Are involved in any decision about the child's IEP; and</p> <p>(ii) Agree to any proposed changes in the IEP before those changes are implemented.</p>	<p>§300.349 Private school placements by public agencies.</p> <p>(a) <i>Developing IEPs.</i> (1) Before a public agency places a child with a disability in, or refers a child to, a private school or facility, the agency shall initiate and conduct a meeting to develop an IEP for the child in accordance with §§300.346 and 300.347.</p> <p>(2) The agency shall ensure that a representative of the private school or facility attends the meeting. If the representative cannot attend, the agency shall use other methods to ensure participation by the private school or facility, including individual or conference telephone calls.</p> <p>(b) <i>Reviewing and revising IEPs.</i></p> <p>(1) After a child with a disability enters a private school or facility, any meetings to review and revise the child's IEP may be initiated and conducted by the private school or facility at the discretion of the public agency.</p> <p>(2) If the private school or facility initiates and conducts these meetings, the public agency shall ensure that the parents and an agency representative—</p> <p>(i) Are involved in any decision about the child's IEP; and</p> <p>(ii) Agree to any proposed changes in the IEP before those changes are implemented.</p>	<p>In general, regulatory language under IDEA 2004 is consistent with regulatory language under IDEA 1997.</p>
<p>(b) <i>Reviewing and revising IEPs.</i></p> <p>(1) After a child with a disability enters a private school or facility, any meetings to review and revise the child's IEP may be initiated and conducted by the private school or facility at the discretion of the public agency.</p> <p>(2) If the private school or facility initiates and conducts these meetings, the public agency must ensure that the parents and an agency representative—</p> <p>(i) Are involved in any decision about the child's IEP; and</p> <p>(ii) Agree to any proposed changes in the IEP before those changes are implemented.</p>	<p>(b) <i>Reviewing and revising IEPs.</i></p> <p>(1) After a child with a disability enters a private school or facility, any meetings to review and revise the child's IEP may be initiated and conducted by the private school or facility at the discretion of the public agency.</p> <p>(2) If the private school or facility initiates and conducts these meetings, the public agency shall ensure that the parents and an agency representative—</p> <p>(i) Are involved in any decision about the child's IEP; and</p> <p>(ii) Agree to any proposed changes in the IEP before those changes are implemented.</p>	<p>In general, regulatory language under IDEA 2004 is consistent with regulatory language under IDEA 1997.</p>

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Final IDEA 2004 Regulations	IDEA 1997 Regulations	CEC Comments/Analysis
<p>§300.325 Private school placements by public agencies. (cont.) (c) <i>Responsibility</i>. Even if a private school or facility implements a child's IEP, responsibility for compliance with this part remains with the public agency and the SEA. (Authority: 20 U.S.C. 1412(a)(10)(B)) <i>CEC Note: Same language as proposed regulations.</i></p>	<p>§300.349 Private school placements by public agencies. (cont.) (c) <i>Responsibility</i>. Even if a private school or facility implements a child's IEP, responsibility for compliance with this part remains with the public agency and the SEA. (Authority: 20 U.S.C. 1412(a)(10)(B))</p>	
	<p>§300.350 IEP- accountability. (a) <i>Provision of services</i>. Subject to paragraph (b) of this section, each public agency must— (1) Provide special education and related services to a child with a disability in accordance with the child's IEP; and (2) Make a good faith effort to assist the child to achieve the goals and objectives or benchmarks listed in the IEP. (b) <i>Accountability</i>. Part B of the Act does not require that any agency, teacher, or other person be held accountable if a child does not achieve the growth projected in the annual goals and benchmarks or objectives. However, the Act does not prohibit a State or public agency from establishing its own accountability systems regarding teacher, school, or agency performance. (c) <i>Construction—parent rights</i>. Nothing in this section limits a parent's right to ask for revisions of the child's IEP or to invoke due process procedures if the parent feels that the efforts required in paragraph (a) of this section are not being made. (Authority: 20 U.S.C. 1414(d)).</p>	<p>The U.S. Department of Education removed the provision on “IEP accountability” contained in the IDEA 1997 regulations stating that it is unnecessary.</p>

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Final IDEA 2004 Regulations	IDEA 1997 Regulations	CEC Comments/Analysis
<p><u>§300.327</u> Educational placements. Consistent with §300.501(c), each public agency must ensure that the parents of each child with a disability are members of any group that makes decisions on the educational placement of their child. (Authority: 20 U.S.C. 1414(e)) <i>CEC Note: Same language as proposed regulations.</i></p>	<p><u>§300.501</u> Opportunity to examine records; parent participation in meetings. (c) <i>Parent involvement in placement decisions</i> (1) Each public agency shall ensure that the parents of each child with a disability are members of any group that makes decisions on the educational placement of their child.</p>	<p>In general, regulatory language under IDEA 2004 is consistent with regulatory language under IDEA 1997.</p>
<p><u>§300.328</u> Alternative means of meeting participation. When conducting IEP Team meetings and placement meetings pursuant to this subpart, and subpart E of this part, and carrying out administrative matters under section 615 of the Act (such as scheduling, exchange of witness lists, and status conferences), the parent of a child with a disability and a public agency may agree to use alternative means of meeting participation, such as video conferences and conference calls. (Authority: 20 U.S.C. 1414(f)) <i>CEC Note: Same language as proposed regulations.</i></p>		<p>This language is new to the IDEA 2004 regulations. The requirement regarding “alternative means of meeting participation” is intended to provide greater flexibility in arranging convenient meetings between parents and public agencies.</p>