



**Council for
Exceptional
Children**

**Council for Exceptional Children's
Initial Summary of Selected Provisions from
Part B Proposed Regulations for the
Individuals With Disabilities Education Act**

**Individualized Education Program
(IEP)**

June 12, 2005

Individualized Education Program (IEP)

Note: Bold text in left column indicates language not specifically included in IDEA 2004

NPRM Language	Current Regulation	Comments
§300.320 Definition of individualized education program. (a) General. As used in this part, the term individualized education program or IEP means a written statement for each child with a disability that is developed, reviewed, and revised in a meeting in accordance with §§300.320 through 300.324, and that must include--	§300.340 Definitions Related to IEPs a) Individualized education program. As used in this part, the term individualized education program or IEP 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. (b) Participating agency. As used in §300.348, participating agency 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.	In general, statutory language was incorporated into regulations.

NPRM Language	Current Regulation	Comments
<p>§300.112 Individualized education programs (IEP). 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)(3)(ii).</p>	<p>§300.341 Responsibility of SEA and other public agencies for IEPs (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 accordance with §300.370(a) and (b)(1); and (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>OSERS Discussion of Proposed Regulatory Changes “Section 300.341 of the current regulations, regarding responsibility of the SEA and other public agencies for IEPs, would not be retained in these proposed regulations. The statutory authority for that section is not based on the IEP provisions in section 614(d) of the Act, and the substance of the provision is essentially covered by proposed §300.149, which would address the SEA responsibility for general supervision, including responsibility to ensure development and implementation of IEPs.”</p>
<p>(1) A statement of the child's present levels of academic achievement and functional performance, including-- (i) How the child's disability affects the child's involvement and progress in the general education curriculum (i.e., the same curriculum as for nondisabled children); or (ii) For preschool children, as appropriate, how the disability affects the child's participation in appropriate activities;</p>	<p>A statement of the child's present levels of educational performance, including - (i) How the child's disability affects the child's involvement and progress in the general curriculum (i.e., the same curriculum as for nondisabled children); or (ii) For preschool children, as appropriate, how the disability affects the child's participation in appropriate activities;</p>	<p>In general, statutory language was incorporated into regulations.</p>
<p>(2)(i) A statement of measurable annual goals, including academic and functional goals designed to--</p>	<p>(2) A statement of measurable annual goals, including benchmarks or short-term objectives, related to –</p>	<p>In general, statutory language was incorporated into regulations.</p>

NPRM Language	Current Regulation	Comments
<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) 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 (ii) Meeting each of the child's other educational needs that result from the child's disability;</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>(7) A statement of -(i) How the child's progress toward the annual goals described in paragraph (a)(2) of this section will be measured; and(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 - (A) Their child's progress toward the annual goals; and (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>In general, statutory language was incorporated into regulations.</p> <p>OSERS Discussion of Proposed Regulatory Changes- “In accordance with section 614(d)(1)(A)(i)(III) of the Act, proposed §300.320(a)(3)(ii) would clarify that periodic progress reports <i>could be issued</i> (emphasis added) concurrently with quarterly report cards.”</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</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—(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>In general, statutory language was incorporated into regulations.</p>

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participate in extracurricular and other nonacademic activities; and (iii) To be educated and participate with other children with disabilities and nondisabled children in the activities described in this section;	(iii) To be educated and participate with other children with disabilities and nondisabled children in the activities described in this section;	
(5) An explanation of the extent, if any, to which the child will not participate with nondisabled children in the regular education environment and in the activities described in paragraph (a)(4) of this section;	(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;	Note- term “educational environment” is used in the NPRM while the statutory term is “regular class”
(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 §300.160; and (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-- (A) The child cannot participate in the regular assessment; and (B) The particular alternate assessment selected is appropriate for the child; and	(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 (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 - (A) Why that assessment is not appropriate for the child; and (B) How the child will be assessed;	In general, statutory language was incorporated into regulations.
(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.	(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; and	In general, statutory language was incorporated into regulations.
(b) Transition services. Beginning not later than the first IEP to be in effect when the child turns 16, or younger if determined	b) Transition services. The IEP must include— (1) For each student with a disability	Note- NRPM added “or younger if determined appropriate by the IEP Team” which was not included in the statute.

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<p>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>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>(c) Transfer of rights at age of majority. 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>(c) Transfer of rights. 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, statutory language was incorporated into regulations.</p>
<p>(d) Construction. 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>(e) Construction. 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>In general, statutory language was incorporated into regulations.</p>
<p>§300.321 IEP Team. (a) General. The public agency must</p>	<p>§300.344 IEP Team (a) General. The public agency shall ensure</p>	<p>In general, statutory language was incorporated into regulations.</p>

NPRM Language	Current Regulation	Comments
<p>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>(ii) Is knowledgeable about the general education curriculum; and</p> <p>(iii) Is knowledgeable about the availability of resources of the public agency.</p> <p>(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;</p> <p>(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</p> <p>(7) Whenever appropriate, the child with a disability.</p>	<p>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 meet the unique needs of children with disabilities;</p> <p>(ii) Is knowledgeable about the general curriculum; and</p> <p>(iii) Is knowledgeable about the availability of resources of the public agency;</p> <p>(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;</p> <p>(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</p> <p>(7) If appropriate, the child.</p>	
<p>(b) Transition services participants. (1) In accordance with paragraph (a)(7) of this section, the public agency must invite a child</p>	<p>(b) Transition services participants.</p> <p>(1) Under paragraph (a)(7) of this section, the public agency shall invite a student with a</p>	<p>Note- NPRM language is not in the statute although it is included generally in current regulations</p>

NPRM Language	Current Regulation	Comments
<p>with a disability to attend the child’s IEP 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).</p> <p>(2) If the child does not attend the IEP meeting, the public agency must take other steps to ensure that the child’s preferences and interests are considered.</p> <p>(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 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.</p>	<p>disability of any age to attend his or her IEP meeting if a purpose of the meeting will be the consideration of—</p> <p>(i) The student’s transition services needs under §300.347(b)(1); or</p> <p>(ii) The needed transition services for the student under §300.347(b)(2); or</p> <p>(iii) Both.</p> <p>(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.</p> <p>(3)(i) In implementing the requirements of §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.</p> <p>(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>OSERS Discussion of Proposed Regulatory Changes- “Current §300.344(b)(3)(ii), addressing the public agency’s obligations to take steps to obtain the participation of the other agency in the planning for transition services if the other agency does not send a representative, would be removed as it is an unnecessary burden.”</p>
<p>(c) Determination of knowledge and special expertise. 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.</p>	<p>(c) Determination of knowledge and special expertise. 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>Note- NPRM language is not in the statute although it is included generally in current regulations</p>
<p>(d) Designating a public agency representative. A public agency may designate a public agency member of the</p>	<p>(d) Designating a public agency representative. A public agency may designate another public agency member of</p>	<p>Note- NPRM language is not in the statute although it is included generally in current regulations</p>

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IEP Team to also serve as the agency representative, if the criteria in paragraph (a)(4) of this section are satisfied.	the IEP team to also serve as the agency representative, if the criteria in paragraph (a)(4) of this section are satisfied.	
(e) IEP Team attendance. (1) A member of the IEP Team is not required to attend an IEP 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. (2) A member of the IEP Team may be excused from attending an IEP 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-- (i) The parent, in writing, and the public agency consent to the excusal; and (ii) The member submits, in writing to the parent and the IEP Team, input into the development of the IEP prior to the meeting.		In general, statutory language was incorporated into regulations
(f) Initial IEP meeting for child under Part C. In the case of a child who was previously served under Part C of the Act , an invitation to the initial IEP 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.		In general, statutory language was incorporated into regulations
§300.322 Parent participation. (a) Public agency responsibility—general. 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	§300.345 Parent Participation (a) Public agency responsibility—general. 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	Note- NPRM language is not in the statute although it is included generally in current regulations

NPRM Language	Current Regulation	Comments
<p>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) Information provided to parents. (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).</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) Identifies any other agency that will be invited to send a representative.</p>	<p>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) Information provided to parents.</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>(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>	

NPRM Language	Current Regulation	Comments
<p>(c) Other methods to ensure parent participation. If neither parent can attend, 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>(d) Conducting an IEP meeting without a parent in attendance. 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.</p>	<p>(iii) Identify any other agency that will be invited to send a representative.</p> <p>(c) Other methods to ensure parent participation. 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) Conducting an IEP meeting without a parent in attendance. 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> <ul style="list-style-type: none"> (1) Detailed records of telephone calls made or attempted and the results of those calls; (2) Copies of correspondence sent to the parents and any responses received; and (3) Detailed records of visits made to the parent's home or place of employment and the results of those visits. 	<p>OSERS Discussion of Proposed Regulatory Changes- “Proposed §300.322(d), regarding conducting a meeting without a parent in attendance, would replace §300.345(d) of the current regulations, except that the proposed regulation would not specify the methods that the public agency must use to keep a record of its attempts to convince the parent that he or she should attend the meeting.”</p>

NPRM Language	Current Regulation	Comments
	<p>300.345(e) Use of interpreters or other action, as appropriate. 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>OSERS Discussion of Proposed Regulatory Changes- “Current section 300.345(e), regarding the use of interpreters or other action, as appropriate, would be removed from these proposed regulations because public agencies are required by other Federal statutes to take appropriate actions to ensure that parents who themselves have disabilities and limited English proficient parents understand proceedings at the IEP meeting. The other Federal statutory provisions that apply in this regard are Section 504 of the Rehabilitation Act of 1973 and its implementing regulations in 34 CFR Part 104 (prohibiting discrimination on the basis of disability by recipients of Federal financial assistance) and title II of the Americans With Disabilities Act and its implementing regulations in 28 CFR Part 35 (prohibiting discrimination on the basis of disability by public entities, regardless of receipt of Federal funds), and title VI of the Civil Rights Act of 1964 and its implementing regulations in 34 CFR Part 100 (prohibiting discrimination on the basis of race, color, or national origin by recipients of Federal financial assistance).”</p>
<p>(e) Parent copy of child's IEP. The public agency must give the parent a copy of the child's IEP at no cost to the parent.</p>	<p>§300.345(f) Parent copy of child's IEP. The public agency shall give the parent a copy of the child's IEP at no cost to the parent.</p>	<p>Note- NPRM language is not in the statute although it is included generally in current regulations</p>
<p>§300.323 When IEPs must be in effect. (a) General. 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>§300.342 When IEPs must be in effect (a) General. 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. (b) Implementation of IEPs. Each public agency shall ensure that—</p>	

NPRM Language	Current Regulation	Comments
	<p>(1) An IEP— (i) Is in effect before special education and related services are provided to an eligible child under this part; and</p>	<p>OSERS Discussion of Proposed Regulatory Changes “However, §300.342(b)(1)(i) of the current regulations, requiring that an IEP be in effect before special education and related services are provided to a child, would be removed from these proposed regulations. This requirement is covered by proposed §300.323(a), which would require that each public agency have an IEP in effect for each child with a disability in the public agency’s jurisdiction at the beginning of each school year, and by section 614(d)(2)(A) of the Act.”</p>
<p>(b) IEP or IFSP for children aged three through five. (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--</p>	<p>(c) IEP or IFSP for children aged 3 through 5. (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</p>	<p>Note- NPRM contains additional language not included in the statute.</p>

NPRM Language	Current Regulation	Comments
<p>(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.</p>	<p>(ii) If the parents choose an IFSP, obtain written informed consent from the parents.</p>	
	<p>(d) Effective date for new requirements. All IEPs developed, reviewed, or revised on or after July 1, 1998 must meet the requirements of §§300.340-300.350.</p>	<p>OSERS Discussion of Proposed Regulatory Changes “Paragraph (d) of §300.342 of the current regulations, regarding effective dates for new IEP requirements, is unnecessary and would be removed from the proposed regulations. All the IEP requirements of Part B of the Act will take effect on July 1, 2005. Further, it is not anticipated that public agencies will need additional time to implement these new requirements, some of which provide additional flexibility to public agencies and parents and reduce regulatory burden.</p>
<p>(c) Initial IEPs; provision of services. Each public agency must ensure that-- (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) 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. (300.343(b)(2) (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>Note- NPRM language is not in the statute although it is included generally in current regulations</p>

NPRM Language	Current Regulation	Comments
<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>(3) Each teacher and provider described in paragraph (b)(2) of this section is informed of— (i) His or her specific responsibilities related to implementing the child’s IEP; and (ii) The specific accommodations, modifications, and supports that must be provided for the child in accordance with the IEP.</p>	
<p>(d) Accessibility of child’s IEP to teachers and others. Each public agency must ensure that 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.</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 (3) Each teacher and provider described in paragraph (b)(2) of this section is informed of— (i) His or her specific responsibilities related to implementing the child’s IEP; and (ii) The specific accommodations, modifications, and supports that must be provided for the child in accordance with the IEP. (300.342(b)(2))</p>	<p>OSERS Discussion of Proposed Regulatory Changes “However §300.342(b)(3) of the current regulations, which requires that each person responsible for implementing the IEP be informed of his or her specific responsibilities related to implementing the child’s IEP, and the specific accommodations, modifications and supports that must be provided for the child in accordance with the IEP, would be removed from the proposed regulations as unnecessary. Public agencies are required to share this information with responsible individuals in order to meet their obligations under the Act.”</p>
<p>(e) Program for children who transfer public agencies. (1)(i) In the case of a child with a disability who transfers public agencies within the same academic year, who enrolls in a new school, and who had an IEP that was in effect in the same State, the public agency, in consultation with the parents, must provide FAPE to the</p>		<p>In general, statutory language was incorporated into regulations</p>

NPRM Language	Current Regulation	Comments
<p>child, including services comparable to those described in the previously held IEP, until such time as the public agency adopts the previously held IEP or develops, adopts, and implements a new IEP that is consistent with Federal and State law.</p> <p>(ii) In the case of a child with a disability who transfers public agencies within the same academic year, who enrolls in a new school, and who had an IEP that was in effect in another State, the public agency, in consultation with the parents, must provide the child with FAPE, including services comparable to those described in the previously held IEP, until such time as the public agency conducts an evaluation pursuant to §§300.304 through 300.306, if determined to be necessary by the public agency, and develops a new IEP, if appropriate, that is consistent with Federal and State law.</p> <p>(2) To facilitate the transition for a child described in paragraph (e)(1) of this section--</p> <p>(i) 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 section 99.31(a)(2) of title 34, Code of Federal Regulations; and</p> <p>(ii) 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.</p>		

NPRM Language	Current Regulation	Comments
<p>§300.324 Development, review, and revision of IEP.</p> <p>(a) Development of IEP. (1) General. In developing each child's IEP, the IEP Team must consider--</p> <p>(i) The strengths of the child;</p> <p>(ii) The concerns of the parents for enhancing the education of their child;</p> <p>(iii) The results of the initial or most recent evaluation of the child; and</p> <p>(iv) The academic, developmental, and functional needs of the child.</p>	<p>300.346 Development, review and revision of IEP</p> <p>(a) Development of IEP. (1) General. In developing each child's IEP, the IEP team, shall consider -</p> <p>(i) The strengths of the child and the concerns of the parents for enhancing the education of their child;</p> <p>(ii) The results of the initial or most recent evaluation of the child; and</p> <p>(iii) As appropriate, the results of the child's performance on any general State or district-wide assessment programs.</p>	<p>In general, statutory language was incorporated into regulations</p>
<p>(2) Consideration of special factors. The IEP Team must--</p> <p>(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;</p> <p>(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;</p> <p>(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 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</p>	<p>(2) Consideration of special factors. The IEP team also shall -</p> <p>(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;</p> <p>(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;</p> <p>(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 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>In general, statutory language was incorporated into regulations</p>

NPRM Language	Current Regulation	Comments
<p>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 (v) Consider whether the child needs assistive technology devices and services.</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 (v) Consider whether the child requires assistive technology devices and services.</p>	
	<p>(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. (c) Statement in IEP. If, in considering the special factors described in paragraphs (a)(1) and (2) of this section, the IEP team determines that a child needs a particular device or service (including an intervention, accommodation, or other program modification) in order for the child to receive FAPE, the IEP team must include a statement to that effect in the child's IEP.</p>	<p>OSERS Discussion of Proposed Regulatory Changes “Because the Act no longer requires the consideration of special factors in IEP review and revision, §300.346(b) of the current regulations would be removed.” OSERS Discussion of Proposed Regulatory Changes “Section 300.346(c) of the current regulations, regarding the requirement to include a statement in the child’s IEP about a child’s need for a particular device or service in order to receive FAPE, would be removed because it is covered in proposed §300.320(a)(4).”</p>
<p>(3) Requirement with respect to regular education teacher. 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-- (i) Appropriate positive behavioral</p>	<p>(d) Requirement with respect to regular education teacher. 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>In general, statutory language was incorporated into regulations</p>

NPRM Language	Current Regulation	Comments
<p>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>(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>(5) Consolidation of IEP Team meetings. 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>In general, statutory language was incorporated into regulations</p>
<p>(6) Amendments. Changes to the IEP may be made either by the entire IEP Team 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>In general, statutory language was incorporated into regulations</p>
<p>(b) Review and revision of IEPs.</p> <p>(1) General. Each public agency must ensure that, subject to paragraph (b)(2) 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, the parents, as described under</p>	<p>(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>(c) Statement in IEP. If, in considering the special factors described in paragraphs (a)(1) and (2) of this section, the IEP team determines that a child needs a particular device or service (including an intervention, accommodation, or other program modification) in order for the child to receive FAPE, the IEP team must include a statement to that effect in the child's IEP.</p>	<p>In general, statutory language was incorporated into regulations</p>

NPRM Language	Current Regulation	Comments
§300.305(a)(2); (D) The child's anticipated needs; or (E) Other matters.		
(2) Requirement with respect to regular education teacher. 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.	300.346(d) Requirement with respect to regular education teacher. 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).	In general, statutory language was incorporated into regulations
(c) Failure to meet transition objectives. (1) Participating agency failure. 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.	300.348 Agency responsibilities for transition services. (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.	In general, statutory language was incorporated into regulations
(2) Construction. 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	(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.	
(d) Children with disabilities in adult prisons.	300.347(d) Students with disabilities	In general, statutory language was incorporated

NPRM Language	Current Regulation	Comments
<p>(1) Requirements that do not apply. 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 §300.160 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 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.</p>	<p>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).</p>	<p>into regulations</p>
<p>(2) Modifications of IEP or placement.</p> <p>(i) Subject to paragraph (c)(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.</p> <p>(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 (c)(1) of this section.</p>		<p>In general, statutory language was incorporated into regulations</p>
<p>§300.325 Private school placements by public agencies.</p> <p>(a) Developing IEPs. (1) Before a public agency places a child with a disability in, or refers a child to, a private school or facility,</p>	<p>300.349 Private school placements by public agencies</p> <p>(a) Developing IEPs.</p> <p>(1) Before a public agency places a child with a disability in, or refers a child to, a private</p>	<p>Note- NPRM language was not contained in the statute but was generally included in the current regulations</p>

NPRM Language	Current Regulation	Comments
<p>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>(b) Reviewing and revising IEPs. (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>(c) Responsibility. 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.</p>	<p>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) Reviewing and revising IEPs. (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 (ii) Agree to any proposed changes in the IEP before those changes are implemented.</p> <p>(c) Responsibility. 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.</p>	
<p>§300.327 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</p>	<p>300.501(c) Parent involvement in placement decisions.</p> <p>(1) Each public agency shall ensure that the parents of each child with a disability are</p>	<p>In general, statutory language was incorporated into regulations</p>

NPRM Language	Current Regulation	Comments
group that makes decisions on the educational placement of their child	members of any group that makes decisions on the educational placement of their child.	
<p>§300.328 Alternative means of meeting participation.</p> <p>When conducting IEP Team meetings and placement meetings pursuant to this subpart, and Subpart E, 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.</p>	<p>300.501 (c)(3) If neither parent can participate in a meeting in which a decision is to be made relating to the educational placement of their child, the public agency shall use other methods to ensure their participation, including individual or conference telephone calls, or video conferencing.</p>	<p>In general, statutory language was incorporated into regulations</p>
	<p>(a) Provision of services. Subject to paragraph (b) of this section, each public agency must—</p> <p>(1) Provide special education and related services to a child with a disability in accordance with the child's IEP; and</p> <p>(2) Make a good faith effort to assist the child to achieve the goals and objectives or benchmarks listed in the IEP.</p> <p>(b) Accountability. 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.</p> <p>(c) Construction—parent rights. 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</p>	<p>OSERS Discussion of Proposed Regulatory Changes “Section 300.350 of the current regulations, regarding IEP accountability, would be removed from the proposed regulations as unnecessary. The requirement in §300.350(a) that each child eligible for services under Part B of the Act be provided services in accordance with an IEP is unnecessary because entitlement to FAPE under the Act includes the provision of special education and related services in accordance with an IEP. Paragraph (a)(2) and (b) of §300.350 is unnecessary as we believe that other federal laws, such as title I of the ESEA, already provide sufficient motivation for agency effort to assist children with disabilities in making academic progress.</p>

NPRM Language	Current Regulation	Comments
	efforts required in paragraph (a) of this section are not being made.	Section 300.350(c), regarding accountability, would be removed as it merely provides explanatory information.”

Note: There are no draft regulations included for the Multi-Year IEP Demonstration contained in Section 614(d)(5) of IDEA