

Instruction

Individualized Education Program/Special Education Program

Any child, whether a student of the school district, of pre-school age, or between the ages of three and 22 years of age, inclusive, but not attending district schools, who is identified as being in need of a special program shall be referred to a "special education planning and placement team" (PPT) which shall make an evaluative study to determine whether the child is a child with a disability as defined in state and federal statutes and if special education is required and to establish the scope of the individualized education program (IEP).

Students receiving special education services under the Individuals with Disabilities Act (IDEA) remain eligible for such services up until their 22nd birthday or until they graduate from high school with a regular high school diploma, as recommended by the students special education team, inclusive of parents. The adult student or his/her parent/guardian will be asked by the District if the student wishes to receive the special education and related services outlined in their individualized education program (IEP), as recommended, until they turn 22 years of age or they graduate with a regular high school diploma.

A parent of a child, the State Department of Education, other state agencies available to District school personnel or community member may initiate a request for comprehensive initial evaluation to determine if the child is a child with a disability. Initial evaluations using a variety of assessment tools and measures to gather relevant functional, developmental, and academic information, must be completed within 45 school days of the receipt of referral (written or verbal), for the initial evaluation; and implement the student's IEP (not counting the time necessary to obtain written parental consent to conduct the initial evaluation. Exceptions to this timeframe include children moving between school districts and parental refusal to make a child available for evaluation, as provided by law. Assessments for disabled children who are transfer students shall be coordinated between the sending or receiving district in an expeditious manner.

The District will provide parents/guardians with State Department of Education information and resources relating to IEPs as soon as a child is referred for evaluation.

Planning and Placement Team or Individualized Education Program Team

The term "individualized education program team" or "IEP Team" means a group of individuals composed of -

- (i) the parents or guardians of a child with a disability
- (ii) not less than one regular education teacher of such child (if the child is, or may be, participating in the regular education environment);
- (iii) not less than one special education teacher, or where appropriate, not less than one special education provider of such child;
- (iv) a representative of the local educational agency who -
 - (I) is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children with disabilities;
 - (II) is knowledgeable about the general education curriculum; and
 - (III) is knowledgeable about the availability of resources of the local educational agency;
- (v) an individual who can interpret the instructional implications of evaluation results, who may be a member of the team described in clauses (ii) through (vi);
- (vi) 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
- (vii) the school paraprofessional, if any, assigned to such child, when requested by the parent(s)
- (viii) whenever appropriate, the child with a disability.

NOTE: An IEP Team member is not required to attend all or part of an IEP meeting if the parents and District agree that the team member's participation is not necessary because the member's area of the curriculum or related services is not being modified or discussed at the meeting. If the meeting does involve a modification or

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discussion of the member's area of the curriculum or related services, parents and the District can agree to excuse the member from attending all or part of the meeting if the member submits written input to the parent and the IEP Team prior to the meeting. Parental consent in writing is required in either case.

In addition to the above, the special education specialist, school psychologist, school nurse, school social worker, counselor, or other student service worker who has conducted an assessment of the student shall participate whenever the results or recommendations based on such assessment are significant to the development of the student's individualized education program and placement. Where the student is limited or non-English speaking, a district representative who is fluent in the student's primary language and who is knowledgeable about the process of second-language acquisition and competent in the assessment of limited English and non-English speaking individuals should be included.

Any member of the PPT employed by the Board of Education who discusses or makes recommendations concerning the provisions of special education and related services during a PPT meeting shall not be disciplined, suspended, or otherwise punished for such recommendations.

No birth-to-three coordinator or qualified personnel, as defined by C.G.S. 17a-248, who discusses or makes recommendations concerning the provision of special education and/or related services during a PPT meeting or in a transition plan shall be subject to discipline, suspension, termination or other punishment on the basis of such recommendations.

The parent/guardian or surrogate parent shall be given at least five (5) school days prior notice of any PPT meeting and shall have the right to be present and participate in all portions of such meetings at which an educational program for their child is developed, reviewed or revised. In addition, parents/guardians or surrogate parents have the right to be present at and participate in all portions of the PPT meeting at which an educational program for their child is developed, reviewed or revised. In addition, the parent/guardian/surrogate shall have advisors and the child's assigned paraprofessional, if requested, and such child's birth-to-three service coordinator, if any, be present at and participate in all portions of the PPT meeting in which the child's educational program is developed, reviewed or revised and have the right to have such recommendation made in such child's birth-to-three individualized transition plan, if any, addressed by the PPT at which an educational program for such child is developed.

The District shall offer to meet with the student's parents/guardians, after the student has been assessed for possible placement in special education and before the Planning and Placement Team (PPT) meets. The sole purpose of such meeting is to discuss the PPT process and any concerns the parent/guardian has about the student. The meeting will involve a member of the PPT designated by the District before the referral PPT meeting at which the student's assessments and evaluations will be discussed for the first time. This applies to students under evaluation for possible placement in special education.

The District will provide the results of the assessments and evaluations used in the determination of eligibility for special education of a student at least three (3) school days before the referral PPT meeting at which such results of the assessment and evaluations will be discussed for the first time.

Parents/Guardians and the District may agree to conduct IEP meetings, and other meetings, through alternative means, such as including but not limited to, videoconferences or conference calls.

(a) **General.** The IEP for each child must include -

(1) An accurate statement of the child's present levels of academic achievement and functional performance based upon parental provider information, current classroom-based, local, state assessments and classroom-based observations, including -

- (i) How the child's disability affects the child's involvement and progress in the general education curriculum; or
- (ii) For preschool children, as appropriate, how the disability affects the child's participation in appropriate activities;

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(2) A statement of measurable annual academic and functional goals that aim to improve educational results and functional performance for each child with a disability, related to -

- (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 education curriculum;
- (ii) Meeting each of the child's other educational needs that result from the child's disability; and
- (iii) Providing a meaningful opportunity for the child to meet challenging objectives.

Alternate Assessments

(iii) A statement of "benchmarks or short-term objectives" is required only with respect to students with disabilities who take alternate assessments aligned with alternate achievement standards.

If a child will participate in alternate assessments based on either general or alternate achievement standards, the IEP must explain why the child cannot participate in the regular assessment and why the alternate assessment selected is appropriate for the child.

The IEP/PPT Team may only recommend appropriate accommodation or use of alternate assessment, but may not exempt students with disabilities from the state assessment.

(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;
- (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
- (iii) To be educated and participate with other children with disabilities and non-disabled children in the activities described in this paragraph;

(4) A school must offer an IEP that is "reasonable calculated to enable a child to make progress appropriate in light of the child's circumstances." The child's educational program must be appropriately ambitious in light of his/her circumstances and every child should have the chance to meet challenging objectives. The IEP Team, in determining whether an IEP is reasonably calculated to enable a child to make progress should consider the child's:

- Previous rate or academic growth,
- Progress towards achieving or exceeding grade-level proficiency,
- Behaviors, if any, interfering with the child's progress, and
- Parent's input and any additional information provided by such parents.

The U.S. Supreme Court, in the *Endrew F* decision stated, "any review of an IEP must consider whether the IEP is reasonably calculated to ensure such progress, not whether it would be considered ideal. (137S.CT. at 99)

(5) An explanation of the extent, if any, to which the child will not participate with non-disabled children in the regular class and in the activities described in paragraph (a) (3) of this section;

(6) (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

(7) The date for the beginning of the services and modifications described in paragraph (a)(3) of this section, and the frequency, location, and duration of those services and modifications; and

(8) 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 non-disabled children's progress, of -

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- (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
- (9) Reevaluation of a student's progress may not occur more than once a year unless agreed to by the parents and the District. Reevaluation must occur at least once every three years unless the parent and District agree that it is unnecessary.

NOTE: In order to make FAPE available to each eligible child with a disability, the child's IEP must be designed to enable the child to be involved in, and maybe progress in, the general education curriculum ("the same curriculum as for nondisabled children which is based on a State's academic content standards. This alignment must guide, and not replace the individualized decision-making required in the IEP process.")

(b) *Transition services.*

(1) The IEP must include -

(i) For each student beginning not later than the first IEP to be in effect when the child is fourteen, and younger if the PPT determines it appropriate, and updated annually, thereafter, appropriate measurable postsecondary goals based upon age appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills; and the transition services, including courses of study, needed to assist the student in reaching those goals.

(ii) For a student no longer eligible for services due to graduation from high school with a regular diploma or for a student who exceeds the age of eligibility under State law, a summary of the student's academic achievement and functional performance including recommendations on how to assist the student in meeting his/her postsecondary goals.

(2) If the IEP team determines that services are not needed in one or more of the areas specified in §300.27(c)(1) through (c)(4), the IEP must include a statement to that effect and the basis upon which the determination was made.

(c) ***Transfer of rights.*** Beginning not later than 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 this title if any, that will transfer to the student on reaching the age of majority, consistent with §615(m)

(d) ***Students with disabilities convicted as adults and incarcerated in adult prisons.*** Special rules concerning the content of IEP's for students with disabilities convicted as adults and incarcerated in adult prisons are contained §612(a)(5)A.

(e) ***Students with disabilities identified as deaf or hearing impaired.*** For a child identified as deaf or hearing impaired, the PPT shall develop an IEP which includes a language and communication plan which shall address;

- (i) the child's primary language or mode of communication;
- (ii) opportunities for direct communication between the child and his/her peers and professional personnel in the primary child's language or mode of communication;
- (iii) educational options available to the child;
- (iv) the qualifications of teachers and other professional personnel administering the plan for the child, including their proficiency in the child's primary language or mode of communication;
- (v) the accessibility of academic instruction, school services and extracurricular activities to the child;
- (vi) Assistive devices and services for the child;
- (vii) Communication and physical environment accommodations for the child; and
- (viii) An emergency communications plan that includes procedures for alerting the child of an emergency situation and ensuring that the specific needs of the child are met during the emergency situation. Such plan is to be developed for a student identified as deaf, hard of hearing, or both blind or visually impaired and deaf.

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Transfers

When an individual has been on an IEP in another school district, the PPT shall provide services "comparable to those described in the previously held IEP," until the District adopts the previously held IEP or evaluates, develops, adopts, and implements a new IEP. If a student who is on an IEP transfers from this district to another, or to a private school, the written IEP and any additional records relating to the student's program and achievement shall be forwarded to the receiving school on the request of the receiving school and the individual's parent or guardian.

Prior to the enrollment of a District student in a technical education and career school, the District will convene a PPT in order to address such student's transition to the technical education and career school and ensure that such student's IEP reflects the current supports and services the student requires in order to access a Free and Appropriate Public Education (FAPE) in the least restrictive environment. A representative from the technical education and career school shall be invited to the PPT meeting.

Independent Educational Assessment

(Please see Brookfield's IEE Criteria)

Legal Reference: Connecticut General Statutes

10-76a Definitions

10-76b State supervision of special education programs and services. Regulations. (as amended by PA 12-173)

10-76d Duties and powers of Boards of Education to provide special education programs and services. (as amended by June Special Session PA 15-5, Section 277 and PA 19-49 and PA 21-46 and PA 21-144)

10-76ff Procedures for determining if a child requires special education

10-76g State aid for special education.

10-76h Special education hearing and review procedure.

10-76q Special education at technical education and career schools (as amended by PA 21-144)

10-76jj Language and communication plan as part of individualized education program for child identified as deaf or hard of hearing (as amended by PA 19-184)

SDE Guidance Addressing Timeline for Initial Evaluations, Dec. 21, 2018

State Board of Education Regulations

34 C.F.R. 300 et seq. Assistance to States for Education of Handicapped Children.

300.14 Special education definitions.

300.340-349 Individualized education programs.

300.503 Independent educational assessment.

300.533 Placement procedures.

300.550-556 Least restrictive environment.

P.L. 108-446 The Individuals with Disabilities Education Improvement Act of 2004

Rowley v. Board of Education, 485 U.S.-176 (1982)

Endrew F. v. Douglas County School District RE-1, 15-827 U.S. (2017)

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A.M. v. N.Y. City Department of Education, 845F.3d 523, 541 (2d Cir.1997)

Mrs. B., v. Milford Board of Education 103 F. 3d 1114, 1121 (2d Cir. 1997)

A.R. v. Connecticut State Board of Education, 3:16-CV-01197 (CSH D. Conn. June 10, 2020)

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BROOKFIELD PUBLIC SCHOOLS
Brookfield, Connecticut