

IEP - 7.1 General

State Performance Plan (SPP):

(See Overview in the Introduction for more information on the SPP.)

SPP 12: Early childhood transition

Percent of children referred by Part C prior to age 3, who are found eligible for Part B, and who have an IEP developed and implemented by their 3rd birthdays. (20.U.S.C. 1416 (a) (3) (B))

Intent:

To ensure that all children with disabilities within the school district (LEA) are identified, evaluated and served, whether those services are provided within the local school district, in other districts or agencies, in charter (community) schools or in nonpublic schools.

Timelines:

- By the child's third birthday and at the beginning of each subsequent school year, each school district must have an IEP in effect for each child with a disability within its jurisdiction.
 - Within 30 calendar days of the determination that the child needs special education and related services;
 - Within 90 calendar days of receiving informed parental consent for an evaluation; or
 - Within 120 calendar days of receiving a request for an evaluation from a parent or school district (unless the team has determined it does not suspect a disability). (See [Procedural Safeguards - 5.3 Parental Consent for Evaluation and Evaluation - 6.2 Request and Referral for Initial Evaluation](#)).
- The IEP will be completed entirely, including all goals, objectives or benchmarks, and description of services to be delivered, before the initiation of special education and related services.
- Special education services will start on the effective date of the IEP.
- School- age services must be considered during the preschool IEP process for a child who will be age 6 as of December 1.
- For children with disabilities transitioning from Part C to Part B, services begin on the child's third birthday, unless the family of a child with a summer birthday and the district agreed when they conducted the IEP meeting that services will start at the beginning of the school year.

REQUIREMENT

3301-51-07

Individualized education program (IEP)

General

(A) Each school district shall adopt and implement written policies and procedures approved by the Ohio Department of Education, Office for Exceptional Children, that ensure an individualized education program (IEP) is developed and implemented for each child with a disability.

(B) The county boards of mental retardation and developmental disabilities (county boards of MR/ DD) and other educational agencies shall adopt and implement written policies and procedures approved by the Ohio Department of Education, Office for Exceptional Children, that ensure services identified in the child's IEP are provided as agreed upon with the child's school district of residence.

(C) The child's school district of residence is responsible for ensuring that the requirements of this rule are met regardless of which school district, county board of MR/ DD, or other educational agency implements the child's IEP. This includes the responsibility for initiating and conducting meetings for the purpose of developing, reviewing, and revising the IEP of a child with a disability.

3301-51-07

(D) Children in other districts or agencies

(1) The child's school district of residence is responsible for ensuring that an IEP is developed and implemented for each child with a disability residing in the school district. When providing special education services for a child with a disability in another school district, county board of MR/ DD or other educational agency, the school district of residence must follow the same procedural safeguards as it does for all children with disabilities and have on file a copy of the current evaluation team report and the IEP.

(2) Each school district will cooperate with other districts, county boards, MR/ DD, and with educational agencies that serve children with disabilities in institutions or other care facilities to ensure that these children have access to an education in a regular public school setting, when appropriate, and as specified in the IEP.

GUIDANCE

General and children in other districts or agencies

- Each district must ensure that an IEP is developed and implemented for each child with a disability. Both the district of residence, **i.e., the district where the child's biological or adoptive parents reside or were last known to reside, if their whereabouts are unknown**, and the district of service must provide a free appropriate public education to any child with a disability attending its schools or residing within the boundary of its district. Neither the district of residence or the district of service may charge the other for personnel attending IEP meetings.
- **The district of residence is responsible for ensuring that a free appropriate public education (FAPE) is provided to all children open enrolled in another district. The district of residence must find the child, evaluate, determine eligibility and develop the IEP. The open enrollment district implements the IEP and bills back excess cost to the district of residence. The district of residence is also responsible for all reevaluations and IEPs for as long as the child remains open enrolled in another district. However, the district where the child is open enrolled may complete the ETR and the IEP if both the open enrollment district and the child's district of residence agree.**
- If the school district and the parent agree that an out-of-state placement is necessary to provide a free appropriate public education (FAPE), the district may contract for that placement in accordance with Ohio Revised Code (O.R.C.) § 3323.08 (B) (3). If the district and the parent do not agree that the out-of-state placement is necessary to provide FAPE, that disagreement can be resolved through IDEA's dispute resolution procedures, like any other dispute between a parent and a district.
- The school district of residence must have a current list of all children with disabilities being served outside the school district.
- A district of residence representative must be invited to attend all meetings for children served outside of the district that are held to develop, review and revise the IEP.
- The district of residence representative should participate in IEP meetings (in person, by phone, by conference call or other means) because the district of residence has the ultimate responsibility for the IEP.
- The district of residence will ensure that a current evaluation and IEP is on file for children not served within the district.
- The building principal should ensure that a current IEP is on file for each child receiving special education services in the building(s) to which the principal is assigned.
- It is good practice for the district to print out a list of due dates for IEPs and evaluations and distribute that list to administrators, intervention specialists and related service personnel responsible for the children. IEPs are effective for one year, minus one day. For example, if an IEP was developed on April 1, 2009, the last effective date of the IEP is March 31, 2010. Evaluation team reports are effective for three years minus one day. If an evaluation team report (ETR) was completed on April 1, 2009, the last effective date of the ETR is March 31, 2010 and the ETR must be completed by March 31, 2010. **Leap year does not affect the calculation of these dates. Leap year only affects the 60-day timeline between consent and the evaluation team report.** **See Child Find - 3.2 Responsibilities in Locating Children with Disabilities.**

For further assistance in determining the responsibilities of each district when serving children with disabilities placed out of district by another entity, refer to Provision of Services for School Age(5-21)Children with Disabilities Placed Out of District, February 11, 2010.

For assistance in determining the district of residence's responsibilities for children who participate in the Autism Scholarship Program, refer to *Autism Scholarship Program (ASP) Guidelines*, Ohio Department of Education, Office for Exceptional Children.

REQUIREMENT

3301-51-07

(K) When IEPs must be in effect

(1) General

By the child's 3rd birthday and at the beginning of each subsequent school year, each school district must have in effect, for each child with a disability within its jurisdiction, an IEP, as defined in paragraph (H) of this rule. The IEP shall be implemented as soon as possible following the IEP meeting.

(2) The initial IEP must be developed within whichever of the following time periods is the shortest:

- (a) Within thirty calendar days of the determination that the child needs special education and related services;
- (b) Within ninety calendar days of receiving parental consent for an evaluation; or
- (c) Within one hundred twenty calendar days of the receipt of a request for an evaluation from a parent or school district.

(3) Initial IEPs; provision of services

Each school district must ensure that:

- (a) A meeting to develop an IEP for a child is conducted within thirty days of a determination that the child needs special education and related services; and
- (b) 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.

GUIDANCE

When IEPs must be in effect

Each school district must ensure that:

For an initial IEP

- (a) A meeting to develop a child's IEP is conducted within 30 days of a determination that the child needs special education and related services; and
- (b) 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.

The initial IEP must be developed within **whichever of the following time periods is the shortest:**

- Within 30 calendar days of the determination that the child needs special education and related services;
- Within 90 calendar days of receiving informed parental consent for an evaluation; or
- Within 120 calendar days of receiving a request for an evaluation from the parents or school district (unless the team has determined it does not suspect a disability).

For children who transition from Part C Early Intervention

For each child who transitions from Part C Early Intervention Services and qualifies for special education and related services, an IEP must be in effect by the child's third birthday and at the beginning of each subsequent school year.

- Exception: According to IDEA, the only time a child transitioning from Help Me Grow/ Part C early intervention to preschool special education can have an IEP implementation date later than the child's third birthday is when that birthday is in the summer. For these children, data from Help Me Grow and additional evaluation data must be used to determine if the child requires extended

school year(EYS) services to sustain current skills. If regression is a possibility, the district can provide services that are different from those provided during the school year, to ensure the child does not lose skills. A child who has lost skills because ESY was not provided can require additional attention and support once they begin the preschool program. ESY must be provided as required by rule 3301-51-02(G) and discussed under IEP - 7.5 Special Factors and Considerations.

- Note: This exception does not apply to children with birthdays in the spring.

For children who transfer into the district in the summer

IEPs must be in effect at the beginning of the school year for all identified children with disabilities in the district's jurisdiction. Therefore, the district must have a process in place to make sure that any child identified as having a disability who transfers into the district in the summer has an IEP in place when he or she starts the new school in the fall.

For an IEP developed during an annual review

The IEP team meeting may be held on one date and the IEP implemented at a later date. However, ODE/ OEC strongly recommends against this practice. If the IEP team makes any changes to the IEP and then does not implement the new IEP, the parents could claim that the district did not provide the child FAPE. That is, the district knew the goals, objectives and services were not appropriate for the child at the time of the IEP team meeting, but continued providing inappropriate services rather than implementing the new IEP.

Except for initial IEPs that must be implemented as soon as possible after the development of the IEP, nothing in Ohio's *Operating Standards* or the IDEA prohibits delaying implementation of a revised IEP.

REQUIREMENT

3301-51-07

(K) When IEPs must be in effect

(5) IEPs for children who transfer school districts in the same state

If a child with a disability (**who had an IEP that was in effect in a previous school district in the same state**) transfers to a new school district of residence in the same state, and enrolls in a new school within the same school year, the new school district of residence (in consultation with the parents) must provide a free and appropriate public education (FAPE) to the child (including services comparable to those described in the child's IEP from the previous school district of residence), until the new school district of residence either:

- (a) Adopts the child's IEP from the previous school district of residence, or
- (b) Develops, adopts, and implements a new IEP that meets the applicable requirements in paragraphs (H) to (L) of this rule.

GUIDANCE

IEPs for children who transfer school districts in the same state

In all cases the new district of residence (in consultation with the parents) must provide FAPE to the eligible child with a disability, including services comparable to those described in the child's current IEP, until the current IEP is adopted or a new IEP is developed.

What does the district do when there is no ETR or IEP or the ETR and IEP have expired?

If a child's IEP is not available upon enrolling in a new district of residence, the school district cannot deny the child's enrollment. The child is to be immediately enrolled in the new district and provided with an education until the time the IEP is received from the sending district. If the sending district does not send the IEP or the IEP is out of date, the receiving district must write a new IEP and implement it. This also holds true for evaluations and evaluation team reports (ETRs). If a new IEP or ETR must be completed, this should be done as soon as possible because the child is entitled to FAPE from the day the child enrolls in the district. If appropriate services are

not provided in the interim between enrollment and the completion of these documents compensatory education may be required. Therefore, it is in the district's best interest to complete these tasks as quickly as possible.

If the district has concerns about a child's ETR from another district in state, the IEP team should refer the child for additional evaluation. This would constitute a **reevaluation** and should be completed within a reasonable amount of time to ensure the child receives appropriate services.

REQUIREMENT

3301-51-07

(K) When IEPs must be in effect

(6) IEPs for children who transfer from another state

If a child with a disability (**who had an IEP that was in effect in a previous school district in another state**) transfers to a new school district of residence in Ohio and enrolls in a new school within the same school year, the new school district of residence (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 school district of residence), until the new school district of residence:

- (a) Conducts an evaluation pursuant to paragraphs (E) to (G) of rule 3301-51-06 of the Administrative Code (if determined to be necessary by the new school district of residence); and
- (b) Develops, adopts, and implements a new IEP, if appropriate, that meets the applicable requirements in paragraphs (H) to (L) of this rule.

3301-51-07

(K) When IEPs must be in effect

(1) General

By the child's 3rd birthday and at the beginning of each subsequent school year, each school district must have in effect, for each child with a disability within its jurisdiction, an IEP, as defined in paragraph (H) of this rule. The IEP shall be implemented as soon as possible following the IEP meeting.

GUIDANCE

IEPs for children who transfer from another state

If a child with a disability who had an IEP in effect in an out-of-state school district transfers to a new school district of residence, the new school district of residence (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 school district of residence), until the new school district of residence:

- Conducts an evaluation pursuant to paragraphs (E) to (G) of rule 3301-51-06 of the Administrative Code (if determined to be necessary by the new school district of residence); and
- Develops, adopts, and implements a new IEP, if appropriate, that meets the applicable requirements in paragraphs (H) to (L) of Rule 3301-51-07.

If the district determines that a new evaluation is necessary, this evaluation is considered an *initial* evaluation and requires parental consent.

If a child with a disability transfers from another state to a school in Ohio and the Ohio school has not received a copy of the child's ETR and IEP, the Ohio school district is not required to provide special education services to the child on the date of enrollment. However, it must serve the child through the regular education program until the child's IEP and ETR are received from the sending district.

Procedures and Guidance for Ohio Educational Agencies serving Children with Disabilities

(October, 2011)

The Ohio school district must take reasonable steps to promptly obtain a 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 public school in which the child was previously enrolled. If after taking steps to promptly obtain the records and the Ohio school district is not able to obtain the IEP from the child's previous school or from the parents, the Ohio school district is not required to provide special education and related services to the child.

If the Ohio school district decides that an evaluation is necessary because it has reason to suspect that the child has a disability and both the school district and the parents agree, the Ohio school district may provide special education and related services to the child while the evaluation is pending. However, if the child receives special education services while the evaluation is pending, the school district must conduct the evaluation, which is considered to be an initial evaluation, within 60 days of receiving parental consent. (*Questions and Answers on Individualized Education Programs (IEPs), Evaluations, and Reevaluations*, OSEP, June 2010, Excerpt from Response).

If the Ohio school district conducts an evaluation and determines that the child has a disability and needs special education and related services, the school district must develop and implement an IEP in accordance with the required timelines. See "Timelines" above.

REQUIREMENT

3301-51-07

(K) When IEPs must be in effect

(7) Transmittal of records

To facilitate the transition for a child described in paragraphs (K) (5) and (K) (6) of this rule (child who transfers from a school district in the same state or from out of state):

(a) The new school district of residence 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 school district of residence in which the child was enrolled, pursuant to 34 C.F.R. 99.31 (a) (2) (July 1, 2005); and

(b) The previous school district of residence in which the child was enrolled must take reasonable steps to promptly respond to the request from the new school district of residence.

See Family Educational Rights and Privacy Act (FERPA) 34 C.F.R. 99.31(a) (2) and 99.34.

GUIDANCE

What is a district's responsibility regarding transmittal of records?

To ensure the continuity of services for a child with a disability, all school districts in Ohio should develop a process for requesting records from other school districts.

That process must ensure that once a request is received, the records and documentation are promptly sent to the requesting district.

Although districts can withhold transcripts for nonpayment of fees, copies of the IEP, ETR and other special education records cannot be withheld.

REQUIREMENT

3301-51-07

(M) Nonpublic school placements by public school districts

(1) Developing IEPs

Procedures and Guidance for Ohio Educational Agencies serving Children with Disabilities

(October, 2011)

(a) Before a public school district places a child with a disability in, or refers a child to, a nonpublic school or facility, the district must initiate and conduct a meeting to develop an IEP for the child in accordance with paragraphs (H) and (L) of this rule.

(b) The district must ensure that a representative of the nonpublic school or facility attends the meeting. If the representative cannot attend, the district must use other methods to ensure participation by the nonpublic school or facility, including individual or conference telephone calls.

(2) Reviewing and revising IEPs

(a) After a child with a disability enters a nonpublic school or facility, any meetings to review and revise the child's IEP may be initiated and conducted by the nonpublic school or facility at the discretion of the public school district.

(b) If the nonpublic school or facility initiates and conducts these meetings, the public school district must ensure that the parents and a district representative

(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.

(3) Responsibility

Even if a nonpublic school or facility implements a child's IEP, responsibility for compliance with this rule remains with the public school district and the Ohio Department of Education.

GUIDANCE

Nonpublic school placements by public school districts

What is the district's responsibility for developing IEPs for children it has placed in nonpublic schools?

If the child and parents reside in the same school district and the IEP team develops an IEP that is provided in a nonpublic school:

Before the child is placed:

- The school district of residence will conduct a meeting to develop the initial IEP for the child;
- The school district of residence must ensure that a representative of the nonpublic school or facility attends the meeting; and
- If the representative of the nonpublic school or facility cannot attend, the district must provide other means for participation by the nonpublic school or facility, including individual or conference telephone calls.

After the child is placed:

The district of residence decides whether to allow the nonpublic school or facility to initiate and conduct any meeting to review and revise the child's IEP. For annual reviews, the nonpublic school or facility of attendance may hold an IEP meeting at the discretion of the district of residence. If an IEP meeting is held, the district providing services shall ensure that:

- The district of residence representative and the parents are involved in any decisions regarding the child's IEP, and
- The district of residence representative agrees to any proposed changes before revision of the child's IEP.

The nonpublic school or facility is not required to hold the IEP meeting.

If the child and parents do not live in the same district, the district serving the child must have the approval of the district of the parents' residence to refer the child to another school district or agency.

It is the responsibility of the district of residence and the Ohio Department of Education (ODE) to ensure compliance, even if a nonpublic school or facility implements the child's IEP.

What is a Services Plan?

If a school district places a child with a disability in a nonpublic school or facility, the child's IEP is still called an IEP. If the parents unilaterally place a child with a disability in a nonpublic school, the child may have a Services Plan and is not entitled to an IEP.

REQUIREMENT

3301-51-08 Parentally placed nonpublic school children

(A) Children's rights to services

Each school district is required to provide equitable services and participation for eligible children who are attending a chartered or non-chartered nonpublic school located within the district's geographical boundaries. The school district must have timely and meaningful consultation with the chartered and non-chartered nonpublic school officials to determine if any children attending those nonpublic schools are eligible for equitable services.

3301-51-08

(C) Provision of services for parentally placed nonpublic school children with disabilities: basic requirement

(2) Services plan for parentally placed nonpublic school children with disabilities

In accordance with paragraph (C) (1) and paragraphs (I) to (K) of this rule, a services plan must be developed and implemented for each nonpublic school child with a disability who has been designated by the school district in which the nonpublic school is located to receive special education and related services under this rule.

GUIDANCE

Nonpublic school placements by parents

What is a district's responsibility for services for children with disabilities who have been placed by their parents in nonpublic schools located in the school district's geographical boundaries?

Each school district is required to provide *equitable* services and participation for eligible children who are attending chartered or nonchartered nonpublic schools located within the district's geographical boundaries. No child with a disability in a nonpublic school has an individual right to receive any of the specific special education and related services that the child would receive in a public school. The child is not entitled to FAPE. Decisions about the services nonpublic school children with disabilities will receive are made by the school district after it consults with representatives of the nonpublic school. The district of residence shall give representatives of nonpublic schools an opportunity to express their views in light of the available funding, the number of nonpublic school children with disabilities, the children's needs and their location, to help decide which children will receive services and what services will be provided. However, the final decisions about the services to be provided belongs to the public school district where the nonpublic school is located. (See [Section 9 Parentally- Placed Nonpublic School Children](#)).

Services Plan

Special education services to be provided to a nonpublic school child with disabilities placed by his or her parents must be implemented in accordance with a services plan. A services plan must be individually developed for each child served and must describe the specific special education and related services that the district in which the nonpublic school is located agrees to provide to that child. The services plan is written on the Services Plan form. This form is being developed by ODE/ OEC and when available will be included in this document under [Ohio Required Forms](#), posted on the www.EdResourcesOhio.org Web site, and on the ODE Web site at [http:// education.ohio.gov](http://education.ohio.gov), keyword search: *services plan*.

The school district where the nonpublic school is located - whether or not it is the child's district of residence - is required to conduct the services plan meeting for an eligible child who will receive special education and related services.

- The representative of the nonpublic school must be invited to attend the services plan meeting.
- If a nonpublic school representative is unable to attend, the school must use other methods to ensure the nonpublic school representative's participation, including individual or conference telephone calls.

Procedures and Guidance for Ohio Educational Agencies serving Children with Disabilities

(October, 2011)

- The public school district providing the services is responsible for conducting meetings, at least annually, to review and, if appropriate, revise each child's services plan.
- The child's school district of residence must provide transportation for a child with a disability who is enrolled by his or her parents in a nonpublic school, to the same degree as any child without disabilities who is attending a chartered nonpublic school. If transportation is a related service, it should be defined in the child's services plan. Transportation must be provided if transportation is necessary for the child to benefit from or participate in services provided.

The school district determines where services will be provided. With the permission of the nonpublic school, services may be provided on the premises of a nonpublic school to the extent consistent with the law.

REQUIREMENT

3301-51-08

(R)Autism Scholarship program considerations

(1) Children who are participating in the "Autism Scholarship Program" (ASP), established by section 3310.41 of the Revised Code, and attending either a chartered or non- chartered nonpublic school are eligible to participate in the special education IDEA Part B and early childhood special education flow- through benefits if the children meet the eligibility requirements outlined in this rule.

(a) The district where the chartered or non- chartered nonpublic school is located is responsible for the evaluation of these children as well as a determination of whether or not these children will receive services through a services plan, as outlined in paragraphs (B) and (C) of this rule. The services plan for these children must provide special education and related services that are not already covered by ASP funds.

(b) The school district of residence shall create the IEP that is required for these children to participate in the ASP. The school district where the nonpublic school is located shall complete the evaluation and develop a services plan, if appropriate.

GUIDANCE

Autism scholarship program (ASP) considerations

The district of residence is responsible for developing the IEP required for children to participate in the Autism Scholarship Program. The registered private provider provides services according to the IEP and will document the child's progress and send information about that progress to the district of residence.

Children who are participating in the ASP and attending either a chartered or non- chartered nonpublic school may receive services through a services plan. The services plan for these children must provide special education and related services that are in addition to the services contained in the child's IEP and being paid for by the ASP funds. See [Parentally Placed Nonpublic School Children - 9 Guidelines for Providing Services](#).

REQUIREMENT

3301-51-07

(L) Development, review, and revision of IEP

(4) Children with disabilities in adult prisons

(a) 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:

(i) The requirements contained in Section 612(a) (16) of the IDEA and paragraph (H) (1) (g) of this rule (relating to participation of children with disabilities in general assessments).

Procedures and Guidance for Ohio Educational Agencies serving Children with Disabilities

(October, 2011)

(ii) The requirements in paragraph (H) (2) of this rule (relating to transition planning and transition services) do not apply with respect to the children whose eligibility under Part B of the IDEA 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.

(b) Modification of IEP or placement

(i) Subject to paragraph (L) (4) (b) (ii) of this rule, 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.

GUIDANCE

Children with disabilities in adult prisons

See the above Requirements.

REQUIREMENT

3301-51-01

(B)Definitions

(52) "Related services" means transportation and such developmental, corrective, and other supportive services as are required to assist a child with a disability to benefit from special education and includes speech- language pathology and audiology services; interpreting services; psychological services; physical and occupational therapy; recreation, including therapeutic recreation; early identification and assessment of disabilities in children; counseling services, including rehabilitation counseling; orientation and mobility services; and medical services for diagnostic or evaluation purposes. Related services also include school health services and school nurse services, social work services in schools, and parent counseling and training.

(a) Exception; services that apply to children with surgically implanted devices, including cochlear implants.

(i) Related services do not include a medical device that is surgically implanted, the optimization of that device's functioning (e.g., mapping), maintenance of that device, or the replacement of that device.

(ii) Nothing in 3301-51-01 of the Administrative Code, paragraph (B) (52) (a) (i):

(a) Limits the right of a child with a surgically implanted device (e.g., cochlear implant) to receive related services (as listed in this rule) that are determined by the IEP team to be necessary for the child to receive FAPE.

(b) Limits the responsibility of a school district to appropriately monitor and maintain medical devices that are needed to maintain the health and safety of the child, including breathing, nutrition, or operation of other bodily functions, while the child is transported to and from school or is at school; or

(c) Prevents the routine checking of an external component of a surgically implanted device to make sure it is functioning properly, as required in rule 3301-51-02 of the Administrative Code.

GUIDANCE

Related Services

Transportation as a related service

See *Annotations for the IEP PR-07 Form*.

REQUIREMENT

3301-51-01

(B)Definitions

(58)Special education:

(a) General.

(i) "Special education" means specially designed instruction, at no cost to the parents, to meet the unique needs of a child with a disability, including:

(a) Instruction conducted in the classroom, in the home, in hospitals and institutions, and in other settings;
and

(b) Instruction in physical education.

(ii) Special education includes each of the following, if the services otherwise meet the requirements of 3301-51-01 of the Administrative Code, paragraph (B) (58) (a) (i):

(a) Speech- language pathology services, or any other related service, if the IEP team considers the service special education rather than a related service under state standards;

(b) Travel training; and

(c) Vocational Education.

GUIDANCE

Related services as special education

For a child to receive only a related service as special education in the state of Ohio, all of the following must apply:

- The child is identified as a child with a disability by meeting the requirements under one of the 13 categories of disabilities as outlined in the IDEA;
- The child needs only a related service; and
- The intensity of the services provided meets the definition of special education (i.e., specially designed instruction to meet the unique needs of the child with a disability).

Speech is a disability category.

A child who has a speech disability only is a child with a disability under IDEA. That child is entitled to all the supports and services the child needs to progress in the general education curriculum and to receive FAPE. There is no such thing as a "speech- only" IEP. If a child with only a speech disability needs additional supports and services beyond speech, the IEP team convenes and adds those services to the existing IEP. For example; occupational therapy could be included as a related service on the IEP for a child who has a speech or language impairment.

Procedures for missed related services

PROCEDURES FOR MISSED RELATED SERVICES

If a child's IEP requires the child receive services from a related service provider and the related service provider is absent on the day the services are to be provided, then the services shall be made up at another time. The related service provider may have another service provider provide the child the services. If this is done the related service provider must ensure that the substitute service provider is appropriately licensed and trained to provide the necessary services to the child.

If the related service provider is attending or engaging in some alternative activity during the time the child is to receive related services (e.g., assemblies, IEP meetings, kindergarten screenings), the related service provider shall make up the child's services at another time. The related service provider may also have another service provider provide the child the services. If this is done the

Procedures and Guidance for Ohio Educational Agencies serving Children with Disabilities

(October, 2011)

related service provider must ensure that the substitute service provider is appropriately licensed and trained to provide the necessary services to the child.

If the child is absent on the day the child is to receive related services, the related service provider does not have to make up those services.

If the child is attending or engaging in some alternative activity with the class (e.g., assemblies, field trips, grandparent day), the related service provider does not have to make up services. If a school holiday falls on the day the child is to receive related services the related service provider does not have to make up the service. Caution should be exercised, however, to ensure that holidays and class activities do not continually fall on the same day of the week that the child receives services resulting in the child missing many days of service. Too many missed service days may result in the child not receiving a free appropriate public education.

LEGAL CITATIONS:

Federal Statutes:

20 U.S.C. 1412(a) (1)&(4)
20 U.S.C. 1412(a) (10) (b)
20 U.S.C. 1412(a) (12) (A) (i)
20 U.S.C 1414(d)&(e)

Federal Regulations:

C.F.R. §300.112
C.F.R. §300.323
C.F.R. §300.324
C.F.R. §300.325
34 C.F.R. 99.31(a) (2) and 99.34

Ohio Revised Code: (Policies)

3310.41

Operating Standards: (Procedures)

3301-51-06
3301-51-07
3301-51-08

FORMS (* = required)

- Prior Written Notice to Parents PR-01*
- Parent Invitation PR-02*
- IEP PR-07*
- Whose IDEA Is This?*