

# INDIVIDUALIZED EDUCATION PROGRAMS (IEP)

## I. ASSURANCES

The Arkansas Department of Education assures that each public agency in the State maintains records of the IEP for each child with a disability and establishes, reviews and revises each program. [Attachment 1, Section 8.00; Attachment 2 - Statutes: Ark. Code Ann. 6-41-202 through 6-41-223 (1999)].

The Arkansas Department of Education assures that each public agency develops, implements, reviews and revises an IEP for each child with a disability. [Attachment 1; Section 8.00; Attachment 2 - Statutes: Ark. Code Ann. 6-41-202 through 6-41-223 (1999)].

The Arkansas Department of Education assures that it has implemented a system of compliance monitoring/administrative review for public agencies serving children with disabilities. The system includes monitoring of agencies and institutions responsible for carrying out each program, the enforcement of any obligation imposed on these agencies and institutions under law, and the correction of deficiencies in program operations that are identified through monitoring. The *Procedural Manual for LEA Compliance Monitoring* contains a description of the procedures to monitor and evaluate -

- A. The effectiveness of procedures undertaken to identify, locate and evaluate children with disabilities;
- B. The development, implementation, review and revision of IEPs (consistent with the requirements at 34 CFR 300.340 - 300.350);
- C. Compliance with procedures for placing children with disabilities in private schools; and
- D. Placement of children with disabilities to assure the requirements of 34 CFR 300.550 to 300.556 are met.

The correction of deficiencies is accomplished through procedures set out in the *Procedural Manual for LEA Compliance Monitoring* related to the public agency's compliance action plan.

The Arkansas Department of Education assures that -

- E. Each public agency develops and implements an IEP for each of its children with disabilities, including its eligible children enrolled in a charter school;
- F. IEPs are developed and implemented for each child with a disability who -
  - 1. Is placed in or referred to a private school or facility by a public agency;  
or

2. Is enrolled in a parochial, other private school or home school and receives special education or related services from a public agency.
- G.** IEPs for children with disabilities who are receiving special education from such agencies are in effect at the beginning of each school year.
- H.** IEPs are in effect before special education and related services are provided to a child.
- I.** IEPs are implemented as soon as possible following the IEP meetings.
- J.** 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.
- K.** Each teacher and provider described in **J** above is 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.
- L.** Each public agency is responsible for initiating and conducting meetings to develop, review and revise the IEP of a child with a disability.
- M.** Each public agency shall ensure that within a reasonable period of time following the agency's receipt of parent consent to an initial evaluation of a child -
1. The child is evaluated, and
  2. If determined eligible under this part, special education and related services are made available to the child in accordance with an IEP.
- N.** A meeting to develop an IEP for the child must be conducted within 30 calendar days of a determination that the child needs special education and related services.
- O.** Each public agency initiates and conducts meetings to review the child's IEP periodically, but not less than annually, to determine whether the annual goals for the child are being achieved, and revise the IEP as appropriate to address -
1. Any lack of expected progress toward the annual goals, and the general curriculum, if appropriate;
  2. The results of any reevaluation conducted;
  3. Information about the child provided to, or by, the parents;
  4. The child's anticipated needs; or
  5. Other matters.
- P.** The IEP team includes the following participants -
1. The parents of the child;

2. At least one regular education teacher of the child (if the child is, or may be, participating in the regular education environment);
3. At least one special education teacher of the child, or if appropriate, at least one special education provider of the child;
4. A representative of the public agency who -
  - a. Is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children with disabilities;
  - b. Is knowledgeable about the general curriculum; and
  - c. Is knowledgeable about the availability of resources of the public agency;
5. An individual who can interpret the instructional implications of evaluation results, who may be a member of the team described in 2 through 6 of this section;
6. At the discretion of the parent or the agency, other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate; and
7. If appropriate, the child.

The ADE further assures that -

- Q. When the purpose of a meeting is the consideration of transition service needs or needed transition services for a student, or both, the public agency shall -
  1. Invite the student of any age with a disability to attend his or her IEP meeting , and a representative of any other agency that is likely to be responsible for providing or paying for transition services;
  2. Take steps to ensure that the student's preferences and interests are considered if the student does not attend the meeting; and
  3. Take other steps to obtain the participation of the other agency in the planning of any transition services if an agency invited to send a representative to a meeting does not do so.
- R. The determination of the knowledge or special expertise of any individual described in P. 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 team.
- S. A public agency may designate another public agency member of the IEP team to also serve as the agency representative, if the criteria in P. 4 of this section are satisfied.

- T.** Each public agency takes steps to ensure that parents of the child with a disability are present or have been given the opportunity to participate in each IEP meeting, as -
- 1.** Notification of the meeting occurs early enough to ensure an opportunity to attend; and
  - 2.** The meeting is scheduled at a mutually agreed upon time and place.
  - 3.** The notice indicates the purpose, time and location of the meeting and who will attend.
  - 4.** The parent is provided with information relating to the participation of other individuals on the IEP Team who have knowledge or special expertise about the child.
  - 5.** The notice of a meeting for the consideration of transition services needs for a student with a disability beginning at age 14, or younger if appropriate, will indicate -
    - a.** That a purpose of the meeting will be the development of a statement of the transition services needs of the student; and
    - b.** That the student will be invited.
  - 6.** The notice of a meeting for the consideration of needed transition services for a student with a disability beginning at age 16, or younger if appropriate, will indicate -
    - a.** That as a purpose of the meeting;
    - b.** That the agency will invite the student; and
    - c.** The identity of any other agency that will be invited to send a representative.
  - 7.** Other methods, including individual or conference telephone calls, are used to ensure parent participation when the neither parent cannot attend the meeting.
  - 8.** Meetings may be conducted without a parent in attendance if the public agency is unable to convince the parents to attend, in which case records must be kept of attempts to arrange a mutually agreeable time and place, including detailed records of telephone calls made or attempted and the results of those calls, copies of correspondence sent to the parents and any responses received, and detailed records of and visits made to the parent's home or place of employment and the results of those visits, as appropriate.
  - 9.** Action is taken to ensure that parents understand the proceedings at the IEP meeting, including arranging for an interpreter for parents with deafness or whose native language is not English.

- 10.** Parents are given a copy of the child's IEP at no cost by the public agency.
- U.** The ADE assures that with regard to the development, review and revision of an IEP, that -
- 1.** In developing each child's IEP, the IEP team shall consider -
    - a.** The strengths of the child and the concerns of the parents for enhancing the education of their child;
    - b.** The results of the initial or most recent evaluation of the child; and
    - c.** As appropriate, the results of the child's performance on any general State or district-wide assessment programs.
  - 2.** The IEP team also shall -
    - a.** 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;
    - b.** In the case of the child with limited English proficiency, consider the language needs of the child as those needs relate to the child's IEP;
    - c.** 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;
    - d.** 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
    - e.** Consider whether the child requires assistive technology devices and services.
  - 3.** In conducting a meeting to review, and, if appropriate, revise a child's IEP, the IEP team shall consider the factors described in **2** of this section.
  - 4.** If, in considering the special factors described in **1-3** 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.

- 5.** 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 -

  - a.** Appropriate positive behavioral interventions and strategies for the child; and
  - b.** Supplementary aids and services, program modifications or supports for school personnel that will be provided for the child, consistent with **W.3** of this section.
  
- V.** 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.
  
- W.** The IEP for each child with a disability must include -

  - 1.** A statement of the child's present levels of educational performance, including -

    - a.** 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
    - b.** For preschool children, as appropriate, how the disability affects the child's participation in appropriate activities;
  
  - 2.** A statement of measurable annual goals, including benchmarks or short-term objectives, related to -

    - a.** 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
    - b.** Meeting each of the child's other educational needs that result from the child's disability;
  
  - 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 -

    - a.** To advance appropriately toward attaining the annual goals;



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.
- Y.** If a participating agency fails to provide agreed-upon transition services contained in the IEP, the public agency responsible for the student's education shall -
1. Initiate a meeting for the purpose of identifying alternative strategies to meet the transition objectives for the student set out in the IEP, and
  2. Revise the IEP, if needed.
- Z.** 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.
- AA.** Consistent with Arkansas state law pertaining to age of majority (age 18), beginning at least one year before a student reaches the age of majority, 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 that will transfer to the student on reaching the age of majority.
- BB.** For students with disabilities convicted as adults under State law and incarcerated in adult prisons, the following IEP requirements do not apply -
1. Those relating to participation of children with disabilities in general assessments; and
  2. Those relating to transition planning and transition services, with respect to the students whose eligibility under Part B of the Act will end, because of their age, before they will be eligible to be released from prison based on consideration of their sentence and eligibility for early release.
- CC.** The IEP Team of a student with a disability who is convicted as an adult under State law and incarcerated in an adult prison may modify the student's IEP or placement if the State has demonstrated a bona fide security or compelling penological interest that cannot otherwise be accommodated. The requirements of 34 CFR 300.340(a) and 300.347(a) relating to IEPs, and 300.550(b) relating to LRE, do not apply with respect to the modifications described herein.
- DD.** The SEA shall ensure that before a public agency places a child with a disability in, or refers a child to, a private school or facility, the public agency will -
1. Initiate and conduct an IEP meeting before referring a child to or placing a child in a private school or facility; and
  2. Ensure the attendance at or participation in the meeting of a representative of the private school or facility. If the representative cannot attend, the agency shall use other methods to ensure

participation by the private school or facility, including individuals or conference telephone calls.

- EE.** After the child enters a private school or facility -
- 1.** Any meetings to review and revise the child's IEP may be initiated and conducted by the private school or facility, at the public agency's discretion;
  - 2.** Parents and an agency representative must be involved in any decision about the child's IEP, and agree to any proposed changes in the IEP before those changes are implemented; and
  - 3.** Even if a private school or facility implements a child's IEP, responsibility for compliance remains with the public agency and the State educational agency.