INDIVIDUALS WITH DISABILITIES EDUCATION ACT – 2018 MANUAL

Los Lunas Schools

THIS MANUAL IS DEDICATED TO THE 100'S OF NEW MEXICO EDUCATORS WHO SHOW UP EVERY DAY TO PROVIDE THE STUDENTS OF NEW MEXICO WITH A FREE APPROPRIATE PUBLIC EDUCATION AND WHO GIVE TIRELESSLY OF THEMSELVES AND THEIR SKILLS.
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INTRODUCTION

The Congress of the United States has found that disability is a natural part of the human experience and in no way diminishes the right of an individual to participate in or contribute to society. Improving educational results for children with disabilities is an essential element to our national policy of ensuring equality of opportunity, full participation, independent living, and economic self-sufficiency for individuals with disabilities.

This Individuals with Disabilities Education Act ("IDEA") Manual is designed for use by Los Lunas Schools personnel in the identification of students eligible for special education, the development of individualized education programs, and the implementation of those programs. The IDEA Manual addresses both the form completion as well as the legal responsibilities associated with each component of both an Individualized Education Program ("IEP") and the determination by the group of qualified professionals that makes eligibility determinations.

Each term is defined in the first section of the manual, and each proceeding section deals with one particular aspect of the IDEA. Some sections also include a list of frequently asked questions ("FAQs") and answers to those questions.

This Manual provides a brief overview of the new Response to Intervention ("RtI") requirements for identification of a student as having a specific learning disability. The information contained herein is intended to assist the IEP team and not to replace the individualized consideration necessary for the development and implementation of an educational program "reasonably calculated to confer educational benefit" upon the student receiving special-education-related-services.

All schools are required to have procedures in place for identifying children who have or are suspected of having a disability and needing special education and related services. For those students who enroll in the Los Lunas Schools the mechanism for identifying these students is contained in the enrollment form that must be completed by parents at the time they are enrolling their child.

Each New Mexico DISTRICT/SCHOOL, within the scope of its authority, must develop and implement appropriate policies, procedures, programs and services to ensure that all children with disabilities who reside within the district/school’s educational jurisdiction, including children who are enrolled in private schools or facilities such as residential treatment centers, day treatment centers, hospitals, mental health institutions,
or are schooled at home, are identified and evaluated and have access to a free appropriate public education (FAPE) in compliance with all applicable requirements of state and federal laws and regulations. This obligation applies to all New Mexico public district/schools that are responsible under laws, rules, regulations or written agreements for providing educational services for children with disabilities, regardless of whether that district/school receives funds under the IDEA and regardless of whether it provides special education and related services directly, by contract, by referrals to private schools or facilities including residential treatment centers, day treatment centers, hospitals, mental health institutions or through other arrangements.
SECTION I

1) DIAGNOSTICS/TESTING

Students who are referred for testing by a Student Assistance Team ("SAT"), a written parental request or referred as a result of Child Find operations must first be evaluated to determine whether the student has a disability as identified under the IDEA. This first formal diagnostic evaluation "the initial evaluation" requires informed prior written parental consent to conduct. The initial evaluation must be completed within sixty (60) calendar days of the date of parental consent.

Any re-evaluation also requires informed written parental consent secured prior to the re-evaluation taking place.

The initial evaluation should provide the IEP team with: (a) information it will need to determine whether a student has a disability and requires special education and related services; (b) information regarding the student's present levels of educational and functional performance; (c) information to assist in determining educational needs, including accommodations and services.

Please also refer to Page 68 regarding Part C to Part B transitioning.

NOTE:

Source:
34 CFR §300.301
6 NMAC 31.2.10
2) **INITIAL EVALUATION**

A. The Los Lunas Schools will conduct a full and individual initial evaluation before providing special education and related services.

B. Either a parent or the Los Lunas Schools may begin the request for an initial evaluation to determine eligibility.

C. Before a student is determined eligible for receipt of special education and related services as a student with a specific learning disability, please carefully review the provisions in Section 9, Response to Intervention.

To ensure informed parental consent, the signature of the parent should be obtained by the evaluator/diagnostician, who can explain the types and purposes of the evaluations to be conducted. Make sure the referral packet to the evaluation/diagnostic staff is provided in a timely fashion. No more than fifteen (15) work days should pass before the evaluation/diagnostician meets with the parent to review the assessment plan and secure a parental consent.

While a school district can seek to compel testing, it cannot compel consent to placement.

3) **PROCEDURE FOR INITIAL EVALUATION**

A. An evaluation for determination of eligibility must be completed within sixty (60) days of receiving parental consent for the evaluation.

B. If a parent initially refuses to sign consent, “the sixty (60)” day limit begins to run only when the consent is signed.

C. Before any initial evaluation, the parent must provide informed written consent to the testing. The consent to testing is not consent to initial placement.

D. If there is no consent to testing, the Los Lunas Schools may file a complaint for a due process hearing.

E. If the parent refuses to consent or fails to respond to a request for consent, the Los Lunas Schools has no further obligation. However, there should be clear documentation of the Los Lunas Schools’ efforts to obtain consent, including copies of correspondence or documentation of phone calls made to the parent. A certified letter should be sent to the parent advising that (1) his or her non-response or refusal to consent is considered a refusal of services; and (2) the child will not be considered a student with a disability for any disciplinary or educational purposes.
F. The evaluation/assessment must provide for:
   i. Assessing in all areas of suspected disability (including health and development including vision and hearing);
   ii. Selection of evaluation tools that are not racially, culturally, or linguistically discriminatory;
   iii. Are administered in the language or form most likely to yield accurate information regarding what the student knows and can do academically, developmentally and functionally;
   iv. Selection of assessment tools that assess specific areas of educational need;
   v. Ensure that there are a variety of tools and strategies are used to gather relevant functional and development information;
   vi. Information provided by the parent;
   vii. Include information on how the student is involved in and progressing in the general curriculum.

G. Identify any accommodations in test administration that may be necessary.

H. Assessments/evaluations must be administered by qualified personnel as specified in the instructions provided by the producers of the assessment tool.

Ensure that assessments of the students with limited English proficiency measure what is intended and not the student’s English skills. For students with sensory, motor or speaking impairments ensure the assessment measures what is intended rather than the student’s sensory, motor, or speaking skills.
4) CONSENT FOR WARDS OF THE STATE

If a student is a ward of the state, the Los Lunas Schools must make reasonable efforts to gain consent from the parent (maintain documentation of all such efforts), except where the parent’s whereabouts cannot be determined despite reasonable efforts, or where the rights of the parent have been terminated or modified and consent is received from a judicially appointed representative. In these situations, unless the court has appointed an individual with educational decision-making authority, the Los Lunas Schools is responsible for assigning a surrogate parent.

The Los Lunas Schools will ensure that the rights of a special education student are protected under the IDEA when:

A. No parent can be identified;
B. After reasonable efforts, the Los Lunas Schools cannot locate a parent;
C. The student is a ward of the State under the laws of that State; or
D. The student is an unaccompanied homeless youth, as defined under federal law.

The Los Lunas Schools must determine whether a student needs a surrogate parent, and if so, must assign an individual to act as a surrogate parent for the eligible student. If the student is an unaccompanied homeless youth, a temporary surrogate parent must be appointed from the staff of the emergency shelter, transitional shelter, independent living program, or street outreach program providing shelter and other services to the student. The temporary surrogate parent serves in that capacity until a qualified surrogate parent is appointed by the Los Lunas Schools.

If the Los Lunas Schools selects the surrogate parent, such selection will be done in compliance with applicable State and Federal laws.

The Los Lunas Schools must ensure that a person it assigns to act as a surrogate parent:

A. Is not an employee of the New Mexico Public Education Department, the School District, or any other agency that is involved in the education or care of the student;
B. Has not personal or professional interest that conflicts with the student’s interest; and
C. Has knowledge and skills that ensure adequate representation of the student.

NOTE:

Source: 34 CFR§300.300, 301, 304, 519
6 NMAC 31.2.10
SECTION II

1) RE-EVALUATION

Generally, the purposes of a re-evaluation are to determine:

A. Whether the student continues to be a child with a disability and continues to require the provision of special education services and/or related services;

B. Whether the student may have an additional or different disability;

C. Whether the student is not adequately progressing in achieving the goals and objectives set forth in his/her IEP; and;

D. Whether the student’s current special education and related services are appropriate.

The determination to conduct or not conduct a re-evaluation that meets all of the elements of an initial evaluation must be made by an IEP team. This should be done at the annual IEP meeting prior to the time the triennial evaluation would be due. In order to determine the scope of the re-evaluation the IEP team must review existing data, current classroom observation and assessments, teacher and related service provider information, and decide what assessments are or are not necessary for making the determinations set forth above.

2) RE-EVALUATION SITUATIONS

A. The Los Lunas Schools determines that the student’s educational needs, including performance, warrant a re-evaluation; or

B. The parent or teacher requests a re-evaluation.

C. Limitations on re-evaluation – re-evaluations shall be performed:
   i. Not more frequently than once a year unless the parent and the Los Lunas Schools agree.
   ii. At least once every three (3) years, unless the parent and the Los Lunas Schools agree that one is not necessary.

Caution: Do not let more than six (6) years pass between evaluations if the student has progressed from elementary to secondary school unless the IEP team can document clear reasons for not testing.
If there is a determination by the IEP team and other qualified professionals that no additional data is needed, the IEP team will notify the student’s parents in the Prior Written Notice and IEP of:

A. The determination and the reason for the determination, including the existing data reviewed, a summary of the student’s current classroom based on assessments, a summary of the staff observations, a review of progress towards previous goals, a summary of present levels of performance, results of any other assessments that have provided the information needed to determine a re-evaluation is not warranted; and

B. The right to request an assessment to determine whether the student continues to be a student with a disability and what types of services would be appropriate.

NOTE:

Source: 34 CFR§ 300.300, 301, 304
       6 NMAC 31.2.10
SECTION III

EVALUATION PROCEDURES

1) An evaluation for determination of eligibility must be completed within sixty (60) days of receiving parental consent for the evaluation.

2) If a parent initially refuses to sign the consent to evaluate, the sixty (60) day limit begins to run only when the consent is signed.

3) Before any initial evaluation, the parent must provide informed written consent to the testing. The consent to testing is not consent to initial placement.

4) If there is no consent to testing, the Los Lunas Schools may file a complaint for a due process hearing.

While the Los Lunas Schools can seek to compel testing, it cannot compel consent to placement.

Ensure that assessments of the students with limited English proficiency measure what is intended and not the student's English skills. For students with sensory, motor or speaking impairments ensure the assessment measures what is intended rather than the students sensory, motor or speaking skills.

5) If the parent refuses to consent or fails to respond to a request for consent, the Los Lunas Schools has no further obligation. However, there should be clear documentation of the Los Lunas Schools’ efforts to obtain consent, including copies of correspondence or documentation of phone calls made to the parent. A certified letter should be sent to the parent advising that (1) his or her non-response or refusal to consent is considered a refusal of services, and (2) the child will not be considered a student with a disability for any disciplinary or educational purposes.

6) The evaluation/assessment must provide for:
A. Assessing in all areas of suspected disability (including health and development, vision and hearing);
B. Selection of evaluation tools that are not racially, culturally or linguistically discriminatory;
C. Are administered in the language or form most likely to yield accurate information regarding what the student knows and can do academically, developmentally and functionally;
D. Selection of assessment tools that assess specific areas of educational need;
E. Ensure that there are a variety of tools and strategies used to gather relevant functional and developmental information;
F. Information provided by the parent;
G. Information on how the student is involved and progressing in the general curriculum.

7) Identify any accommodations in test administration that may be necessary.

8) Assessments/evaluations must be administered by qualified personnel as specified in the instructions provided by the producers of the assessment tool.

9) The evaluation should not use any one single measure as the only basis for determining eligibility or determining the appropriate educational program.

NOTE:

Source: 34 CFR§ 300.305
6 NMAC 31,2,10
SECTION III (A)

ADDITIONAL REQUIREMENTS FOR EVALUATIONS OR RE-EVALUATIONS

1) As part of any evaluation or re-evaluation, the IEP team and evaluators should review any existing evaluation data on the child, including:
   A. Information provided by the parent;
   B. Current classroom performance information, including observations of the student in the school setting by teachers and other staff; and
   C. Statewide and District wide assessments.

2) Based on the review of the information listed above, the IEP team and evaluators should make a decision regarding what additional information is needed for a determination of:
   A. Whether the student is a student with a disability and whether the educational needs of the student require special education services. In the case of a re-evaluation, whether the student continues to qualify for receipt of services.
   B. The student’s present level of academic achievement and related developmental needs.
   C. Whether the current level and scope of services should be modified in order for the student to meet the goals set out in the IEP.

   A disability alone does not determine whether a student needs special education services in order to have the ability to access the general education curriculum.

3) Screening to determine instructional strategies is not to be considered an evaluation for eligibility for special education or related services.

Re-evaluation

The Los Lunas Schools will conduct a Review of Existing Evaluation Data prior to additional evaluation taking place. The team will review performance-based assessments, benchmarks, and other current data. If the student is a special education student and the three-year reevaluation is due within the next 12 months, the Annual IEP Committee may conduct the Review of Existing Evaluation Data and plan the evaluation during that Annual IEP Meeting. Otherwise, the Eligibility Determination Team (EDT) will meet to plan the evaluation prior to the 3-year due date.

The Case Manager or Diagnostician will contact all other service providers prior to the Annual IEP to gather input and to work toward consolidating all required evaluations into one comprehensive Full and Individual Evaluation for the student, including Speech, OT/PT, etc. This information must be documented on the Prior Written Notice.

Source: 34 CFR§ 300.305
H. Ensure that there are a variety of tools and strategies used to gather relevant functional and developmental information;
I. Information provided by the parent;
J. Information on how the student is involved and progressing in the general curriculum.

10) Identify any accommodations in test administration that may be necessary.

11) Assessments/evaluations must be administered by qualified personnel as specified in the instructions provided by the producers of the assessment tool.

12) The evaluation should not use any one single measure as the only basis for determining eligibility or determining the appropriate educational program.

Functional Vocational Evaluation.
The IEP committee will consider any recommendations as a result of Transition Planning. Transition services are a coordinated set of activities for a student with a disability that include, if appropriate, a functional vocational evaluation. If the IEP Team recommends this, a qualified professional will conduct the evaluation.
1. The evaluation will include, but not be limited to, observation in vocational settings, interview with teacher and parents, and other evaluations of student aptitude and interest, as appropriate.
2. Results of the evaluation, including strengths and weaknesses, will be addressed in a written report maintained in the eligibility file.

NOTE:

Source: 34 CFR§ 300.305
6 NMAC 31.2.10
SECTION III (B)

DIAGNOSTIC EVALUATION REPORT CONTENTS

The diagnostic evaluation report should contain

1) Student information:
   A) Name
   B) Student Identification Number
   C) Date of birth
   D) Chronological age
   E) Primary language or mode of communication
   F) Gender

2) Identification of assessment tools:
   A) Dates given
   B) Administered by whom
   C) Whether administered under conditions not consistent with those provided by the producer of the test, and the evaluators’ opinion on the impact to the validity of the test results.

3) Findings of previous assessments/evaluations.

4) Description of student’s relevant behavior and relationship of that behavior to student’s academic and functional skills.

5) Relevant health, developmental, and medical findings, including source of information.

6) Student’s performance on state and district wide assessments.

7) Name and title of person who wrote the report and the date the report was completed.
SECTION III (C)

INDEPENDENT EVALUATIONS

If parents disagree with the Los Lunas Schools’ assessment of the student, they have the right to request an Independent Educational Evaluation ("IEE") at public expense. Public expense means that the Los Lunas Schools will pay for the full cost of the evaluation or ensure that the evaluation is provided at no cost to the parent. The parents are entitled to only one IEE at public expense each time the Los Lunas Schools conducts an evaluation with which the parents disagree.

An IEE is an evaluation conducted by a qualified examiner who is not employed by the Los Lunas Schools. Parents have the right, at any time to an IEE and to have its findings considered by the IEP team. The Los Lunas Schools is not required to reimburse the parents for a privately obtained evaluation if the parent disagrees with the Los Lunas Schools’ evaluation and independently seek a private evaluation without first notifying the Los Lunas Schools in writing or at an IEP meeting in which the request is reflected in the PWN.

1) Qualified Examiner

The person selected by the parent to conduct the IEE must hold a current certification/licensure from the Public Education Department of the State of New Mexico in the field in which the examiner proposes to conduct the evaluation.

2) Considering an IEE

An IEE report is provided by the parent of a student must be considered by an IEP team if it was conducted by a qualified professional. Consideration does not require complete or even partial acceptance of findings or recommendations. To facilitate careful consideration the parent must provide the report ten (10) working days in advance of the IEP meeting so that it can be reviewed by the Los Lunas Schools personnel qualified in the area of the evaluation prior to the IEP meeting.

3) Request for an IEE
A. Ask the parents why they disagree with the Los Lunas Schools’ evaluation and with what areas they disagree, however, you may not require the parents to provide an explanation.
B. Advise the parents that if the Los Lunas Schools disagrees with their request for an IEE at public expense the Los Lunas Schools may initiate a due process hearing request to determine if the IEE is required.
C. Provide the parents with a copy of the procedural safeguards.
D. Reflect the considerations and determinations made by the IEP team including the parents in the PWN.
E. The Los Lunas Schools shall limit the amount of reimbursement made to a parent for travel for an IEE to no more than a two hundred (200) mile radius from the Los Lunas Schools if this is the same criteria applied to the Los Lunas Schools’ evaluations.
F. The Los Lunas Schools shall limit the reimbursement made to a parent for the cost of an independent educational evaluation to the cost charged by an independent contractor available through CES or EASI including gross receipts tax if the same limitation is imposed on evaluations initiated by the Los Lunas Schools.

G. The Los Lunas Schools will not consider a parent request for payment for a unilaterally parent initiated IEE unless the request is made within a reasonable time after receipt of the results of the evaluation. A reasonable time is defined as ninety (90) calendar days. This condition must be the same as that imposed on evaluations initiated by the Los Lunas Schools.

H. Other requirements include all state and federal requirements including requirements for background check.

If the assessment conducted by the Los Lunas Schools provided for in-class observations of the student, an equivalent opportunity should be available to the individual retained by the parent to conduct the IEE. If the District assessment in the area of concern was conducted more than one year prior to the parent disagreement, the Los Lunas Schools has a right to conduct another assessment. The Los Lunas Schools will not cover costs exceeding rates that are reasonable and customary for the community for each identified assessment.

Source: 34 CFR§ 300.502
6 NMAC 31.2.10
Revised 11/11/08
SECTION IV

1) ELIGIBILITY DETERMINATION

A. After the assessment/evaluation, the group of qualified professionals including the parent will meet to determine whether a student is a student with a disability.

B. If the student meets the criteria for one of the listed exceptionalities, the EDT team then must determine whether by reason of such a disability the student required special education or related services. Once this determination is made the educational needs of the student will be made by a team of qualified professionals and the parent of the student.

C. A student shall not be found to be eligible for receipt of special education services if the determinant factor is either:
   i. Lack of appropriate instruction in reading, including the essential components of reading instruction. Essential components of reading instruction means explicit and systemic instruction in:
      (a) Phonemic awareness
      (b) Phonic
      (c) Vocabulary development
      (d) Reading fluency, including oral reading skills
      (e) Reading comprehension strategies
   ii. Lack of instruction in mathematics; or
   iii. Limited English proficiency.

When considering English proficiency, make sure that this is not only a consideration of whether the student is mono-lingual or bi-lingual. Some students who are exposed only to one language are not necessarily proficient in any language, including English, and may need additional work on language acquisition.

D. Before determining that a student no longer qualifies for special education services, the District must evaluate the student, unless the student’s eligibility has terminated because either (1) the student has graduated with a regular diploma; or (2) the student’s age exceeds the age of eligibility. Discontinuation of services is based on the IEP committee’s decisions that the student has mastered the goals and objectives, there is no longer an educational need, and the student no longer qualifies as a student with a disability based on current evaluation information. In rare cases, there may be a medical reason for the parent to request discontinuation of services temporarily or permanently. The Los Lunas Schools will continue to offer a free appropriate public education (FAPE) to an eligible student with a disability as required by the IDEA regulations.

Source: 34 CFR§ 300.306
6 NMAC 31.2.10
A. The term “child/student with a disability” means a child with one or more of the following:
   i. Mental retardation;
   ii. Hearing impairments (including deafness);
   iii. Speech or language impairments;
   iv. Visual impairments (including blindness);
   v. Serious emotional disturbance (ED);
   vi. Orthopedic impairments;
   vii. Autism;
   viii. Traumatic brain injury;
   ix. Other health impairments;
   x. Specific learning disability, or
   xi. Deaf/blindness, and
   xii. Multiple disabilities
   xiii. Developmentally delayed

   and as a result needs special education and related services.

   Not every student who has a disability requires special education and/or related services. The disability has to interfere with the student’s ability to participate in educational programs.

NOTE:

Source: 34 CFR§ 300.8
         6 NMAC 31.2.10
SECTION IV (A)

SPECIFIC LEARNING DISABILITIES

New Mexico is phasing out the discrepancy model\(^1\) for determination of eligibility for students as having a specific learning disability and instead will be using Response to Intervention results to make a determination of existence of a special learning disability. A school district may use a process that determines whether a child responds to programs shown to be scientific, research-based intervention as part of the evaluation process.

The Los Lunas Schools may continue to utilize the results of diagnostic/evaluation testing as part of consideration of eligibility in the area of a specific learning disability.

The Three Tiered approach must be used for the student suspected of having a specific learning disability to ensure that lack of instruction in reading or math is not the primary cause of the learning difficulties for the student who is being referred for evaluation.

Please refer to material at pages 60-64 and the SAT process materials including consideration of the provision of modifications and supports.

NOTE:

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Source: 34 CFR§ 300.307-311
6 NMAC 31.2.10

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\(^1\) The discrepancy model measured the difference between project achievement and performance. If a discrepancy of 1.5 standard deviations from the norm existed, a student could be deemed to have a specific learning disability.
SECTION V

1) IEP Document

The IEP team will use the set of forms available on the Public Education Department website or the web based, computer based program which includes at a minimum the following sections and is compliance with the federal and state regulations:

A. Present levels of educational and functional performance
B. Goals and Objectives
C. LRE considerations
D. Service Schedule
E. Testing Considerations
F. Prior Written Notice
G. Special Considerations
H. Transition Planning

Each participating agency must keep a record of parties obtaining access to education records collected, maintained, or used under Part B of the Act (except access by parents and authorized employees of the participating agency), including the name of the party, the date access was given, and the purpose for which the party is authorized to use the records.

One official at each participating agency must assume responsibility for ensuring the confidentiality of any personally identifiable information.

Custodian of Records: Unless otherwise specified in board policy, the principal is custodian of all records for currently enrolled students at the assigned school. The superintendent is the custodian of records for student who have withdrawn or graduated. The special education director is custodian of all special education records.

All persons collecting or using personally identifiable information must receive training or instruction regarding the State’s policies and procedures under §300.123 and 34 CFR Part 99.

Campus principal will annually train all new and returning campus staff on personally identifiable information. As new staff is employed throughout the school year, the training will be provided. The special education director is responsible for training all central office special education staff. Documentation of the date and persons attending training will be maintained by the campus principal and the special education director.

The Los Lunas Schools will maintain, for public inspection, a current listing of the names and positions of those employees within the agency who may have access to personally identifiable information.

Each local campus will have a listing of all personnel trained in confidentiality of student records and those who have access to the student records.
NOTE:

Source: 34 CFR §300.324
       6 NMAC 31.2.11
2) **IEP Writing**

Each school child who receives special education and related services must have an Individualized Education Program each year the student is eligible. Each IEP must be designed for one student and must be a truly *individualized* document. The IEP creates an opportunity for teachers, parents, school administrators, related services personnel, and students (when appropriate) to work together to improve educational results for children with disabilities. The IEP is the cornerstone of a quality education for each child with a disability.

To create an effective IEP, parents, teachers, other school staff, and often the student, must come together to look closely at the student’s unique needs. As members of the IEP team these individuals pool knowledge, experience, and commitment to design an educational program that will help the student be involved in and progress in, the general curriculum. The IEP guides the delivery of special education supports and services for the student with a disability. Without a doubt, writing and implementing an effective IEP requires teamwork.

The IEP development is one of the most critical elements in ensuring effective teaching, learning, and better results for all children with disabilities. The guide is designed to help teachers, aides, administrators, ancillary service personnel, and anyone involved in the education of a child with a disability to develop and carry out an IEP.

The manner in which an IEP team meeting is conducted often determines its effectiveness. The process should ensure that:

A. The focus is on the student;

B. All participants are viewed as having important contributions;

C. Communications are in a style and manner that is both understanding and respectful;

D. That the needs of the student guide the decisions made at the meeting;

E. That these decisions can and will be implemented, as the policy requirements are met.

The Individualized Educational Program is a written document that communicates the Los Lunas Schools’ offer of a free appropriate public education and is developed, reviewed, and revised in accordance with federal and state law and agreed to by a team, at a meeting of parents and professional. The IEP addresses:

A. Whether the student is eligible for special education and related services.
   i. A statement of the student’s present levels of performance.
If this meeting is an annual meeting refer to the present levels of performance from the current IEP and utilize the progress information to discuss whether there has been progress made. For each area of need the present level of performance should be considered a baseline of current performance and in academic areas standards should be referenced. Be sure to provide this information in an understandable and simple term to insure understanding of the present levels. A clear understanding of the baseline performance will assist in developing sound goals for future performance. A critical portion of the PLP is a listing of the student’s strengths in the area of performance.

ii. A statement of measurable annual goals, including academic and functional goals.

Part of the process should be identifying performance areas in which the student will require support and the assessment or monitoring information which is utilized to make that determination. Examples of performance areas include health/development, vision, hearing, social/emotional and behavioral status, and self help, academic performance (e.g., reading, writing, math, language functions, and motor abilities). Annual goals represent the IEP team’s estimate of what the student can reasonably be expected to achieve in the next twelve (12) months. The question the team should ask is “with specialized instruction and support what do we expect the student to know or do within a year from now?”

(a) The goals should be designed to meet the student’s needs that result from his or her disability; and
(b) The goals should enable the student to be involved in, and to progress in the general education curriculum;
(c) All previous goals should be reviewed to determine whether the goals or objectives have been met or not. If they have not been met a review of the reasons for the lack of progress should be discussed and the viability of the goal determined by the IEP team. If it is not an appropriate goal it should be changed. If it remains an appropriate goal determine if the process for implementation needs change.
(d) For preschool children goals should be developed from the preschool curriculum.
(e) For each goal the team should determine the date (month/year) that it is anticipated that the objective will be achieved.

iii. A statement of how the student’s progress towards the goals will be measured and when that progress will be reported to the parent.

This reporting should be done at least as often as the student’s progress in general education is reported. Caution: Ensure that the progress reports provide specific information about how the student is doing in the classroom and in other settings.
iv. Determine the types of general education, special education and related services providers who will be responsible for instructing the student on the goals/objectives. Based on peer-reviewed research, a statement of the special education and related service needed for the student, and of the practicable extent to which such services will be provided. If the child is blind or visually impaired the IEP team must determine if the student requires instruction in Braille and the use of Braille.

v. If the student is having behavioral problems not considered serious (occasionally occurring) then consider developing a behavior goal. If the student is having behavioral problems that are serious and interfere with daily learning then the IEP team should consider developing a Behavior Intervention Plan after conducting a Functional Behavioral Assessment.

vi. A statement of the program modifications or supports for school personnel that will be provided for the student.

vii. The projected date for the beginning of the services and modifications described in the IEP, and the duration of those services. If no date can be provided, explain why in the PWN.

B. The IEP should be reviewed regularly, but not less that once a year, in order to determine whether the student is achieving the annual goals. Revise the IEP as appropriate to address any lack of expected progress, the results of any re-evaluation, information provided by the parent(s); the student’s anticipated needs, or other matters.

C. An IEP is not:
   i. A guarantee that a student will achieve the goals and objectives set forth in their IEP;
   ii. A vehicle for specifying the methodologies teachers and other professionals will use with the student.
   iii. A documentation of the use of specific personnel or specific facilities.

D. What happens after the IEP is as important as what happens during the creation of the IEP itself.

3) SERVICES ARE PROVIDED

As soon as possible following the development of the IEP, the school makes sure that the child’s IEP is being carried out as it was written. “As soon as possible” is defined as being within five school days of the IEP meeting. Parents are given a copy of the IEP. Each of the child’s teachers and service providers has access to the IEP and knows his or her specific responsibilities for carrying out the IEP. This includes the accommodations, modifications, and supports that must be provided to the child, in keeping with the IEP.
4) **PROGRESS IS MEASURED AND REPORTED TO PARENTS**

The child's progress toward the annual goal is measured, as stated in the IEP. His or her parents are regularly informed of their child's progress and whether that progress is enough or the child to achieve the goals by the end of the year. These progress reports must be given to parents at least as often as parents are informed of their nondisabled children's progress.

5) **IEP IS REVIEWED**

The child's IEP is reviewed by the IEP team at least once a year, or more often if the parents or school ask for a review. If necessary, the IEP is revised. Parents, as team members, must be invited to attend these meetings. Parents can make suggestions for changes, can agree or disagree with the IEP goals, and can agree or disagree with the placement.

If parents do not agree with the IEP or the placement, they may discuss their concerns with other members if the IEP team and try to work out an agreement. There are several options, including additional testing, an independent educational evaluation, asking for mediation (if available) or a due process hearing. The parents may also file a complaint with the state education agency.

**NOTE:**

Source: 34 CFR § 300.324
6 NMAC 31.2.11
SECTION V (A)

PRESENT LEVELS OF PERFORMANCE

The Present Levels of Educational Performance ("PLEP") document prepared by staff working with the student helps describe any problems that interfere with the student's education. The PLEP can assist in developing annual goals for the student. For each performance area in which the student requires support, staff must develop a narrative statement that establishes a baseline for the student's present level of performance in that area. The statement should be written in measurable terms that allow for monitoring and reporting on the progress the student is making.

This information usually comes from the evaluation results, such as classroom tests and assignments, individual tests given to decide eligibility for services or during re-evaluation, and observations made by parents, teachers, related service providers, and other school staff. The statement about current performance includes how the student's disability affects his or her involvement and progress in the general curriculum.

The PLEP should include:

1) The student's academic achievement;
2) The student’s test scores, with an evaluation of the results;
3) The student’s current physical condition;
4) A description of the student’s social/emotional maturity; and
5) The student’s strengths and weaknesses, including his or her learning style.

The PLEP should include a description of the modalities that are most effective for the student. PLEP measures not only academic achievement, but also functional performance.

Does the student learn better through visual, auditory, or kinesthetic activities, or some combination of these? If you do not know, start keeping record of student performance under each modality.

A deficient statement of PLEP can result in a denial of a Free Appropriate Public Education ("FAPE").

The PLEP must consider the unique needs of each student, establishing a baseline for creating goals and measuring progress.

Make sure the PLEP information is related to the child’s performance and is not merely a recitation of any one individual’s perceptions. If the student can perform a particular

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In *Letter to New*, 211 IDELR 464 (OSEP 1987), the finding was that a school district could not lawfully prepare IEPs with the same statement of current levels of educational performance for all students in a self-contained program for students with mental retardation. See also, *Friedman v. Vance*, 24 IDELR 654 (1996).
task on a regular basis while at school and the parent disagrees, put this information in the PLEP.

Make sure that test scores are not the only information in the PLEP so that the goals are not written in an overly broad manner. Consider the individual nature of the student’s disability.

The PLEP is the model of the student from which goals and objectives will be written. That is why it is important that the model provides complete detailed information to insure appropriateness of the goals and objectives. Try to provide a three dimensional view rather than a flat, single perspective of the student.

NOTE:

Source: 34 CFR§ 300.324
6 NMAC 31.2.11
SECTION V (B)

TRANSITION

In New Mexico, a transition Plan must be developed not later than the first IEP in effect when the student is 14 or in the 8th grade, which ever comes first. This transition Plan must be updated annually.

Under IDEA 2004, the Transition Plan must have “appropriate measurable post-secondary goals” based upon age-appropriate transition assessments related to training, education, employment, and (where appropriate) independent living skills.

The IDEA requires IEP teams to carefully consider each student’s goals after public school, what services are needed to assist the student in reaching his or her post-secondary goals, and whether the student is progressing toward those goals.

In addition to the required IEP attendees, the Los Lunas Schools should consider whether to invite a representative of an outside agency if appropriate if that may be responsible for providing or paying for transition services addressed in the IEP.

An IEP team may proceed with its meeting without the student if:

1) The student has been invited and declines to attend; and
2) The school has taken other steps to ensure that the student’s preferences and interests are considered.

If the representative of an agency who may be responsible for paying for services after school does not attend, the Los Lunas Schools must take other steps to obtain the agency’s participation. For example, the Los Lunas Schools can advise the agency if the agency does not participate, the Los Lunas Schools will take actions to compel compliance with the interagency agreement.

The Los Lunas Schools must advise the parent that the purpose of the meeting is to discuss transition, that the student is invited, and that one or more other agencies that may be responsible for providing or paying for transition services in the IEP are invited, and that any agency invited to participate may send a representative to the meeting.

The following transition information needs to be included in the IEP:

1) A statement of the transition service needs under the applicable components of the IEP that focus on the student’s course of study;
2) Needed transition services, including any linkages to outside agencies; and
3) One year before the student reaches the age of eighteen (18), parental rights will be transferred to the student on his or her 18th birthday.

NOTE:

Source: 34 CFR§ 300.320, 324, 43(b)
6 NMAC 31.2.11

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The use of only a checklist has been found inadequate. Pasadena Indep. Sch. Dist., 21 IDELR 248 (1994).
**SECTION V (C)**

**GOALS AND OBJECTIVES**

IEP goals are those that the child can reasonably accomplish in a year. The goals are broken down into short-term objectives or benchmarks. Goals may be academic, social or behavioral needs, physical needs, or other educational needs. The goals must be measurable, meaning that it must be possible to measure whether the student has achieved the goals.

IDEA 2004 requires the development of annual academic and functional goals. The definition of “functional” is not in the proposed regulations.

IDEA 2004 eliminates the requirement that an IEP include benchmarks or short-term objectives except for students with disabilities who take alternate assessments aligned to alternate achievement standards.

An Annual Goal is a statement that describes what a child with a disability reasonably can accomplish within a twelve-month time period in the special education program.

Short-term objectives should be written in a sequential order to reflect a progression through the various skills needed to meet the goal.

The goals and objectives are used to look both prospectively at what a student reasonably can be expected to achieve and retrospectively at whether the student has achieved that goal/objective.

1) When developing a goal, make sure to consider related services.
2) Write the goals in such a way as to allow objective measurement of the extent to which the student is making progress towards that goal.
3) As a general rule, there should be at least one goal for each area of need. Be careful not to create too many.

**Related Services** – The IEP need not include goals and objectives for related services unless there is instruction during the provision of services.

Short-term objectives should not be as specific as those in daily lesson plans.

1) Most importantly, an IEP should not include goals that will require more than one school year to accomplish.
2) The IEP team must convene an IEP meeting before changing a short-term objective.

Districts must periodically report progress toward IEP goals.

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4 Transportation is one example. Unless the transportation is intended to benefit the student in areas such as socialization or independence, goals are not needed.
1) This report must include a statement of whether, and to what extent, the student's progress is sufficient to enable the student to achieve the goal by the end of the year.

2) If progress is not being made, consider convening an IEP meeting to review and discuss concerns, and modify the IEP if appropriate.

Note: If related services are not provided due to absence on the part of the student then the services for that missed period of time do not have to be provided. However, if the services are not provided due to the absence of the ancillary service provider or the lack of an ancillary service provider the time must be made up and the parent(s) advised of the steps to be taken by the Los Lunas Schools to provide for the missed services, i.e., extended service, service in the summer or more service time per week.

NOTE

Source: 34 CFR§ 300.320, 324
6 NMAC 31.2.11
Revised 11/11/08
SECTION V (D)

SPECIAL CONSIDERATIONS

The IEP must list the special education and related services to be provided to the child or on behalf of the child. This includes supplementary aids and services that the child needs. It also includes modifications (changes) to the program or supports for school personnel—such as training or professional development that will be provided to assist the child.

1) Language Proficiency
   A. Give particular attention to the sections dealing with English language proficiency and assistive technology needs. Consider the language needs of the student as needs relate to the IEP, if at all.

2) Behavior
   A. In the case of a child whose behavior impedes his learning or that of others, the teams should consider the use of positive behavioral interventions.
   B. If the team decides that a FBA needs to be conducted, include a time frame for completion of the FBA and the development of the BIP and identify who is responsible for conducting the FBA.

3) Discipline
   A. The IEP team needs to consider all of the possible discipline provisions set forth in the IEP and check the applicable box(es).
   B. A BIP does not mean that a student cannot be required to follow the school-wide discipline plan.
   C. An FBA is generally an approach that incorporates a variety of techniques and strategies to diagnose the causes of, and identify likely interventions to address the behavior.
   D. An FBA should identify the biological, social, affective, and environmental factors that begin, maintain or end the behavior.
   E. Generally, disciplinary sanctions should be consistent with the intervention strategies set out in the student’s BIP. Nevertheless, students with disabilities are not immune from normal school disciplinary rules, provided those rules are administered in a nondiscriminatory manner and are not inconsistent with the student’s IEP.
F. The Los Lunas Schools must ensure that any disciplinary action taken with respect to the student has no adverse effect on the goals and objectives of the IEP and is not applied in a discriminatory manner in violation of Section 504.

NOTE:

Source: 34 CFR§ 300.324
6 NMAC 31.2.11

OSEP Memorandum 95-16, 22 IDELR 531 (OSEP 1995). See West Las Vegas (NM) School District 20 IDELR 1358 (OCR 1993), (bus driver’s use of his own techniques to discipline a student with disabilities was found to be inconsistent with the discipline techniques in the student’s IEP).
SECTION V (D) (1)

FUNCTIONAL BEHAVIORAL ASSESSMENT

An FBA must be done if one has not already been done when:

1) A student is removed for more than ten (10) school days in a year for the first time;
2) When the Los Lunas Schools begins a removal that constitutes a change in placement; or
3) When a student is placed in an alternative interim setting for drugs or weapons violations.

NOTE:

Source: 34 CFR§ 530(d) & (f)
6 NMAC 31.2.11 & 6 NMAC 11.2.11
SECTION V (D) (2)

PROCEDURES FOR CONDUCTING AN FBA

There is no one procedure for conducting an FBA, but the FBA must include information about the situational, environmental and behavioral circumstances of the behavior.

The persons conducting the FBA must meet to develop an assessment plan within ten (10) business days of the triggering event.

Who conducts an FBA?

The IDEA specifies that it is the IEP Team who conducts an FBA. With specialized training, experience and support, special and general education teachers, counselors and administrators could conduct an FBA. Most school districts use a social worker or a psychologist.

The Functional Behavioral Assessment (FBA) must be completed when:
- removal is more than 10 school days due to any other violation of code (FBA to prevent recurrence)
- removals due to drugs, weapons or serious bodily injury
- if behavior is a manifestation (unless FBA/BIP is already in place / then review, revise as needed)

Ensure the relevant members (including the general education teacher) participate in providing information for the FBA and develop the BIP:
1. target the specific behavior that is impeding learning by clearly defining and describing the observable behavior(s).
2. obtain information from a variety of sources including but not limited to: discussions, interviews, records, and direct observation. Also use any standardized instruments if available. Determine duration, frequency, and intensity of any patterns of behavior.
3. identify and describe any antecedents - events that logically serve as the stimulus for the behavior.
4. identify and describe any consequences - this is the action that is following and causes the student to maintain specific behavior - determine effectiveness of each.
5. determine the purpose of the student’s behavior - usually to get something, avoid or escape something, or to control the antecedent event.
6. describe the relationship of the behavior to the event and provide possible variables that can be changed in the setting or the situation.
7. develop the behavioral intervention plan and accommodations (BIP). Teach alternatives to the behavior and include positive reinforcement along with consequences.
8. consistently implement, allow enough time for the behavioral intervention plan and accommodations to work, and then review as needed.
NOTE:

Source: 34 CFR§ 530(d) & (f)
6 NMAC 31.2.11 & 6 NMAC 11.2.11
SECTION V (D) (3)

BEHAVIOR INTERVENTION PLANS

A BIP is a written, specific, purposeful and organized plan that describes positive behavioral interventions and other strategies that will be implemented to address goals for a student's social, emotional and behavioral development within the context of the IEP process. In addition, for students whose behavior prompts disciplinary action by the school, the BIP addresses the behavior(s) of concern that led to conducting a functional behavioral assessment.

1) Implementation of a BIP is an issue under both Section 504 and the IDEA, particularly with regard to students whose classroom behavior is disruptive.6

2) A student's Section 504 placement team is required to develop a behavioral management plan whenever the team determines that disability-related behavior problems interfere with the student's ability to benefit from special education or related services.7

3) Including the BIP directly in the IEP document is not mandatory but is permissible.8

4) The BIP does not prevent the school district from calling the police.

5) The standard of appropriateness for a BIP is whether the plan is reasonably calculated to allow the student to benefit from his educational program in the least restrictive environment ("LRE"), without unduly disrupting other students.9

6) The BIP should include:
   A. A summary of relevant and determinative information gathered from a functional analysis assessment;
   B. An objective and measurable description of the targeted maladaptive behavior(s) and replacement positive behavior(s);
   C. The individual student's goals and objectives specific to the behavior;

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6 See Orange (CA) United Sch. Dist., 20 IDELR 770, 773 (OCR 1993) (school district is required to develop a BIP when a student manifests repeated or serious misconduct such that modifying the child’s negative behavior becomes a significant component of what actually takes place in the child’s educational program).


8 Consistent with generally recognized IDEA principles, a school district may elect to make a student’s BIP part of the IEP. Letter to Hufnug, 23 IDELR 1072 (OSEP 1995). In most cases, best practice includes developing, reviewing, implementing and documenting a BIP as part of the IEP process.

9 In Eric J. v. Huntsville City Board of Education, 22 IDELR 858 (N.D. Ala. 1995), the court adopted the Rowley standard when it rejected the parents’ claim that the district had not provided an appropriate BIP for their son. The district had developed a plan that was reasonably calculated to enable the student to attend a regular-education public school and to confer an educational benefit despite his behavioral problems. See also, Board of Education of Hendrick Hudson Central School District v. Rowley, 553 IDELR 656 (1982).
D. A detailed description of the behavioral interventions to be used and the circumstances for their use;
E. Specific schedules for recording the frequency of the use of the interventions and the frequency of the targeted and replacement behaviors, including specific criteria for discontinuing the use of the intervention for lack of effectiveness or replacing it with an identified and specified alternative;
F. The criteria, by which the procedure will be faded or phased out, or less intense/frequent restrictive behavioral intervention schedules or techniques will be used;
G. Those behavioral interventions which will be used in the home, residential facility, work site, or other non-educational settings; and
H. Specific dates for periodic review by the IEP team.

7) When evaluating whether an FBA and BIP are in place and current, ensure that they:
A. Identify important, controllable, causal functional relationships applicable to a specific set of target behaviors for an individual student;
B. Are multimodal, each behavior typically has multiple causes contributing differentially to the expression of the behavior;
C. Describe the expected outcomes and goals for the plan;
D. Specify the interventions used to achieve the goals;
E. Specify the person who is responsible for specific interventions; and
F. Specify a review date.

NOTE:

Source: 34 CFR§ 300.324 & 530
6 NMAC 31.2.11
SECTION V (D) (4)

OTHER CONSIDERATIONS

1) BLIND OR VISUALLY IMPAIRED

If a student is blind or visually impaired plan to provide instruction in Braille unless the IEP team conducts an evaluation and determines that Braille instruction is not appropriate.

2) DEAF OR HARD OF HEARING

Consider the student’s communication needs, language needs and opportunities for direct communication with peers, academic level and full range of other needs, including instruction in the child’s language.

3) ASSISTIVE TECHNOLOGY

Consider whether the student needs assistive technology. If so, evaluate what type is most appropriate and how long the student is expected to need it. Consider any assessment information presented. In addressing the student’s needs for assistive technology begin with low/no tech (i.e., graphic organizers, color coding, picture boards) to mid-level technology (calculator, books on tape) to higher level technology, (word processor, computers). Be sure the need for assistive technology is documented in the student’s present levels of performance and that goals and objectives incorporate the assistive technology selected.

NOTE:

Source: 34 CFR§ 300.324
6 NMAC 31.2.11
SECTION V (E)

LEAST RESTRICTIVE ENVIRONMENT ("LRE")

The principles of least restrictive environment require that placement in a special class or separate schooling should only occur when the nature or severity of the student’s disability is such that education in the general education class with appropriate accommodations, modifications, services and supports cannot be achieved satisfactorily. The Los Lunas Schools must provide a continuum of services. While considering the various placements along the continuum, remember to consider whether the goals and objectives as written can reasonably be met in the proposed placement.

1) LRE extends to all aspects of the student's educational program, including nonacademic and extracurricular activities.
2) In providing for nonacademic and extracurricular services and activities (including meals, recess periods, and the services and activities themselves), the Los Lunas Schools shall ensure that each child with a disability participates with nondisabled children in those services and activities to the maximum extent appropriate.
3) The amount of services to be provided must be sufficiently stated so that the level of commitment by the Los Lunas Schools is clear to all IEP team members.

When reviewing LRE consideration, ensure that the documentation accurately and adequately reflects the consideration of the less restrictive settings and sets forth the reasons and rational for a decision that the less restrictive settings will not work. It is not enough simply to say that the "student needs a more restrictive setting."

4) Interscholastic sports or extracurricular activities are not expressly included in the related service of recreation and consequently are not included in the IEP unless the IEP team determines that such activities are a related service for that particular student.

The continuum of alternative placements which may be considered by an IEP team as possible for special education students will include:

1) Instruction taking place in:
   A. Regular education classes, (full or part time)
   B. Special classes, (full or part time)
   C. Special schools, (full or part time)
   D. Homebound
   E. Hospitals, and
   F. Other institutions.

2) Supplementary services, including but not limited to resource rooms and itinerant instruction to be provided in conjunction with the student's regular class placement.
Each IEP team should ensure they consider the following item when reviewing LRE considerations

*Impact Statement*

How does the impairment/exceptionality impact the student’s ability to be involved in and progress in the general curriculum without supports and services from special education? Use information provided by all IEP team members to describe how the student’s impairment/exceptionality impact his or her ability to be involved in and progress in the general curriculum.

**NOTE:**

**Source:** 34 CFR § 300.115, 116, 118, 224
6 NMAC 31.2.11
Revised 11/11/08
SECTION V (F)

EXTENDED SCHOOL YEAR ("ESY")

Most students regress during school breaks and recoup their lost skills within an expected period of time when school reconvenes. For a student to have regression and recoupment problems the IEP must consider the student’s past performance and determine whether the student is at risk of not recouping skills within the normally expected period of time. A student with severe disabilities may also be eligible for ESY if he or she requires such services in order to maintain/attain critical skills that are essential to the progress of the student and lead to independent functioning and integration with non-disabled peers.

1) ESY services must be made available as necessary to provide FAPE and must be provided only if the child’s IEP team determines on an individual basis that the services are necessary to provide FAPE. Generally, if a student experiences loss or regression in skills during a break in school, services should be provided.

2) Critical issues for completing ESY documentation:
   A. Do not check the ESY box with a “yes” in the IEP document unless and until you have data to support the determination.
   B. Make sure you review all of the considerations and reflect in the PWN why the decision was made.
   C. Make sure you have data that will support your decision.
   D. The following is a copy of the PED questionnaire.

To determine eligibility for ESY services, the IEP team must:
1) Answer the following questions, and
2) Provide documentation indicating that the student’s regression of learned skills and the length of time it takes to regain lost skills and behavior render it unlikely that he or she will attain the state of self-sufficiency that he or she would otherwise reasonable be expected to reach.
The student....

☐ Yes  ☐ No  demonstrates a severe disability in one or more areas.

☐ Yes  ☐ No  experiences significant regression in learned skills or adaptive behaviors over regularly scheduled school breaks during the year.

☐ Yes  ☐ No  requires a significant amount of time and effort to recoup previously learned behaviors and skills.

☐ Yes  ☐ No  has previous record of regression and limited recoupment over regularly scheduled school breaks.

☐ Yes  ☐ No  has previously received previous ESY services that resulted in a positive outcome.

☐ Yes  ☐ No  would benefit more from an extended school year.

☐ Yes  ☐ No  has needs that could be met in other summer programs but these programs have been considered and determined to be of less benefit than ESY.

A significant number of positive responses to the statements above may indicate the need for ESY services.

NOTE:

Source: 34 CFR § 300.106
6 NMAC 31.2.11
SECTION V (G)

ACCOMMODATIONS AND MODIFICATIONS

1) The IEP team needs to consider if the student’s disability impacts his or her ability to meet district standards. If the answer is yes then the IEP team must discuss what accommodations and/or modifications are necessary to help the student progress in the general curriculum. Accommodations are changes as to how the student demonstrates mastery of skills associated with meeting standards. Modifications are changes to the content of instruction. Ensure that accommodations and modifications are carried out in full in the general education setting. If extra time is given, determines whether the provision of extra time include in-class testing and consider what accommodations or modifications are going to apply in testing situations.
   A. What test taking strategies has the student been taught?
   B. Gather and use data in making decisions about accommodations.
   C. Make sure you choose the right accommodation to fit the student’s needs, but be careful not to give an unfair advantage to any student(s).
   D. Consider the following possible accommodations or modifications:
      i) Setting;
      ii) Timing;
      iii) Schedule;
      iv) Presentation;
      v) Response
      vi) Cuing;
      vii) Out-of-level testing; and
      viii) Redirection.
   D. Are the tests based on some performance improvement?
   E. Do the tests include any special training for staff to provide?
   F. If there are accommodations required for assessments, are they related to classroom modifications or assessments?

2) The IEP should include a statement of the modifications necessary for the students
   A. To be able to advance appropriately towards attaining his or her annual goals;
   B. To be involved in and make progress in the general education curriculum, and to participate in extracurricular and other non academic activities; and
   C. To be educated and participate with other children with disabilities.

3) The IEP should include a statement of any individual accommodations necessary to measure the academic and functional performance of the student on State and district-wide assessments. When exploring testing accommodations, consider:
   A. Presentation accommodations
      i) Can the student read and understand directions?
      ii) Does the student need directions repeated frequently?
   B. Response accommodations
      i) Can the student use a writing instrument?
      ii) Does the student have a disability that affects ability to spell?
iii) Does the student have trouble tracking from one page to another and maintaining his or her place?

4) If the IEP team determines that the student will take an alternate assessment on a particular State or district wide assessment of student achievement, the team must include in the IEP a statement of:
   A. Why the student cannot participate in the regular assessment and
   B. The particular alternate assessment selected as to appropriate for the student.

NOTE:

Source: 34 CFR §300.320
         6 NMAC 31.2.11
SECTION VI

IEP Team

The IEP team is composed of the following individuals:

1) The parent

A. A person having legal custody of a child;
B. A person acting in place of a parent such as grandparent or stepparent with whom the child lives;
C. An individual designated by the parent to represent the interests of the student when the parent is unavailable;
D. The student if age eighteen (18) or older for whom no guardian or conservator has been appointed;
E. A foster parent (not a therapeutic treatment parent) if the natural parents' authority has been limited by a court order or the foster parent has a long term parental relationship with the child and has no interest that would conflict with the interest of the child;
F. A surrogate parent appointed for a student who is a ward of the state or for a student whose parent is unknown or whose whereabouts are unknown.

The Los Lunas Schools will ensure that the rights of a special education student are protected under the IDEA when:

A. No parent can be identified;
B. After reasonable efforts, the School District cannot locate a parent;
C. The student is a ward of the State under the laws of that State; or
D. The student is an unaccompanied homeless youth, as defined under federal law.

The Los Lunas Schools must determine whether a student needs a surrogate parent, and if so, must assign an individual to act as a surrogate parent for the eligible student. If the student is an unaccompanied homeless youth, a temporary surrogate parent may be appointed from the staff of the emergency shelter, transitional shelter, independent living program, or street outreach program providing shelter and other services to the student. The temporary surrogate parent serves in that capacity until a qualified surrogate parent is appointed by the school district.

If the Los Lunas Schools selects the surrogate parent, such selection will be done in compliance with all applicable State and federal laws.

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10 If, despite several (documented) attempts to get the parent to attend, the parent fails or refuses to do so, you may proceed with the meeting. Be sure to include in the PWN information regarding prior attempts to contact the parent and the decision to proceed without the parents in attendance. If you have divorced parents, the Los Lunas Schools does not need to choose one parent over the other. If both have joint educational decision making then any dispute between the two must be resolved by them.
The Los Lunas Schools must ensure that a person it assigns to act as a surrogate parent:

A. Is not an employee of the New Mexico Public Education Department, the School District, or any other agency that is involved in the education or care of the student;

B. Has no personal or professional interest that conflicts with the student's interest; and

C. Has knowledge and skills that ensure adequate representation of the student.

2) Not less than one regular education teacher of the student, if the student is participating or may be participating in the regular education environment.

While a regular education teacher must be a member of the IEP team if the child is, or may be, participating in the regular education environment, the teacher need not (depending upon the child’s needs and the purpose of the specific IEP team meeting) be required to participate in all decisions made as part of the meeting or to be present throughout the entire meeting or attend every meeting. For example, the regular education teacher who is a member of the IEP team must participate in discussions and decisions about how to modify the general curriculum in the regular classroom to ensure the child’s involvement and progress in the general curriculum and participation in the regular education environment.

Depending upon the specific circumstances, however, it may not be necessary for the regular education teacher to participate in discussions and decisions regarding, for example, the physical therapy needs of the child, if the teacher is not responsible for implementing that portion of the child’s IEP.

In determining the extent of the regular education teacher’s participation at IEP meetings, public agencies and parents should discuss and try to reach agreement on whether the child’s regular education teacher that is a member of the IEP team should be present at a particular IEP meeting and, if so, for what period of time. The extent to which it would be appropriate for the regular education teacher member of the IEP team to participate in IEP meetings must be decided on a case-by-case basis.
3) Not less than one special education teacher.

The child's **special education teacher** contributes important information and experience about how to educate children with disabilities. Because of his or her training in special education, this teacher can talk about such issues as:

A. how to modify the general curriculum to help the child learn;
B. the supplementary aids and services that the child may need to be successful in the regular classroom and elsewhere;
C. how to modify testing so that the student can show what he or she has learned; and other aspects of individualizing instruction to meet the student's unique needs.

4) A representative of the Los Lunas Schools who is:

A. Qualified to provide, or to supervise the provision of specially designed instruction;
B. Knowledgeable about the general education curriculum; and
C. Knowledgeable about the availability of resources of the school district

This person knows a great deal about special education services and educating children with disabilities. He or she can talk about the necessary school resources. It is important that this individual have the authority to commit resources and be able to ensure that whatever services are set out in the IEP will actually be provided.

5) One or more individuals who can interpret the instructional implications of evaluation results. This person (or these people) can be members 2-4 above.

The evaluation results are very useful in determining how the child is currently doing in school and what areas of need the child has. This IEP team member must be able to talk about the instructional implications of the child's evaluation results, which will help the team plan appropriate instruction to address the child's needs.

6) Other individuals, at the discretion of the parent or the agency who have knowledge or special expertise regarding the student.\(^\text{11}\)

These individuals may include people who provide related services. A child may require any of the following related services in order to benefit from special education. Related services, as listed under IDEA, include (but are not limited to):

A. Audiology services
B. Counseling services
C. Early identification and assessment of disabilities in children
D. Medical services

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\(^{11}\) If the parent comes to the meeting with several outside individuals, make sure to identify those that meet the criteria under number 6 above.