

# CHAPTER 4

## THE INDIVIDUALIZED EDUCATION PROGRAM (IEP)

### INTRODUCTION

The Individualized Education Program (IEP) is defined as a written statement for each student with an exceptionality, which describes that child's educational program and is developed, reviewed, and revised in accordance with special education laws and regulations. The team that develops the IEP includes parents, school professionals, the student (when appropriate), and personnel from other agencies as appropriate (when addressing transition). Each IEP must be developed with careful consideration of the individual child's capabilities, strengths, needs, and interests. The IEP should direct the child toward high expectations and toward becoming a member of his or her community and the workforce. It should function as the tool that directs and guides the development of meaningful educational experiences, thereby helping the child learn skills that will help them achieve his or her goals. In short, it should assist the child in meeting the goals and challenging standards of our educational system as well as identified postsecondary goals.

The IEP describes services for each child on an individual basis. The IEP also assists teachers and other staff to have very specific, well-defined measurable annual goals for each eligible child. All persons involved should have high expectations for children and work from a strengths perspective in developing educational programs. The IDEA includes numerous IEP requirements. Kansas has statutes and regulations regarding IEPs, which also include children identified as gifted. Additionally, for children ages 3-5, an Individualized Family Service Plan (IFSP) may be used, with parent consent.

This chapter addresses the following topics:

- A. IEP Team
- B. Notice of IEP Team Meeting
- C. Using An IFSP Instead of An IEP
- D. When IEP/IFSP Must Be in Effect
- E. Development of the IEP
- F. Meeting to Review and Revise the IEP
- G. Transfer within State or from Out-Of-State
- H. Implementing the IEP

### A. IEP TEAM

The Individualized Education Program (IEP) team is a group of people, knowledgeable about the child, who come together at an IEP meeting in order to develop or review and revise a child's IEP. Collaboration among IEP team members is essential to ensure that each child's educational experience is appropriate and meaningful. All members of the IEP team are equal partners in IEP discussions. Because of their long-term perspective and unique relationship, parents bring a valuable understanding of their child to the table. Children also can express their own needs, strengths, and interests. Educators, on the other hand, bring an educational focus to the meeting; an understanding of the curriculum, the challenging educational standards for the child, and the relationship to the general education environment. With this in mind, parents and educators must continue to recognize their responsibility to maintain and enhance partnerships with each other and the child throughout the school year in order to create a collaborative environment at each IEP team meeting.

The IEP team should work toward consensus, however, if an IEP team is unable to come to consensus the school has the ultimate responsibility to ensure that the IEP includes the services that the child needs in order to receive a free appropriate public education (FAPE). Following the IEP team meeting, the school must provide the parents Prior Written Notice of the school's proposal for services as identified in the child's IEP. If, after all options have been exhausted, the

parents and the school cannot come to agreement either party may ultimately utilize mediation or due process proceedings to resolve the differences.

## 1. IEP Team Membership

The members of the IEP team are specifically identified and described in state and federal statutes and regulations. In addition to the following listed members of the IEP team, if parents need a sign language or foreign language interpreter, the school must provide that service (K.S.A. 72-3404(u); K.A.R. 91-40-17(d); 34 C.F.R. 300.322(e); 34 CRF 300.321).

- (a) **The student** must be invited to attend the student's own IEP meeting beginning at age 14, or younger, if a purpose of the meeting is consideration of the student's postsecondary goals and the transition services needed to assist the student in reaching those goals. If the student elects not to participate, the IEP team must take other steps to ensure that the student's preferences and interests are considered in developing the IEP (K.S.A. 72-3429(c)(8); K.A.R. 91-40-17(f); 34 C.F.R. 300.321(b)(2)). The school may invite the student to attend their own IEP team meeting at any age if appropriate.

The school is not required to give students younger than age 18 the same notice of meeting that is required for parents, but should document that the student was invited to the meeting. Beginning at age 18, if rights have transferred to the student, both the student and parents must receive 10-day written notice of the IEP team meeting (K.S.A. 72-3431; K.A.R. 91-40-17(a)(2)).

- (b) **The parents** must be members of the IEP team. The parents are equal partners and play an active role in providing critical information about their child's abilities, interests, performance, and history. They are involved in the decision-making process throughout the development of the IEP (K.A.R. 91-40-17(a)).

(See Chapter 1 of this Process Handbook for a discussion of who may act as a parent.)

- (c) **The special education teacher(s)** or provider(s); not less than one special education teacher of the child, or where appropriate, not less than one special education provider of the child. The school may determine the particular individual(s) to be members of the IEP team.
- (d) **The general education teacher(s)** not less than one general education teacher of the child, if the child is, or may be, participating in the general education environment (K.S.A. 72-3404(u)(2)). This must be a teacher who is or may be working with the child to ensure success in the general curriculum and implement portions of the IEP. The general education teacher is knowledgeable about the curriculum, appropriate activities of typically developing peers, and how the child's exceptionality affect the child's participation (involvement and progress) in the curriculum or those appropriate activities. General education teachers assist in the development, review and revision of the IEP including determining appropriate positive behavioral interventions and supports and other strategies for the child, as well as supplementary aids and services, program modifications and supports to enable general education teachers to work with the child (K.A.R. 91-40-17(h)).

If the child has several general education teachers, at least one must attend the IEP meeting. However, it may be appropriate for more to attend. The school may designate which teacher or teachers will serve as IEP team member(s), taking into account the best interests of the child. The general education teacher who serves as a member of the child's IEP team should be one who is, or may be, responsible for implementing a portion of the IEP. The school is strongly encouraged to seek input from the teachers who will not be attending the IEP team meeting. All general education teachers of the child must be informed by the IEP team of their 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. The child's IEP must be accessible to each general education teacher who is responsible for its implementation (K.A.R. 91-40-16(b)(4), (5)).

### General Education Teacher for Early Childhood

As stated above, K.S.A. 72-3404(u)(2) states that a general education teacher must be included in the IEP meeting if the child is, or may be, participating in the general education environment. If a school district provides 'regular education' preschool services to nondisabled children, or if a preschool child with disabilities is enrolled in a preschool program for children without disabilities operated by the school district, the preschool teacher has the same requirements to attend the IEP meeting as for school age children. If the child is enrolled in a preschool program for children without disabilities that is not operated by the school district, the school is required to invite the preschool teacher, but has no authority to require the preschool teacher's attendance. If the preschool teacher

of the child does not attend, the school shall designate a teacher who, under state standards, is qualified to serve children without disabilities of the same age.

For a child 3–5 years of age, the representative may be a preschool teacher (e.g., regular preschool, Title I preschool, Even Start, Head Start, Migrant, Bilingual, Early Learning Kansans, Kansas Parent Education Program, etc.). For a 4- or 5-year-old child, the general education teacher may be the kindergarten teacher, if the child is or will be attending kindergarten within the term of the IEP. Early childhood providers working in various community settings must meet the credentialing requirements of their hiring agencies. KSDE acknowledges those requirements, and encourages those providers to take part in IEP meetings, as appropriate, for preschool-aged children.

For a child 3–5 years of age that is in a setting that does not provide a preschool educational component (e.g., home setting or child care) it is considered the child does not have a regular education teacher and is not participating in a general education environment, therefore, a general education teacher is not required to be part of the IEP team. However, a parent may invite a child care provider to attend the IEP team meeting as a person with knowledge or expertise about the child.

See Regular Education Preschool Teacher at the IEP/IFSP Meeting at <https://www.ksde.gov/Default.aspx?tabid=544>, for additional guidance on when a preschool general education teacher must attend the IEP meeting and who meets the requirements of a general education teacher for early childhood.

#### General Education Teacher for Children in Separate Settings

The circumstances will be rare in which a general education teacher would not be required to be a member of the child's IEP team. However, there may be situations where a child is placed in a separate school and participates only in meals, recess periods, transportation, and extracurricular activities with children without exceptionalities and is not otherwise participating in the general education environment, and there is a general consensus among the IEP team that no change in that degree of participation is anticipated during the next twelve months. In these instances, since there would be no current or anticipated general education teacher for a child during the period of the IEP, it would not be necessary for a general education teacher to be a member of the child's IEP team.

Note that the educational environment (placement) of the child must not be predetermined before the meeting, in which all members, including the parents, have a chance to consider the relevant information and provide input. K.S.A. 72-3404(u)(2) requires that the IEP team includes at least one regular education teacher of the child, if the child is, ***or may be, participating in the regular education environment*** (emphasis added). Thus, deciding not to include a general education teacher on the IEP Team may be perceived as predetermining that the child will not participate in the regular education environment in the future.

- (e) **The School Representative** or designee must be a member of the IEP team. There are three requirements of the school representative or designee:
- i. is qualified to provide or supervise provision of special education services;
  - ii. has knowledge of the general education curriculum; and
  - iii. is knowledgeable about the availability of the school's resources. (K.S.A. 72-3404(u)(4))

The primary responsibility of the school representative or designee must be to commit school resources and ensure that services written in the IEP will be provided. The school representative must have the authority to commit school resources and be able to ensure that whatever services are described in an IEP will actually be provided because the school will be bound by the IEP that is developed at an IEP meeting (Federal Register, August 14, 2006, p. 46670).

- (f) **A person who can interpret instructional implications** of any evaluation or assessment results must also be a member of the IEP team. This may include individuals who participated on the evaluation team. Certainly, a school psychologist, a special education teacher, general education teacher, speech/language pathologist, or other related service provider might have evaluation results that need to be interpreted and provide instructional implications.
- (g) **Others** include individuals who have knowledge or special expertise regarding the child, including related services personnel, as appropriate, and those who are invited by the parents or the school to attend the IEP meeting.

The determination of who has knowledge or special expertise regarding the child is made by the party (parents or school) who invited the individual to be a member of the IEP team. Therefore, the other party may not bring into question the expertise of an individual invited to be a member of the IEP team and may not exclude another team member's expert based on the amount or quality of their expertise (K.A.R. 91-40-17(j); 34 C.F.R. 300.321(c)).

Although parents are not required to do so, the school may ask the parents to inform them of the individuals they are bringing. The person who contacts the parents may wish to ask them if they intend to bring other people to be sure that the room is adequate for the number of participants.

The district may add other team members, based on the child's individual needs. For example, for a child who uses assistive technology or who may be in need of such services, an internal or outside expert may be required at this meeting. In other circumstances, the school nurse or another health professional should attend. Any child with a need for a Health Care Plan should have a health professional participate at the annual review meeting for the IEP, and other meetings as appropriate. Other team members might be speech-language pathologists, occupational or physical therapists, adapted physical education teachers, or others as appropriate.

- (h) **Representatives of any other agencies.** For a child with a disability age 14 or older the IEP team will consider the transition services of the child, and the IEP team must determine, to the extent appropriate, any other public agency that must be invited to the IEP meeting because they are likely to be responsible for providing or paying for transition services. The parents, or a student who is 18 year of age, must provide consent for the school to invite any outside agency who may be providing secondary transition services to the IEP meeting (K.A.R. 91-40-17(g); 34 C.F.R. 300.321(b)(3)).

Consent from the parent (or adult student) is required when inviting outside agencies to ensure the protection of confidentiality of any personally identifiable data, information and records collected or maintained by the school. Although the school has the responsibility to invite (after receiving parent or adult student consent) individuals from other agencies, the school district does not have the authority to require the other agency representative to attend the IEP meeting (Federal Register, August 14, 2006, p. 46672). (See Consent to Invite Representative of Noneducational Agency to IEP Meeting at <https://www.ksde.gov/Default.aspx?tabid=544>).

- (i) **Representative of Part C services.** When conducting an initial IEP team meeting for a child who was previously served under Part C of the federal law, a school, at the request of the parent, shall send an invitation to attend the IEP meeting to the local Part C services coordinator or other representative of the Part C system to assist with the smooth transition of services (K.S.A. 72-3429(a)(2)(B)).
- (j) **Multiple roles.** The law allows for individuals to represent more than one of the membership roles on the IEP team. If a person is representing more than one role, that person must meet the individual qualifications for each role at the IEP team meeting. Additionally, all of the requirements for one representative do not have to be filled by one person; other members of the school team may meet one or any of these requirements. Individuals assuming more than one role at an IEP team meeting should document their roles within whatever attendance record is used during the IEP Team meeting. Although there is no legal minimum number of participants at IEP team meetings, the number of participants should be reasonable and appropriate to address the needs of the child and to carry out the intent of the law. It would probably not be reasonable or appropriate for only one member of the school staff to adequately represent every required membership role at an IEP team meeting (K.A.R. 91-40-17(i)).

State statutes and regulations and federal regulations (34 C.F.R. 300.321) address required IEP team members:

**K.S.A. 72-3404. Definitions.**

(u) "Individualized education program team" or "IEP team" means a group of individuals composed of:

- (1) The parents of a 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 or, where appropriate, at least one special education provider of the child;
- (4) a representative of the agency directly involved in providing educational services for the child who:
  - (A) Is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of exceptional children;
  - (B) is knowledgeable about the general curriculum; and
  - (C) is knowledgeable about the availability of resources of the agency;
- (5) an individual who can interpret the instructional implications of evaluation results;
- (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

**K.S.A. 72-3429. Individualized education program or family service plan.**

- (a) (2) (B) In conducting the initial IEP meeting for a child who was previously served under part C of the federal law, an agency, at the request of the parent, shall send an invitation to attend the IEP meeting to the part C services coordinator or other representatives of the part C system to assist with the smooth transition of services.

**K.S.A. 72-3431. Rights of child with disability upon reaching 18 years of age.**

When a person who has been determined to be a child with a disability reaches the age of 18, except for such a person who has been determined to be incompetent under state law:

- (a) An agency shall provide to both the person and to the person's parents any notice required by this act;  
(b) all other rights accorded to parents under this act transfer to the person;  
(c) the agency shall notify the person and the parents of the transfer of rights; and  
(d) all rights accorded to parents under this act transfer to the person if incarcerated in an adult or juvenile federal, state or local correctional institution.

**K.A.R. 91-40-17. IEP team meetings and participants.**

- (a) Each agency shall take steps to ensure that a parent of an exceptional child is present at each IEP team meeting or is afforded the opportunity to participate. These steps shall include the following:
- (1) Scheduling each meeting at a mutually agreed-upon time and place and informing the parent of the information specified in subsection (b) of this regulation;
  - (2) except as otherwise provided in K.A.R. 91-40-37, providing written notice, in conformance with subsection (b) of this regulation, to the parent of any IEP team meeting at least 10 days in advance of the meeting.
- (b) The notice required in subsection (a) of this regulation shall meet the following requirements:
- (1) The notice shall indicate the purpose, time, and location of the IEP team meeting and the titles or positions of the persons who will attend on behalf of the agency, including, if appropriate, any other agency invited to send a representative to discuss needed transition services.
  - (2) If the meeting is for a child who has been receiving special education services under the infant and toddler provisions of the federal law but is now transitioning to the provisions for older children, the notice shall inform the parent that the parent may require that a representative of the infant and toddler program be invited to attend the initial IEP team meeting to assist with the smooth transition of services.
  - (3) The notice shall indicate the following information, if a purpose is to consider postsecondary goals and transition services for the child:
    - (A) The agency will invite the parent's child to attend.
    - (B) One of the purposes of the meeting will be to consider the postsecondary goals and needed transition services for the student.
  - (4) The notice shall inform the parent that the parent has the right to invite to the IEP team meeting individuals whom the parent believes to have knowledge or special expertise about the child.
- (c) If a parent of an exceptional child cannot be physically present for an IEP team meeting for the child, the agency shall attempt other measures to ensure parental participation, including individual or conference telephone calls.
- (d) An agency shall take action to ensure that parents understand the discussions that occur at IEP team meetings, including arranging for an interpreter for parents who are deaf or whose native language is other than English.
- (e) (1) An agency may conduct an IEP team meeting without parental participation if the agency, despite repeated attempts, has been unable to contact the parent or to convince the parent to participate.  
(2) If an agency conducts an IEP team meeting without parental participation, the agency shall have a record of the attempts that the agency made to contact the parent to provide notice of the meeting and to secure the parent's participation. The record shall include at least two of the following:
  - (A) Detailed records of telephone calls made or attempted, including the date, time, and person making the calls and the results of the calls;
  - (B) detailed records of visits made to the parent's home or homes, including the date, time, and person making the visit and the results of the visit;
  - (C) copies of correspondence sent to the parent and any responses received; and
  - (D) detailed records of any other method attempted to contact the parent and the results of that attempt.
- (f) (1) An agency shall invite a child with a disability, regardless of the child's age, to attend any IEP team meeting for the child if a purpose of the meeting is consideration of the child's postsecondary goals and transition services needs.  
(2) If the child with a disability does not attend the IEP team meeting, an agency shall take other steps to ensure that the child's preferences and interests are considered.
- (g) If a purpose of any IEP team meeting for a child with a disability is consideration of the postsecondary goals of the child and the transition services needed to assist the child to reach those goals, the agency, with the consent of the parent or the child if the child is at least 18 years old, shall invite a representative of any other agency that is likely to be responsible for providing or paying for transition services.
- (h) A regular education teacher of an exceptional child, as a member of an IEP team shall participate to the extent appropriate in the development, review, and revision of the child's IEP. This participation shall include assisting in making the following determinations:
  - (1) The appropriate positive behavioral interventions and strategies for the child;
  - (2) the supplementary aids and services needed by the child; and
  - (3) the program modifications or supports for school personnel that will be provided to assist the child.
- (i) If qualified to do so, an agency member of the IEP team may serve in the role of two or more required members of a child's IEP team.
- (j) In asking individuals with knowledge or special expertise about a child to be members of the child's IEP team the party asking the person to participate shall have the sole discretion in determining whether the invited person has knowledge or special expertise regarding the child.

## 2. IEP Team Attendance and Excusals

A required member of the IEP team is not required to attend an IEP team meeting, in whole or in part, if the parent of a child with an exceptionality and the school agree, in writing, that the attendance of the IEP team member is not necessary because the member's area of the curriculum or related services is not being modified or discussed in the meeting.

A required member of the IEP team may be excused from attending an IEP team meeting, in whole or in part, when the meeting involves a modification to or discussion of the member's area of the curriculum or related services, if:

- The parent, in writing, and the school consent to the excusal; and
- The IEP team member submits, in writing to the parent and the IEP team, input into the development of the IEP prior to the meeting (K.S.A. 72-3429(b)(2), (3); 34 C.F.R. 300.321(e)).

Informed parental consent means that the school must provide the parent with appropriate and sufficient information to ensure that the parent fully understands that the parent is consenting to excuse a required IEP team member from attending an IEP team meeting in which the member's area of the curriculum or related services is being changed or discussed and that if the parent does not consent the IEP team meeting must be held with that IEP team member in attendance (Federal Register, August 14, 2006, p 46674). To ensure that the parent is fully informed and written agreement or consent is appropriately documented, it is highly recommended that the school use the KSDE sample form for excusing a member of the IEP team. (See Excusal from IEP Team Meeting form at <https://www.ksde.gov/Default.aspx?tabid=544>.)

Excusals through written agreement or consent apply only to the required IEP team members. Other members of the team, who have been invited by the school district or the parent, may be excused from attending the meeting without agreement or consent. If an individual that is not a required IEP team member, as described above, but is invited to attend a meeting, and is included on the notice of meeting, it is not required for the parent and school to consent and/or provide written agreement to excuse those individuals because they are not required members of an IEP team (Federal Register, August 14, 2006, p. 46675).

Schools are encouraged to carefully consider, based on the individual needs of the child and the issues that need to be addressed at the IEP team meeting, whether it makes sense to offer to hold the IEP team meeting without a particular IEP team member in attendance or whether it would be better to reschedule the meeting so that person could attend and participate in the discussion (Federal Register, August 14, 2006, p. 46674). Each school district should consider developing a policy indicating who the local representative is that has authority to consent to the excusal of a member of the IEP team.

**K.S.A. 72-3429. Individualized education program or family service plan; development.**

(b) (2) A member of a child's IEP team shall not be required to attend an IEP meeting, if the parent of the child and the agency agree that the attendance of such IEP member is not necessary because the IEP member's area of curriculum or related service is not to be discussed or modified at the meeting. The parent's agreement shall be in writing.

(3) A member of a child's IEP team may be excused from attending an IEP meeting when the meeting is to involve a discussion of, and possibly a modification to, the IEP member's area of the curriculum or related service, if:

- (A) The parent and the agency consent to the excusal;
- (B) the IEP member submits, in writing to the parent and the IEP team, input into the development of the IEP prior to the meeting; and
- (C) the parent's consent to the excusal is in writing.

## B. NOTICE OF IEP TEAM MEETING

The school must take steps to ensure that one or both parents are present at each Individualized Education Program (IEP) team meeting or are otherwise afforded the opportunity to participate in the IEP team meeting. The meeting is to be scheduled at a mutually agreed upon time and place. The school must provide notice of an IEP team meeting to the parents for the initial IEP team meeting and any subsequent IEP team meetings. The notice must be provided in writing at least 10 calendar days prior to the meeting (K.A.R. 91-40-17(a)(2)) and if the child is at least 14 years old, inform the parents that their child is invited to attend the meeting. (See Meeting Notice at <https://www.ksde.gov/Default.aspx?tabid=544>.)



## IEP Team Meeting Requirements

	IEP Meeting for Annual Review	IEP Meeting for any other purpose	Amend an IEP without Meeting
Notice of Meeting (10-Days Prior to Meeting)	Yes	Yes	No
Required Member Attendance	Yes	Yes	No
IEP Team Considerations Must be Addressed	Yes	As Needed	As Needed
Update Present Levels	Yes	As Needed	As Needed
Update/Change Annual Goals	Yes	As Needed	As Needed
Update/Change Assessment Participation	Yes	As Needed	As Needed
Update/Change Postsecondary Goals	As Needed	As Needed	As Needed
Update/Change Statement of Special Education and Related Services including Transition Services*	As Needed*	As Needed*	As Needed*
Educational Placement*	Yes*	As Needed*	As Needed*
Consideration of Least Restrictive Placement	Yes	As Needed	As Needed
IEP Amendment Form	No	No	Yes
Notice of Proposed Action (of any/all changes in IEP)	Yes	Yes	Yes
Resets Annual Review Date of IEP	Yes	No	No
Parent Receive a Copy of the IEP	Yes	Yes	Upon Request
Consent	Only on * items above and meet one of the criteria below.		
*Consent is required when a change in Special Education and Related Services or Placement meets any of these criteria: <ol style="list-style-type: none"> <li>1. Substantial change in placement (more than 25% of the child's school day)</li> <li>2. Material change in services (25% or more of any one service)</li> <li>3. Add a new service, or delete a service completely (100%)</li> </ol>			

If parents are divorced, regardless of which parent has primary custody, the school must notify both parents unless a court order precludes this from happening. This applies to all special education notice requirements including notice of an IEP team meeting. If the school is only aware of one parent's address, the school must make reasonable efforts to locate the other parent in order to provide notice. The school is not required to conduct duplicate IEP team meetings for divorced parents that do not wish to attend the same meeting.

Beginning at age 14, or younger, if a purpose of the meeting is consideration of the student's postsecondary goals or transition services, the student must be invited to attend and participate in the IEP team meetings. The school is not required to give children who are younger than age 18 the same notice that is required for parents, but should document that the student was invited to the meeting. The school is required to invite the student to the IEP team meeting even if the student's parents do not want their child to attend the meeting. However, because parents have authority to make educational decisions for their child (under 18 years of age), the parents make the final determination of whether their child will attend the meeting (Federal Register, August 14, 2006, p. 46671).

Beginning at age 18, if rights have transferred to the student, all notices are to go to both the adult student and the parent, including the notice of the IEP team meeting (K.S.A. 72-3431(a)). When a student reaches 18 years of age, the parents no longer have a right to attend or participate in an IEP meeting for their child. The school or the student may invite the parents to attend the meeting as persons with knowledge or expertise about the student. The notice of the IEP team meeting could be used as an invitation for all team members who are invited to attend the IEP team meeting. An IEP team meeting requirements checklist has been developed to ensure all requirements are met (<https://www.ksdetasn.org/resources/760>).

### 1. Content of Notice of IEP Meeting

The written notice must indicate (K.A.R. 91-40-17(b); 34 CRF 300.322(b)):

- (a) the purpose;
- (b) date;
- (c) time;
- (d) location of the meeting;
- (e) the titles or positions of the persons who will attend on behalf of the school (The school is to notify the parents about who will be in attendance at an IEP team meeting, however, individuals may be indicated by position only. The school may elect to identify participants by name, but they have no obligation to do so.);

- (f) inform the parents of their right to invite to the IEP team meeting individuals whom the parents believe to have knowledge or special expertise about their child; and
- (g) inform the parents that if their child was previously served in Part C they may request that the local Part C coordinator or other representative be invited to participate in the initial IEP team meeting to ensure a smooth transition of services.

In addition, beginning not later than the first IEP to be in effect when the child turns 14, or younger if determined appropriate by the IEP team;

- (h) indicate that a purpose of the meeting is the consideration of the postsecondary goals and transition services;
- (i) indicate that the school will invite the student; and
- (j) identify any other agency that will be invited, with parent consent (or adult student consent), to send a representative (K.A.R. 91-40-17(g)).

See sample Notice of Meeting form at the <https://www.ksde.gov/Default.aspx?tabid=544>.

## 2. Methods to Ensure Parent Participation

IEP team meetings are to be scheduled at a mutually agreed upon time and place. The school should work with the parent to reach an amicable agreement about scheduling. If the parent, legal guardian, or person acting as parent cannot be located the school shall request an education advocate (See Chapter 1 for more information on identifying who may act as a parent and appointing an educational advocate).

The school must take whatever action is necessary to ensure the parents understand the proceedings at the IEP team meeting, including arranging for an interpreter for parents who are deaf or whose native language is other than English (K.A.R. 91-40-17(d); 34 C.F.R. 300.322(e)).

If neither parent is able to physically attend the IEP team meeting, the parent and the school may agree to use alternative means of participation, such as video conferences and individual or conference telephone calls (K.S.A. 72-3429(b)(1); K.A.R. 91-40-17(c); 34 C.F.R. 300.322(c); 34 C.F.R. 300.328).

If the parents are unable to meet prior to the annual review date of the IEP and request that the IEP team meeting be extended for a short period of time until they can be involved in the meeting, the school may honor their request and document why the IEP has not been reviewed and when the IEP will be reviewed and revised. This situation should not be a common practice and to avoid this issue it is best to schedule IEP meetings far enough in advance of the annual review date to allow for rescheduling if necessary. Schools should be aware that there is no exception permitted in the law to the requirement to annually review a child's IEP. But when schools schedule IEP team meetings too close to the annual review deadline, schools must balance the obligation to meet the annual review deadline with giving the parent required notice of the IEP team meeting and working with the parent to reach an amicable agreement about scheduling the meeting.

Each parent must be provided a final copy of the IEP at no cost to the parent (K.A.R. 91-40-18(d); 34 C.F.R. 300.322(f)).

## 3. Conducting the IEP Team Meeting Without a Parent

A school may conduct an IEP team meeting without the parent(s) in attendance if the school, despite repeated attempts, has been unable to contact the parents to arrange for a mutually agreed upon time or to convince the parents that they should participate (K.A.R. 91-40-17(e)(1); 34 C.F.R. 300.322(d)). The school must keep a record of its attempts to arrange a mutually agreed on time and place to secure the parents' participation. The record shall include at least two of the following:

- Detailed records of telephone calls made or attempted, including the date, time, person making the calls, and the results of those calls;
  - Detailed records of visits made to the parents' home or place of employment, including the date, time, person making the visit, and the results of the visits;
  - Copies of correspondence sent to the parents and any responses received; and
  - Detailed records of any other method attempted to contact the parents and the results of that attempt.
- K.A.R. 91-40-17(e)(2)

Districts are encouraged to use their judgment about what constitutes a good-faith effort in making repeated attempts to involve each family in the IEP process. At minimum, school districts must at least make two attempts, using at least two methods, to involve the parents in the IEP team meeting.



---

## C. USING AN IFSP INSTEAD OF AN IEP

The Individualized Education Program (IEP) team must consider the use of an Individualized Family Service Plan (IFSP) in place of an IEP for children with a disability ages 3–5. The IFSP would be developed in accordance with all of the IEP procedures, but contain the content described in Part C at 20 U.S.C. 1436. At the discretion of the school, Part B services may be provided for a 2-year-old child who is identified as eligible under Part B and who will turn age 3 during the school year (K.S.A. 72-3429(a)(2); K.A.R. 91-40-16-(c)(1)). (See an Early Childhood IEP Training PowerPoint, <https://www.ksdetasn.org/resources/34>, and handout, <https://www.ksdetasn.org/resources/48>).

If the school and the parents agree to use an IFSP, the school must provide the child's parents a detailed explanation of the differences between an IFSP and an IEP, and obtain written informed consent from the parents (K.A.R. 91-40-16(c)(2)).

If the school uses the IFSP, as stated above, the IFSP must include the natural environments statement required under Part C (34 C.F.R. 303.18; 34 C.F.R. 303.344(d)(1)(ii)). The IFSP must also contain an educational component that promotes school readiness and incorporates pre-literacy, language, and numeracy skills (34 C.F.R. 300.323(b)).

If the child has participated in the Part C Infant-Toddler Program prior to being determined eligible for early childhood special education services, and already has an IFSP that is in effect, the IEP team may review the content of the child's current IFSP to see if it meets the needs of the child for one year, as identified through the Part B evaluation process. If it does, the IEP team may use the existing IFSP, but must ensure that all of the requirements for the development of an IEP are met, including timelines for development and implementation, and designation of a new current implementation date for the IFSP. If the current IFSP does not meet the needs of the child for one year, the IEP team, including the parent, will develop a new IFSP, or IEP, for the child.

---

## D. WHEN THE IEP/IFSP MUST BE IN EFFECT

Each school district must make FAPE available to all eligible children beginning on their third birthday, and continuing until: (a) a reevaluation indicates the child is no longer eligible and the parents consent to termination of services; (b) the child graduated with a regular education diploma; or (c) the end of the school year in which the child reaches age 21. For children with disabilities, age 3 through 5, an Individualized Family Services Plan (IFSP) may serve as the Individualized Education Program (IEP) of the child if the school and the parents agree. If the parents and the school agree, an IFSP may also serve as the IEP of a child with a disability who is 2 years old, but will reach three years of age during the school year. An IEP must be developed within 30 calendar days of a determination that the child needs special education and related services and must be implemented within 10 school days after written parent consent is granted for the services in the IEP or IFSP unless reasonable justification for a delay can be shown. It is important to keep in mind the requirements of IEP development and implementation of the IEP are both part of the 60 school day timeline of initial evaluation. In addition, the school is required to ensure that an IEP or IFSP is in effect at the beginning of each school year for each child with an exceptionality (K.S.A. 72-3429(a)(1); K.A.R. 91-40-8(h), (i); K.A.R. 91-40-16(b)(1)–(3); K.A.R. 91-40-16(c); 34 C.F.R. 300.323(a), (c)).

### For Children Transitioning from Part C Infant Toddler Services to Part B Preschool Services

The school is required to ensure that:

- (a) the parents are provided with a copy of the Parent Rights Notice (procedural safeguards)
- (b) eligibility is determined according to Part B requirements through an initial evaluation;
- (c) if eligible, an IEP or IFSP is in effect by the child's 3rd birthday;
- (d) if a child's 3rd birthday occurs during the summer, the child's IEP team determines the date when services will begin, but not later than the beginning of the school year following the 3rd birthday; and
- (e) A representative of the district will participate in transition planning conferences arranged by the Part C program. (K.A.R. 91-40-2(b))

---

#### **34 C.F.R. 300.323. When IEPs must be in effect.**

##### **(b) IEP or IFSP for children aged three through five.**

- (1) In the case of a child with a disability aged three through five (or, at the discretion of the SEA, a two-year-old child with a disability who will turn age three during the school year), the IEP Team must consider an IFSP that contains the IFSP content (including the natural environments statement) described in section 636(d) of the Act and its implementing regulations (including an educational component that promotes school readiness and

incorporates pre-literacy, language, and numeracy skills for children with IFSPs under this section who are at least three years of age), and that is developed in accordance with the IEP procedures under this part. The IFSP may serve as the IEP of the child, if using the IFSP as the IEP is--

- (i) Consistent with State policy; and
  - (ii) Agreed to by the agency and the child's parents.
- (2) In implementing the requirements of paragraph (b)(1) of this section, the public agency must--
- (i) Provide to the child's parents a detailed explanation of the differences between an IFSP and an IEP; and
  - (ii) If the parents choose an IFSP, obtain written informed consent from the parents.

**34 C.F.R. 303.13. Early intervention services.**

(a) *General.* *Early intervention services* means developmental services that--

- (8) To the maximum extent appropriate, are provided in natural environments, as defined in §303.26 and consistent with §§303.126 and 303.344(d).

**34 C.F.R. 303.26 Natural environments.**

*Natural environments* means settings that are natural or typical for a same-aged infant or toddler without a disability, may include home or community settings, and must be consistent with the provisions of §303.126.

**34 C.F.R. 303.344. Content of an IFSP**

d) *Early intervention services.* (1) The IFSP must include a statement of the specific early intervention services, based on peer-reviewed research (to the extent practicable), that are necessary to meet the unique needs of the child and the family to achieve the results or outcomes identified in paragraph (c) of this section, including--

- (i) The length, duration, frequency, intensity, and method of delivering the early intervention services;
- (ii) (A) A statement that each early intervention service is provided in the natural environment for that child or service to the maximum extent appropriate, consistent with §§303.13(a)(8), 303.26 and 303.126, or, subject to paragraph (d)(1)(ii)(B) of this section, a justification as to why an early intervention service will not be provided in the natural environment.  
(B) The determination of the appropriate setting for providing early intervention services to an infant or toddler with a disability, including any justification for not providing a particular early intervention service in the natural environment for that infant or toddler with a disability and service must be--
  - (1) Made by the IFSP Team (which includes the parent and other team members);
  - (2) Consistent with the provisions in §§303.13(a)(8), 303.26, and 303.126; and
  - (3) Based on the child's outcomes that are identified by the IFSP Team in paragraph (c) of this section;
- (iii) The location of the early intervention services; and
- (iv) The payment arrangements, if any.

**K.S.A. 72-3429. Individualized education program or family service plan; contents; development; duties of IEP team.**

- (a) (1) Except as specified in provision (2), at the beginning of each school year, each agency shall have an individualized education program in effect for each exceptional child.
- (2) (A) In the case of a child with a disability aged three through five and for two year-old children with a disability who will turn age three during the school year, an individualized family service plan that contains the material described in 20 U.S.C. 1436, and that is developed in accordance with this section, may serve as the IEP of the child if using that plan as the IEP is agreed to by the agency and the child's parents.  
(B) In conducting the initial IEP meeting for a child who was previously served under part C of the federal law, an agency, at the request of the parent, shall send an invitation to attend the IEP meeting to the part C services coordinator or other representatives of the part C system to assist with the smooth transition of services.

**K.A.R. 91-40-2. FAPE**

- (b) (1) Each agency shall make FAPE available to each child with a disability residing in its jurisdiction beginning not later than the child's third birthday.
- (2) An IEP or IFSP shall be in effect by the child's third birthday, but, if that birthday occurs during the summer when school is not in session, the child's IEP team shall determine the date when services will begin.
- (3) If a child is transitioning from early intervention services provided under part C of the federal law, the agency responsible for providing FAPE to the child shall participate in transition planning conferences for the child.

**K.A.R. 91-40-8. Evaluations.**

- (f) Unless an agency has obtained written parental consent to an extension of time and except as otherwise provided in subsection (g), the agency shall complete the following activities within 60 school days of the date the agency receives written parental consent for evaluation of a child:
  - (1) Conduct the evaluation of the child;
  - (2) conduct a meeting to determine whether the child is an exceptional child and, if so, to develop an IEP for the child. The agency shall give notice of this meeting to the child's parent or parents as required by K.A.R. 91-40-17(a); and
  - (3) implement the child's IEP in accordance with K.A.R. 91-40-16.
- (g) An agency shall not be subject to the time frame prescribed in subsection (f) if either of the following conditions is met:
  - (1) The parent or parents of the child who is to be evaluated repeatedly fail or refuse to produce the child for the evaluation.
  - (2) The child enrolls in a different school before the evaluation is completed, and the parent and new school agree to a specific date by which the evaluation will be completed.
- (h) In complying with subsection (f), each agency shall ensure that an IEP is developed for each exceptional child within 30 days from the date on which the child is determined to need special education and related services.

**K.A.R. 91-40-16. IEP requirements.**

- (b) Except as otherwise provided in subsection (c), each agency shall ensure that the following conditions are met:
  - (1) An IEP is in effect before special education and related services are provided to an exceptional child.
  - (2) Those services to which the parent has granted written consent as specified by law are implemented not later than 10 school days after parental consent is granted unless reasonable justification for a delay can be shown.
  - (3) An IEP is in effect for each exceptional child at the beginning of each school year.
  - (4) 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.
  - (5) Each teacher and provider described in paragraph (4) of this subsection is informed of the following:
    - (A) That individual's specific responsibilities related to implementing the child's IEP; and
    - (B) the specific accommodations, modifications, and supports that must be provided for the child in accordance with the IEP.

- (c) (1) If an agency and a child's parents agree, an IFSP that meets the requirements of the federal law and that is developed in accordance with this article may serve as the IEP of a child with a disability who is two years old but will reach three years of age during the next school year or who is three, four, or five years of age.
- (2) Before using an IFSP as an IEP each agency shall meet the following requirements:
- (A) The agency shall provide to the child's parents a detailed explanation of the differences between an IFSP and an IEP.
  - (B) If the parent chooses an IFSP, the agency shall obtain written consent from the parents for use of the IFSP as the child's IEP.

## E. DEVELOPMENT OF THE IEP

An Individualized Education Program (IEP) that promotes challenging expectations and ensures participation and progress in the general education curriculum is one that focuses on local and state curricular content standards and related assessments. Thus, statements of present levels of academic achievement and functional performance (PLAAFPs), measurable annual goals, special education and related services, and the ongoing monitoring and evaluation of IEPs, should relate to state and local standards. It is also important that the IEP address each of the child's other educational needs identified in the PLAAFPs that result directly from the child's exceptionality. For example, measurable annual goals for instruction in Braille may be appropriate for children who are blind, even though Braille is not included in the general education curriculum. Likewise, measurable annual goals for instruction in sign language may be appropriate for children who are deaf, even though sign language may not be part of the general education curriculum. Annual goals in academic content areas will be drawn from the general education curriculum. Other annual goals may be based on standards that are appropriate to meet the child's unique needs that result from the exceptionality and that allow the child to participate and progress in the general curriculum. A checklist for IEP content has been developed to assist in ensuring all necessary content has been included (See IEP Checklist at <https://www.ksdetasn.org/resources/760>).

### 1. IEP Team Considerations

In order to assure that the IEP team addresses all of the special education and related service needs of the child there are several special factors that the IEP team must consider in the development of the IEP (K.S.A. 72-3429(d)). These considerations must be documented but there is no requirement on where they are documented. Some districts may choose to include documentation of these considerations within the IEP while others may choose to keep documentation separately and maintain it in the student's file.

a. **Strengths of the Child**

The IEP team should be aware of the strengths of the child, and utilize those strengths during the development of the IEP to assist in addressing the child's needs where possible. The strengths should be included in the present levels of academic achievement and functional performance of the child, as identified through the evaluation.

b. **Concerns of the Parents for Enhancing the Education of Their Child**

Parents should have the opportunity to express their concerns for enhancing the education of their child during the IEP meeting. This provides the parents an opportunity to share with the school what they see as most important in meeting the needs of their child. The concerns of the parents must be considered by the IEP team, but do not obligate the IEP team.

c. **Results of the Initial Evaluation or Most Recent Reevaluation**

In developing each child's IEP, the IEP team must consider the results of the initial or most recent reevaluation of the child. This must include a review of valid evaluation data and the observed needs of the child resulting from the evaluation process and, as appropriate, any existing data, including data from current classroom-based, local and state assessments.

d. **The Academic, Developmental and Functional Needs of the Child**

In developing each child's IEP, the IEP team is required to consider the academic, developmental, and functional needs of the child. A child's performance on state or district assessments would logically be included in the IEP team's consideration of the child's academic needs. In addition, as part of an initial evaluation or reevaluation, the IEP team must review existing evaluation data, including data from current classroom based, local, and state assessments. The consideration of state and district-wide assessment programs is consistent with the emphasis on the importance of ensuring that children with disabilities participate in the general curriculum and are expected to meet high achievement standards. Effective IEP development is central to helping children with IEPs meet these high standards

e. **Behavioral Concerns**

In the case of a child whose behavior impedes the child's learning or that of others, the IEP team must consider the use of positive behavioral interventions and supports, and other strategies, to address the behavior. The focus

of behavioral interventions and supports in the IEP is prevention of the behavior, not just provision for consequences subsequent to the behavior. This means that the team will need to attempt to identify the function of the behavior, usually through a functional behavioral assessment, and develop strategies to prevent the behavior from occurring again in the future.

The positive behavioral interventions and supports could be implemented through the IEP annual goals, program modifications, or a behavioral intervention plan (BIP). If a BIP is developed by the IEP team, it becomes part of the IEP and any changes to it would require a meeting of the IEP team to consider the proposed changes to the plan. If the BIP is developed by a building based problem solving team or other group of individuals other than the IEP team it does not have to be included in the IEP. Special education statutes and regulations place a strong emphasis on supports and interventions, including positive behavior interventions and supports that are scientifically research-based. Scientifically-based research means that the interventions or supports must be accepted by a peer-reviewed journal or approved by a panel of independent experts through a comparably rigorous, objective, and scientific review. (Federal Register, August 14, 2006, p. 46683) These strategies are designed to foster increased participation of children with exceptionalities in general education environments or other less restrictive environments, not to serve as a basis for placing children with exceptionalities in more restrictive settings. No child should be denied access to special education services and the opportunity to progress in the general education curriculum.

f. **Limited English Proficiency**

The IEP team must consider the language needs of the child who has limited English proficiency as those needs relate to the IEP including the impact of how service provides communicate with the student and progress is measured.

g. **Braille (only for Children with Disabilities)**

For a child who is blind or visually impaired, the IEP team must consider instruction in Braille. The use of Braille should be provided 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. If Braille is to be taught as a method of accessing printed material, it is to be indicated in the IEP.

h. **Communication Needs**

The communication needs of all students with exceptionalities must be considered on each IEP. Depending on whether the student is Deaf/Hard of Hearing or has other exceptionalities will impact which considerations must be made.

1. For Children with Exceptionalities

It is required that the IEP team considers the communication needs of each child. This consideration must include the unique communication needs of all children in order to help them achieve their educational goals.

2. For Children who are Deaf/Hard of Hearing (only for Children with Disabilities)

For a child who is deaf or hard of hearing, the IEP team must consider the child's language and communication needs, including the opportunity for direct communication with peers and professional personnel in the child's language and communication mode, as well as academic level, and full range of needs including opportunities for direct instruction in the child's language and communication mode. It is important that the school recognize that this consideration is not an administrative decision for only one particular type of sign language interpreting to be available, nor is it a parental decision based on parental choice. Instead, it is an IEP team decision based on the unique communication needs of each child. The school must provide the communication services that each child requires.

i. **Assistive Technology (only for Children with Disabilities)**

The IEP team must determine whether an individual child needs an assistive technology (AT) device or service, and if so, the nature and extent to be provided. It is possible that an assistive technology evaluation will be required to determine if the child would need an assistive technology service and/or assistive technology device. Any needs identified should be reflected in the content of the IEP, including, as appropriate, the instructional program and services provided to the child. According to current Medicaid reimbursement rules, if an AT device is purchased with Medicaid-funds (or from private insurance), it belongs to the family.

j. **Extended School Year Services (only for Children with Disabilities)**

For children with disabilities, the IEP team must consider each individual child's need for extended school year (ESY) services during time periods when other children, both disabled and nondisabled, normally would not be served. If ESY is determined to be necessary to enable the child to benefit from his or her education, then the type and amount of special education services to be provided, including frequency, location and duration, are documented in the IEP. Schools must not limit the availability of ESY services to children in particular categories of disabilities, or limit the type, amount, or duration of these necessary services. Kansas law does not allow ESY services for children identified as gifted.

For an eligible child who will turn 3 during the summer, the IEP team must make the determination of the need for ESY services during that summer. (See Chapter 5 for more information on ESY.)

k. **Notification to Kansas Department for Children and Families' (DCF) Rehabilitation Services (only for Students with Disabilities)**

When a student turns 16, the IEP team must determine if the needs of the student warrant the school's notifying the district office of DCF's Rehabilitation Services (K.S.A. 75-53,101). If the student may have any need for vocational rehabilitation services regardless of whether the student is headed directly to employment or into education/training, notification to DCF may be appropriate. This is only a notification and not a referral for services. If notification is determined not to be necessary, the IEP team must document reasons for that decision. When making this notification, it is important for the school to remember that the notification contains personally identifiable information regarding the student, and parental consent to disclose confidential information is required.

l. **Physical Education Needs (only for Children with Disabilities)**

The IEP team must consider the physical education needs of the child, which may need to be adapted physical education services. If adapted physical education is required, it should be addressed in the IEP (K.A.R. 91-40-3(c)).

m. **Potential Harmful Effects (only for Children with Disabilities)**

The IEP team must consider the potential harmful effects of the placement of a student with a disability no matter where on the continuum the child is placed. This consideration must include both the child and the quality of the services the student needs (K.A.R. 91-40-21(g)).

(For more information, see Chapter 5, Special Education and Related Services and IEP Team Considerations.)

**K.S.A. 72-3429. Individualized education program or family service plan; contents; development; duties of IEP team.**

(d) In developing each child's IEP, the IEP team shall consider:

- (1) The strengths of the child and the concerns of the parents for enhancing the education of their child;
- (2) the results of the initial evaluation or most recent evaluation of the child;
- (3) the academic, developmental and functional needs of the child;
- (4) in the case of a child whose behavior impedes the child's learning or that of others, the use of positive behavioral interventions and supports and other strategies to address that behavior;
- (5) in the case of a child with limited English proficiency, the language needs of the child as such needs relate to the child's IEP;
- (6) 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;
- (7) 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
- (8) whether the child requires assistive technology devices and services.

**K.S.A. 75-53,101. Transition planning services for individuals with disabilities; compilation of background information.**

- (a) If the secretary provides services under this act and staff is available, an individual with disabilities who has been receiving special education under the provisions of K.S.A. 72-3403 et seq., and amendments thereto, and public law 101-476 (the individuals with disabilities education act) shall receive transition planning services upon attaining the age of 16 years. The local education authority which is responsible for the education of a person, with the consent of the person or the person's parent or guardian, shall notify the secretary of the name and address of such person, the record of the special education services being provided to such person and the expected date of termination of such services.
- (b) Within 30 days after such notification, the secretary shall begin to prepare a case file on such person consisting of all available information relevant to the questions of whether such person has a disability and what services may be necessary or appropriate upon termination or graduation. The local education authority, with the consent of such person or the person's parent or guardian, shall provide the secretary with copies of relevant current portions of the record of such person, which shall be included in such person's case file. The secretary also shall provide an opportunity for the submission by or on behalf of such person, of information relative to such person's training needs and all information so provided shall be included in such person's case file. History: L. 1992, ch. 129, § 3; July 1.

**K.A.R. 91-40-18. IEP development and content.**

- (a) In developing or reviewing the IEP of any exceptional child, each agency shall comply with the requirements of K.S.A. 72-3429 and amendments thereto, and, as appropriate, shall consider the results of the child's performance on any general state or districtwide assessment programs.

- (b) If, as a result of its consideration of the special factors described in K.S.A. 72-3429(c) and amendments thereto, an IEP team determines that a child needs behavioral interventions and strategies, accommodations, assistive technology devices or services, or other program modifications for the child to receive FAPE, the IEP team shall include those items in the child's IEP.
- (c) Each agency shall ensure that the IEP of each exceptional child includes the information required by K.S.A. 72-3429(b) and amendments thereto.
- (d) Each agency shall give the parent a copy of the child's IEP at no cost to the parent.
- (e) At least one year before an exceptional child reaches 18 years of age, the agency providing services to the child shall ensure that the child's IEP includes a statement the student has been informed of rights provided in the federal law, if any, that will transfer to the child on reaching 18 years of age.

## 2. Content of the IEP

Evaluation information for a child with an exceptionality must identify each of the child's educational needs that result from the exceptionality, provide baseline information and describe how the exceptionality affects the child's participation and progress in the general education curriculum (or for preschool children, appropriate activities). Utilizing baseline data established in the present levels of academic achievement and functional performance (PLAAFPs), the IEP team must develop measurable annual goals, including academic and functional goals that meet the child's needs and enable the child to be involved in and make progress in the general education curriculum. The special education, related services, supplementary aids and services, program modifications, and supports for school personnel described in the IEP must reflect the child's needs in order to ensure he or she receives educational benefit.

### a. Present Levels of Academic Achievement and Functional Performance

In previous versions of the Individuals with Disabilities Education Act, present levels of academic achievement and functional performance (PLAAFPs) have been called present levels of educational performance or PLEPs. The requirements of a present level statement is not any different, however, the name was changed slightly in 2004 to emphasize the importance of issues beyond academics only.

The IEP for each exceptional child shall include a statement of the child's present levels of academic achievement and functional performance, including:

1. how the child's disability or giftedness affects the child's involvement and progress in the general education curriculum;
2. for preschool children, as appropriate, how the disability affects the child's participation in appropriate activities; and
3. for those children with disabilities who take alternate assessments aligned with alternate achievement standards, a description of benchmarks or short-term objectives (K.S.A. 72-3429(c), 34 C.F.R. 300.320(a)(2)(ii)).

The PLAAFPs summarize the child's current performance and provide the foundation upon which all other decisions in the child's IEP will be made. The PLAAFPs identify and prioritize the specific needs of a child and establish a baseline from which to develop meaningful and measurable goals. For a PLAAFP to be complete it needs to include information about:

1. **Current Academic Achievement and Functional Performance:** This is the broadest type of information that is included in the present level statement. It helps the team to begin to sort through information and data to determine how well the child is performing and to make note of additional issues outside of academic and functional behavior that have a direct impact upon how well the child performs in school. This communicates a more global understanding of the child. This might include information such as standardized assessments, learning rate, social issues, vocational interests, independent living skills, and other interests, strengths, and weaknesses.
2. **Impact of Exceptionality** upon ability to access and progress in the general curriculum: In addition to describing the child's current performance (academics and functional areas), PLAAFPs must describe how the exceptionality affects the child's involvement and progress in the general curriculum. The present level statement must also include more specific information that clearly describes how the child's exceptionality impacts (or manifests itself) within the general education curriculum that prevents them from appropriately accessing or progressing. By drafting this statement it will make it clear to the team what the child's needs are and which ones are of highest priority to be addressed.
3. **Baseline:** Baseline data provides the starting point for each measurable annual goal, so there must be one baseline data point for every measurable annual goal on the child's IEP. Baseline data in the PLAAFPs are derived from locally developed or adopted assessments that align with the general education curriculum. Examples of baseline data include percent of correct responses, words read correctly, number of times



- behavior occurs, and mean length of utterances. Another issue important in collecting baseline data is the understanding that any goal written will have the same measurement method as was used in collecting its baseline data. Also, when selecting baseline data it needs to be (a) specific – to the skill/behavior that is being measured, (b) objective – so that others will be able to measure it and get the same results, (c) measurable – it must be something that can be observed, counted, or somehow measured, and (d) able to be collected frequently – when progress reports are sent out the progress of the student toward the goal will have to be reported using the same measurement method as used to collect the baseline data. Non-examples of this would be self-esteem or social awareness without a more specific description of what it means.
4. **Local school districts have a variety of places to document these components.** In the IEP there is no single place these components must be documented and the law explicitly states that information included in one part of the IEP does not have to be duplicated in another part. So when looking at your local forms you may find baseline data in the main section of the present levels or in boxes alongside the measurable annual goals. Both are acceptable and legal as long as the data they contain are correct.
  5. **For preschool children,** the PLAAFPs describe how the disability affects the child's participation in appropriate activities. The term "appropriate activities" includes activities that children of that chronological age engage in as part of a preschool program or in informal activities. Examples of appropriate activities include social activities, pre-reading and math activities, sharing-time, independent play, listening skills, and birth to 6 curricular measures. Federal regulations at 34 C.F.R. 300.323(b) indicate that preschool programs for children with disabilities should have an educational component that promotes school readiness and incorporates pre-literacy, language, and numeracy skills. Teachers should become familiar with the Kansas Early Learning Standards <https://www.ksde.gov/Portals/0/Early%20Childhood/Early%20Learning%20Standards/KsEarlyLearningStandards.pdf> to know what preschool age children should know and be able to do as a result of experiencing quality early learning opportunities.
  6. **For children ages 14 and older** (or younger if appropriate), the PLAAFPs also describe the child's transition needs in the areas of education/training, employment and, where appropriate, independent living skills.

The IEP team should consider the following questions when writing the PLAAFPs:

- In areas of concern, what is the child's present level of performance in relationship to district standards and benchmarks in the general education curriculum (or to the extended standards)?
- In areas of concern, what is the child's present level of performance in relationship to level of performance that will be required to achieve the postsecondary goals?
- Are there functional areas of concern related to the disability not reflected in the general education curriculum (e.g., self-care skills, social skills, classroom survival, etc.)?
- What is the degree of match between the skills of the child and the instructional environment?
- What strengths of the child are relevant to address the identified concerns?

#### **Examples of PLAAFP Statements:**

##### **Example of Current Academic Achievement and Functional Performance:**

Jeremiah is a 9-year-old fourth grade student with average ability, whose achievement testing shows relative strength in reading and weakness in math. Jeremiah is reading at grade level and has good comprehension. He likes to read and he also enjoys science activities. His most recent Curriculum Based Measurement (CBM) testing showed that he read 111 words per minute, which is at the 65th percentile on local norms. Math CBM testing showed that he scored 9 digits correct in a two minute timing, which is at the 17th percentile on district fourth grade norms. Mom reports that he brings home assignments requiring reading, but he forgets his math homework.

##### **Example of Impact of Exceptionality:**

Jeremiah has difficulty paying attention during class time. His inability to stay on task and follow directions is negatively affecting his classroom performance. When asked to begin work, he often looks around as if he does not know what to do. Observations indicate he often looks to peers for directions, rather than attending to the teacher. This occurs in both classes that he likes and in those he does not like. When the teacher goes to him to provide individual help, he refuses help and insists he understands what to do, but then he often completes the assignment incorrectly.

Jeremiah also needs to work on staying in his personal space and not invading others' personal space. This is exhibited when he swings a backpack or his arms around in a crowded room or while walking down the hall. Observations of Jeremiah show this is also an issue during games in Physical Education class and in unstructured activities during recess, such as playing tag. He is unable to appropriately interact with others. He sometimes stands very close to other students, squaring up to them, in a posture that is intimidating to younger students, and challenging to those his own age. He has also been observed to inappropriately touch other students. These behaviors have been especially problematic during special out-of-school activities, and Jeremiah has not been allowed to attend the last two class field trips, because of the severity of problems on earlier field trips.

**Example of Baseline Data:**

Teachers estimate that Jeremiah inappropriately invades other's space at least 50% of the time during unstructured activities. Observations using interval recording indicate that during recess he invaded others' space (using defined behavioral criteria) during 70% of the observation intervals. During classroom time, he was out of his seat and inappropriately close to another student during 35% of the observation intervals. Total off-task behavior during classroom observation was 60% of observed intervals.

**Other Examples of PLAAFP Statements:**

**Example of Current Academic Achievement and Functional Performance:**

In his general education 8th grade math classroom, Mike is currently turning in about half of his assignments, and only about a third of those assignments are completed. Accuracy of his turned-in work fluctuates markedly. Because of his poor assignment completion, Mike received a mid-quarter failing warning letter. Mike's completion of assignments in other curricular areas is not a concern.

**Example of Impact of Exceptionality:**

Stephanie, a third grader, when given a sixth grade-level mixed math operations probe that includes fractions, decimals, and percents, is able to correctly solve 87% of all problems presented. This means that Stephanie is approximately 3 years ahead of her typical third grade peers in math calculation. In areas of math other than calculation, Stephanie has mastered most of the fourth grade, but very few of the fifth grade math standards. She is not yet able to solve one-step equations with one variable and she is not yet able to use function tables to model algebraic relationships. She has learned to make one, but not two transformations in the area of geometry. In probability, she has not yet learned how to use fractions to represent the probability of an event.

**Example of Baseline Data:**

Todd, a fourth grader, currently reads 85 words per minute with 5 errors when given a first semester, second grade-level passage. According to district norms, Todd is reading at the 5th percentile for fourth graders in the fall.

**Example of Present Levels of Academic Achievement and Functional Performance:**

Katie is an outgoing 4-year-old girl with cerebral palsy who has a motor disability affecting primarily the right side of her body. She is above average intellectually and is very verbal. Katie has many friends at home and at school, and is described by her teachers as very motivated to learn new things. Katie enjoys preschool and spends time in all of the learning centers. Katie's parents are concerned about Katie's writing ability and how that might impact her ability to be successful in kindergarten. During classroom observations in the writing and art center and work sample analysis, Katie was observed holding crayons, markers, and other writing utensils in her fists, rather than in an appropriate grasp. Katie holds onto writing and other utensils in this manner due to excessive muscle tone, which also limits her ability to rotate her wrists. During a painting activity, Katie painted using down strokes with her paintbrush in her fist. When asked to draw a picture of herself, Katie was able to scribble on her paper using back and forth motions. Typically, children of the same age hold writing utensils between their thumb and forefingers and can copy lines, circles and simple figures. They are able to make up and down strokes as well as circular patterns with a paintbrush. Katie's fine motor disability keeps her from being able to participate in prewriting activities and create representational artwork like that of other children her own age.

### Example of Impact of Exceptionality:

Katie's fine motor disability keeps her from being able to participate in prewriting activities and create representational artwork like that of other children her own age. Katie's parents are concerned about Katie's writing ability and how that might impact her ability to be successful in kindergarten. Evaluation and assessment data support this concern.

### Example of Baseline Data:

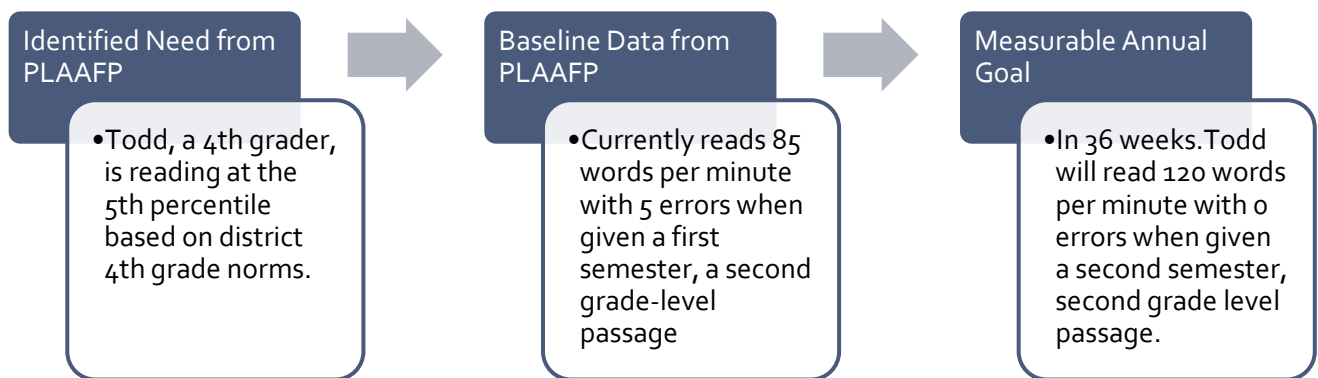
Katie was observed holding crayons, markers, and other writing utensils in her fists, rather than in an appropriate grasp. Katie holds onto writing and other utensils in this manner due to excessive muscle tone, which also limits her ability to rotate her wrists. During a painting activity Katie painted using down strokes with her paintbrush in her fist. When asked to draw a picture of herself, Katie was able to scribble on her paper using back and forth motions.

### b. Measurable Annual Goals

Measurable annual goals are descriptions of what a child can reasonably be expected to accomplish within a 12-month period with the provision of special education (specially designed instruction) and related services. When selecting areas of need to address through annual goals, the IEP team's focus should be on selecting goals from the most highly prioritized needs from the PLAAFPs. For curricular needs, the IEP team should consider identifying goals from the standards and benchmarks of the local district or from the Kansas Extended Standards. To accomplish this, it is necessary that the child's performance be measured against the district or state standards, benchmarks, and indicators. As districts develop assessments to measure their standards, all children need to be included.

Measurable annual goals must be related to meeting the child's needs that result from the child's exceptionality, to enable the child to be involved and progress in the general or advanced curriculum. In addition, they must meet each of the child's other educational needs that result from the child's exceptionality (K.S.A. 72-3429(c)(2)). Annual goals are not required for areas of the general curriculum in which the child's exceptionality does not affect the ability to be involved and progress in the general curriculum. The annual goals included in each child's IEP should be individually selected to meet the unique needs of the individual child. The goals should not be determined based on the category of the child's exceptionality or on commonly exhibited traits of children in a category of exceptionality.

There is a direct relationship between the measurable annual goal, baseline data, and the needs identified in the PLAAFPs. Because the PLAAFPs are baseline data for the development of measurable annual goals, the same criteria used in establishing the PLAAFPs must also be used in setting the annual goal.



Four critical components of a well-written goal are:

- **Timeframe** is usually specified in the number of weeks or a certain date for completion. A year is the maximum allowed length for the timeframe.
  - In 36 instructional weeks...
  - By November 19, 2018...
  - By the end of the 2018–19 school year...

- **Conditions** specify the manner in which progress toward the goal is measured. Conditions are dependent on the behavior being measured and involve the application of skills or knowledge.
  - When presented with 2nd-grade-level text...
  - Given a mixed, 4th-grade-level math calculation probe...
  - Given a story prompt and 30 minutes to write...
  - When given a directive...
- **Behavior** clearly identifies the performance that is being monitored, usually reflects an action or can be directly observed, and is measurable.
  - Sarah will read...
  - Claude will correctly solve...
  - Mary will score...
  - Rex will follow a one-step direction
- **Criterion** identifies how much, how often, or to what standards the behavior must occur in order to demonstrate that the goal has been reached. The goal criterion specifies the amount of growth the child is expected to make by the end of the annual goal period.
  - 96 words per minute with 5 or fewer errors.
  - 85% or more correct for all problems presented.
  - 4 or better when graded according to the 6-trait writing rubric.
  - Within one minute without help, 3 times a day, for 2 weeks.

Well written measurable annual goals will pass the "Stranger Test." This test involves evaluating the goal to determine if it is written so that a teacher who does not know the child could use it to develop appropriate instructional plans and assess the child's progress.

The number of goals addressed in the IEP depends on the child's needs. Prerequisite skills, immediate needs, and general applicability are all factors to consider when establishing priorities. Parents, general education teachers, and children are also essential sources of information when setting priorities.

If the child needs accommodations or modifications in order to progress in an area of the general curriculum, the IEP does not need to include a goal for that area; however the IEP would need to specify the modification and accommodations. Each IEP must have at least one measurable annual goal. If the child only needs accommodations or modifications that do not require specially designed instruction, the child's needs may be met through a Section 504 plan or other means instead of an IEP; thus it may be appropriate for the team to reevaluate eligibility to consider whether the child continues to need special education.

c. **Benchmarks or Short-Term Objectives (disabilities only)**

Benchmarks or Short-Term Objectives are only required on the IEP of a child with a disability who takes an alternate assessment aligned to alternate achievement standards (K.S.A. 72-3429(c)(1); 34 C.F.R. 320(a)(2)(ii)). This means that only children who take an Alternate Assessment would be required to have short-term objectives or benchmarks on their IEPs. This requirement would apply to preschool children and children with disabilities in kindergarten through grade two only if these children are assessed with a state or district-wide assessment program based on alternate achievement standards. However, this requirement would not prohibit the use of benchmarks or short-term objectives to be used to measure progress toward meeting the measurable annual goals for any child with an exceptionality (Federal Register, August 14, 2006, p. 46663).

i. **Benchmarks (Milestones or Major Milestones)**

Benchmarks are major milestones that describe content to be learned or skills to be performed in sequential order. They establish expected performance levels that coincide with progress reporting periods for the purpose of gauging whether a child's progress is sufficient to achieve the annual goal. It is important to note that the term "benchmark," as it is used in the IEP, should not be confused with the term "benchmark" as it is used in state and local standards. In the curricular standards, a benchmark is a specific statement of what a child should know and be able to do. In the context of IEPs, benchmarks measure intermediate progress toward the measurable annual goal.

### **Example PLAAFP Statement, Measurable Annual Goal, and Benchmarks for Student taking the Kansas Alternate Assessment (Dynamic Learning Maps)**

PLAAFP: Jennifer uses the BIGmack switch or step by step when it is presented, but she uses these devices only with adults, and not with her peers. She requires physical prompting to use the devices at least 90% of the time. She does not acknowledge the presence of peer communicative partners in an observable manner.

#### **Measurable Annual Goal 1:**

Within 36 educational weeks, Jennifer will acknowledge the presence of a peer communicative partner as evidenced by gestures, changes in body position, or vocalizations, and participate in a familiar structured turn taking communicative routine with physical prompting in at least one school setting.

#### **Benchmarks:**

1. In 9 instructional weeks, when joined by a peer, Jennifer will acknowledge the presence of a peer communicative partner as evidenced by gestures, changes in body position, or vocalizations.
2. In 18 instructional weeks, when joined by a peer, Jennifer will acknowledge the presence of a peer communicative partner as evidenced by gestures, changes in body position, or vocalizations, and will participate in a structured turn-taking activity with a peer when physically prompted by an adult.
3. In 27 instructional weeks, while participating in a familiar, structured turn-taking activity with a peer, Jennifer will recognize when it is appropriate to take her turn and respond to this opportunity as evidenced by gestures, changes in body position, vocalizations, or actions, and by activating a voice output device at the appropriate time with physical prompts from an adult.

#### **ii. Short-Term Objectives (Intermediate Steps)**

Short-term objectives are measurable, intermediate steps between a child's baseline data in the present level and the annual goal, with the conditions under which the skill is to be performed, the behavior to be observed, and the criteria for success. A short-term objective follows the same pattern of the goal, with a shorter timeframe and intermediate criteria to be attained. The goal and short-term objectives establish how child outcomes will be measured. Diagnostic assessment will provide the information needed to develop an instructional plan for achieving the goals and objectives.

### **Example PLAAFP Statement, Measurable Annual Goal, and Benchmarks for Student taking the Kansas Alternate Assessment (Dynamic Learning Maps)**

PLAAFP: Jennifer has significant difficulty with motor strength and endurance. Currently, Jennifer is able to sit in a classroom chair while engaged in a classroom activity for only 4 minutes.

#### **Measurable Annual Goal 2:**

In 36 instructional weeks, Jennifer will sit in a classroom chair for 20 minutes while engaged in a classroom activity.

#### **Short-Term Objectives:**

1. In 9 instructional weeks, Jennifer will sit in a classroom chair for 8 minutes while engaged in a classroom activity.
2. In 18 instructional weeks, Jennifer will sit in a classroom chair for 12 minutes while engaged in a classroom activity.
3. In 27 instructional weeks, Jennifer will sit in a classroom chair for 16 minutes while engaged in a classroom activity.

#### **d. Measuring and Reporting Progress on Annual Goals**

Once the IEP team has developed measurable annual goals for a child, the team must include a description of how the child's progress toward meeting the annual goals will be measured. This measure of progress will enable parents, children, and educators to monitor progress during the year, and, if appropriate, to revise the IEP to be consistent with the child's instructional needs. The idea is to use progress monitoring information in a formative way, to help with decision-making about instructional changes that may be needed. If a measurable annual goal is

written correctly with the 4 components (behavior, criteria, condition and timeframe) the requirement of how progress toward the goal is measured is contained within the goal and no additional information is required.

The IEP must include a description of when parents will be provided periodic reports about their child's progress toward meeting the annual goals. An example might be through the use of quarterly or other periodic reports concurrent with the issuance of district report cards (K.S.A. 72-3429(c)(3); 34 C.F.R. 300.320(a)(3)). The reporting may be carried out in writing or through a meeting with the parents (including documentation of information shared at the meeting); whichever would be a more effective means of communication. Whatever the method chosen, progress toward the goals must be monitored in the method indicated on the IEP and progress reports should include a description of the child's progress towards the child's measurable annual goals.

**e. Participation in State Assessments and District-Wide Assessments (disabilities only)**

The IEP team must make a decision about how the child with a disability will participate in state assessments and district-wide assessments. There are two options for each content area available to children with disabilities for the state assessments. The IEP team is to make the decision which assessment is appropriate for the child for each curricular area being assessed in that child's grade level during the upcoming IEP year. These options include the:

1. State Assessment, and
2. Kansas Alternate Assessment (Dynamic Learning Maps)).

The intent is that all children will be assessed and will be part of the state and district accountability systems. The IEP team should apply the eligibility criteria for the Kansas Alternate Assessment (Dynamic Learning Maps) to help determine which assessment is the most appropriate for the child. The eligibility criteria for each assessment are available online at <https://www.ksde.gov/Default.aspx?tabid=407> and <https://www.ksde.gov/Default.aspx?tabid=887>.

If the IEP team determines that the child shall take the Kansas Alternate Assessment (Dynamic Learning Maps), the IEP must include a statement of:

- a) which assessment the child will participate in,
- b) why the child cannot participate in the regular assessment and
- c) why the alternate assessment selected is appropriate for the child (K.S.A. 72-3429(c)(6)).

Goals on any student's IEP should be based upon a student's present levels of academic achievement and functional performance (PLAAFPs) and consideration of the Kansas content standards.

The State has identified allowable accommodations for state assessments for both general education and special education children. These are listed in the Accommodations Manual available at <https://www.ksde.gov/Default.aspx?tabid=407>. The Accommodations Manual provides information on accommodations appropriate for classroom instruction and classroom assessment and allowable accommodations for state assessments. Most accommodations allowed for the state assessment are for all students, but certain accommodations are designated as allowed for students with IEPs or 504 Plans only.

If a student with an IEP needs a read-aloud accommodation for the state assessments, that need must be documented on the student's IEP. The need for the read-aloud accommodation should be determined for each individual content area being assessed. In order to use Text to Speech (TTS) accommodation on state assessments, the student must have the TTS accommodation provided in the classroom on a regular basis (i.e. as an on-going practice, for both instructional material and assessments/tests).

Any accommodation regularly used in instruction should be used on classroom assessments for children with IEPs. Individual school districts may establish their own policies for allowable accommodations for district-wide assessments. All accommodations that are necessary in order for the child to participate in state or district-wide assessments must be documented on the IEP.

For current information regarding the state assessments see <https://www.ksde.gov/Default.aspx?tabid=407>.

**f. Secondary Transition (ONLY for students with disabilities)**

Beginning at age 14, and updated annually, the IEP must contain (1) appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to training/education, employment and where appropriate, independent living skills; and (2) the transition services, including appropriate courses of study,



needed to assist the child in reaching the stated postsecondary goals; and (3) beginning at age 16, or younger, if determined appropriate by the IEP team, a statement of needed transition services for the child, including, when appropriate, a statement of the interagency responsibilities or any needed linkages (K.S.A. 72-3429(c)(8)).

## 1. Transition Assessment

The LEA must conduct an age-appropriate transition assessment at a minimum in the areas of education/training, employment, and, where appropriate, independent living. The purpose of the transition assessment is to provide information to develop and write practical, achievable measurable post-secondary goals and assist in the identification of transition services necessary in helping the student reach those goals. Transition assessment must be conducted prior to the student reaching age 14 and prior to the development of the measurable post-secondary goals and transition services in the student's IEP. For each postsecondary goal, there must be evidence that at least one age-appropriate transition assessment was used to provide information on the student's needs, strengths, preferences, and interests regarding postsecondary goals. Evidence would most likely be found in the student's file.

Those responsible gather the information needed to understand student needs, taking into account strengths, preferences, and interests through career awareness and exploration activities and a variety of formal and informal transition assessments. These assessments should seek to answer questions such as:

- a. What does the student want to do beyond school (e.g., further education or training, employment, military, continuing or adult education, etc.)?
- b. Where and how does the student want to live (e.g., dorm, apartment, family home, group home, supported or independent)?
- c. How does the student want to take part in the community (e.g., transportation, recreation, community activities, etc.)?

It is important to consider and understand that a transition assessment is not an evaluation or reevaluation but has the potential of leading to the need for a reevaluation. The Office of Special Education Programs (OSEP) has published informal guidance stating that, "Generally, parental consent is not required prior to conducting an age appropriate transition assessment because the purpose of the assessment is to develop appropriate postsecondary IEP goals and not to determine whether a child has or continues to have a disability, and the nature and extent of the special education and related services that the child needs. If, however, the IEP Team determines that a reevaluations of the child is warranted in order to obtain additional data, based on the student's educational or related services needs including improved academic achievement and functional performance, the public agency is required to obtain parental consent consistent with 34 C.F.R. 300.300(c)" (Letter to Olex, 119 LRP 8445, Feb. 22, 2019)..

## 2. Measurable Postsecondary Goals

Each IEP for a student with a disability, who will be 14 or older during the time period of the IEP, must have measurable postsecondary goal(s) that address the areas of: training/education, employment, and independent living when appropriate. The only goal area that is not required based on individual student needs is independent living.

Descriptions of these categories are:

- **Training/Education** –vocational training program, apprenticeship, On-the-Job Training, military, Job Corps, 4-year college or university, technical college, 2-year college, technical certification training program, etc.
- **Employment** - paid (competitive, supported, sheltered), unpaid, non-employment, etc.
- **Independent living**– adult living, daily living, independent living, financial, transportation, etc.

Measurable postsecondary goals are different from measurable annual goals in that they measure an outcome that occurs after a student leaves high school where a measurable annual goal measures annual progress of the student while in school. It is important to note that each postsecondary goal, must be supported by one or more annual goal and each annual goal may support more than one postsecondary goal. When developing postsecondary goals, the team should understand what annual goals support the postsecondary goal.

The requirements for measurable postsecondary goals are specific to the areas of training/education, employment and independent living. Measurable postsecondary goals may not be combined across these areas. A student's IEP team must consider the unique needs of each individual student with a disability, in light of his or her plans after leaving high school, in developing postsecondary goals for a student. Each student's IEP must include, at minimum, separate postsecondary goals for (1) employment and (2) education/training. Postsecondary goals related to independent living are to be developed when the IEP team determines it would be appropriate for the student.

For each measurable postsecondary goal there must be evidence that at least one age-appropriate transition assessment was used to provide information on the student's needs, strengths, preferences and interests regarding postsecondary goals.

#### **Examples of Measurable Postsecondary Goals:**

##### Example Education/Training Goals:

After graduation from high school, Sara will attend college to study drafting.

After graduation from high school, Jamie will attend Central County Community College in the welding industry certificate program.

##### Example Employment Goals:

After graduation from high school, Sam will obtain employment as a CAD operator.

After graduation from high school, Jerry will work in an auto repair shop to gain experience in the automotive repair industry.

Note: Because the employment goal should be based on what the student wants to do after high school, the goal shouldn't merely reference a part-time job the student might hold while attending postsecondary education/training.

### **3. Transition Services, including Courses of Study**

The IEP that will be in effect when the student turns age 14 must address transition services, including courses of study, needed to assist the student in reaching the student's postsecondary goals.

Transition services are a coordinated set of activities or strategies that support the student in achieving their desired postsecondary goals. The IEP team builds this set of activities from information contained in the PLAAFP that describe where the student is currently performing in relationship to the student's postsecondary goals. The IEP team should consider the individual child's needs, taking into account the child's strengths, preferences, and interests. With that as the starting point, the team needs to determine what skills, services, or supports the student will need in order to successfully transition from where the student is now to the student's desired postsecondary goals. The LEA may include a multi-year plan for transition services and activities in the IEP. If the LEA decides to include a multi-year plan there must be a clear distinction between those transition services that are being provided for the current IEP year and the services and activities that are being planned for the future.

Transition services should be developed as a coordinated set of activities by considering each of the following areas:

- Instruction the student needs to receive in specific areas to complete needed courses, succeed in the general curriculum, and gain skills needed post-high school.
- Related services the student may need to benefit from special education while in school and gain skills needed post-high school.
- Community experiences that are provided outside the school building or in community settings. Examples may include community-based work experiences and/or exploration, job site training, banking, shopping, transportation, counseling and recreation activities.
- Employment or other post-school adult living objectives the student needs to achieve desired post-school goals.
- Acquisition of daily living skills (if appropriate). Daily living skills are those activities that adults do every day (e.g., preparing meals, budgeting, maintaining a home, paying bills, caring for clothing, grooming, etc.).

- Functional vocational evaluation (if appropriate). This is an assessment process that provides information about job or career interests, aptitudes and skills. Information may be gathered through situational assessment, observation, or formal measures and should be practical. The IEP team could use this information to refine services outlined in the IEP.

Transition services are services to be provided by the school, or they may include services to be provided by other agencies. The transition services section of the IEP should not list what the parents or student will do. If the IEP Team determines that no transition services are needed, that consideration should be noted on the IEP in some way, such as a statement or checkbox indicating that transition services are not needed at this time or that transition services provided by general education are sufficient to meet the child's needs. If the transition services statement includes a service that meets the definition of specialized instruction or a related service, then the frequency, location, and duration for that service should be listed.

**Example of Frequency, Location, and Duration for a Transition Service:**

- James will receive transportation to take him to visit the welding certification program at Happy Valley Community College (HVCC).
  - Frequency: once during first semester
  - Location: school vehicle
  - Duration: from the high school to HVCC and back

Beginning at age 14, transition services must include a description of courses of study. Courses of study are defined as a multi-year description of coursework to achieve the student's desired post-school goals, from the student's current to anticipated exit year. The courses of study may be identified on the student's IEP either as a list of courses of study or as a statement of instructional program, as appropriate for the student. If the IEP team chooses to identify the courses of study on the student's IEP as a list of courses of study, be aware that the IEP must be amended, using the IEP amendment process or an IEP team meeting, to reflect any changes to a list of courses of study.

The IEP team reviews the required courses leading to graduation or completion of a school program, and helps the student select courses and other educational experiences that are most likely to move the student toward his or her desired postsecondary goals (e.g., employment, education/training, independent living). The IEP team should work closely with the guidance counselor who keeps a transcript of required courses toward graduation. The IEP team should review the transcript and ensure that the courses identified support the student's postsecondary goals. The guidance counselor may be involved in the IEP meeting should there be changes to the coursework.

Each year the IEP team, including the student, reconsiders the student's postsecondary goals and aligns the courses of study with those desired goals. The decisions regarding the courses of study should relate directly to where the student is currently performing and what he or she wants to do after graduation. The IEP team may take the following steps:

- Review elective courses available and identify courses of study based on student's needs, taking into account preferences and interests.
- Consider other educational experiences such as work study, community-based instruction, independent living, and self-determination.
- Consider whether any prioritization is necessary.

The connection between the student's postsecondary goals and the courses of study should be obvious. To help develop the connection, the IEP team may wish to respond to the following questions:

- Do the transition services include courses of study that focus on improving the academic and functional achievement of the child to facilitate the child's movement from school to post-school objectives?
- Do the transition services include courses of study that align with the student's postsecondary goal(s)?

**4. Transition Services, including Interagency Responsibilities and Linkages**

Beginning at age 16, or younger, if determined appropriate by the IEP team, the statement of needed transition services for the child, must include, when appropriate, a statement of the interagency

responsibilities or any needed linkages (K.S.A. 72-3429(c)(8)). This requirement is in ADDITION to the age 14 requirements.

The transition services statement for students aged 16 and older must:

1. Document activities and transition services for the current IEP year and identify the responsible party/agency.
2. Document who will provide or pay for which services if an agency outside of the school has responsibility.

The IEP team, which includes the student and parent, may find it helpful to answer the following questions as the transition services are developed:

- What services, supports, or programs does this student currently need? (For example, specially designed instruction, accommodations and modifications, related services, job coaching, special transportation, etc.)

Then, based on what the student currently needs:

- What additional services, supports, activities, or programs will this student need in order to achieve his or her desired postsecondary goals and lead to success as the student leaves high school?
- Are linkages being made to needed post-school services, supports or programs before the student leaves the school setting?
- Do the transition services include procedures to ensure students and parents are aware of, and connected to, needed post-school services, programs and supports before the student exits the school system?

The transition services should be developed as a coordinated set of activities by considering each of the following areas:

- Instruction the student needs to gain skills needed after high school.
- Generally, the IEP team should consider related service needs the student may have as the student leaves high school. If related services will be needed after school, the IEP should identify, as appropriate, linkages to adult agencies or providers before the student leaves the school system.
- Community experiences that are provided outside the school building or in community settings. The IEP team should consider the need for linkages with community agencies that may support the child as he/she transitions to post-school activities.
- Employment or other post-school adult living objectives the student needs to achieve desired post-school goals. These could be services leading to a job or career or those that support activities done occasionally such as registering to vote, filing taxes, renting a home, accessing medical services, applying for insurance, or accessing adult services such as Social Security Income (SSI). The IEP team should consider linkages with agencies that may support the child with adult living objectives.
- Acquisition of daily living skills (if appropriate). Again, the IEP team needs to consider linkages needed to agencies that may help support the student with daily living skills in an adult setting.
- Functional vocational evaluation (if appropriate). This is an assessment process that provides information about job or career interests, aptitudes and skills. Information may be gathered through situational assessment, observation, or formal measures and should be practical. The IEP team needs to consider whether other agencies might help provide needed functional vocational evaluations for the student.

The IEP team must determine, to the extent appropriate, any other public agency that must be invited to the IEP meeting because they are likely to be responsible for providing or paying for transition services. The parents, or a student who is 18 years of age, must provide consent for the school to invite any outside agency to the IEP meeting (K.A.R. 91-40-17(g); 34 C.F.R. 300.321(b)(3)). Consent from the parent (or adult student) is required when inviting outside agencies to ensure the protection of confidentiality of information under FERPA (Federal Register, August 14, 2006, p. 46672). (See Consent to Invite Noneducation Agency to IEP Meeting form at <https://www.ksde.gov/Default.aspx?tabid=544>).

It is expected that transition services to be provided by agencies other than the school will be included in the IEP. If an agency other than the school, fails to provide the transition service in the IEP that it had agreed to

provide, the school must reconvene the IEP team to identify alternative strategies to meet the transition objectives for the child that are set out in the IEP (34 C.F.R. 300.324(c)(1)). Alternative strategies might include the identification of another funding source, referral to another agency, the public agency's identification of other district-wide or community resources that it can use to meet the student's identified needs appropriately or a combination of these strategies.

The school, or any participating agency, including the Kansas vocational rehabilitation agency, is responsible to provide or pay for any transition service that the agency would otherwise provide to children with disabilities who meet the eligibility criteria of that agency. This is to be done without delay. The school may claim reimbursement from an outside agency that failed to provide or pay for the service pursuant to an interagency agreement or other financial arrangement (34 C.F.R. 300.324(c)(2); 34 C.F.R. 300.103; 34 C.F.R. 300.154). If a participating agency, other than the school district, fails to provide the transition services described in the IEP, the school district must reconvene the IEP team to identify alternative strategies to meet the transition objectives for the child.

For students incarcerated in an adult correctional facility whose eligibility under IDEA will end because they will turn 21 years old before they will be eligible to be released from prison, the requirements relating to transition planning and transition services do not apply (K.A.R. 91-40-5(c)(2)(B); 34 C.F.R. 300.324(d)).

#### **g. Age of Majority**

Beginning at age 17, the IEP team must inform the student and the parents that at the age of majority, under state law (age 18 in Kansas), the rights under IDEA will transfer to the student. The school must provide documentation in the IEP, at least one year before the student is 18, that the student has been informed of rights provided in the federal and state law that will transfer to the student. If parents believe that their child may not be able to make educational decisions, they may wish to find out about obtaining a limited guardianship or some other legal means to support the student upon reaching the age of majority. It is important for the school to provide information and resources to the student and parents early in the IEP process to assist them in understanding the implications of the transfer of these rights under special education law (K.S.A. 72-3431; K.A.R. 91-40-18(e)).

#### **h. Statement of Special Education and Related Services**

Each IEP for a child with an exceptionality must include a statement of:

- the special education services
- related services
- supplementary aids and services (including accommodations), based on peer-reviewed research to the extent practicable, to be provided to the child, or on behalf of the child
- a statement of the program modifications, and
- supports for school personnel that will be provided for the child to:
  - advance appropriately toward attaining the annual goals;
  - be involved in and make progress in the general education curriculum, and participate in extracurricular and other nonacademic activities; and
  - be educated and participate with other children with exceptionalities and nonexceptional children in these activities (K.S.A. 72-3429(c)(4)).

Each of these areas must be addressed on the IEP even if the way it is addressed is indicating the child does not need the service. All services; special education and related services, supplementary aids and services, program modifications, and supports for school personnel, as outlined in the IEP (including transition activities that are special education and related services) must indicate the projected date for the beginning of the services and the anticipated frequency, location, and duration of those services (K.S.A. 72-3429(c)(7)). It is possible that service dates may vary throughout the year and should be indicated as such on the IEP.

The amount of services to be provided must be stated in the IEP so that the level of the school's commitment of resources will be clear to parents and other IEP team members. The amount of time to be committed to each of the various services to be provided must be: (1) appropriate to the specific service, and (2) stated in the IEP in a manner that is clear to all who are involved in both the development and implementation of the IEP (Federal Register, August 14, 2006, p. 46667).

(For more information, see Chapter 5, Special Education and Related Services.)

**i. Least Restrictive Environment**

Least restrictive environment (LRE) means the educational placement in which, to the maximum extent appropriate, children with disabilities, including children in institutions or other care facilities, are educated with children who are not disabled (K.A.R. 91-40-1(l)). The IEP must contain an explanation of the extent, if any, to which the child will not participate with children without disabilities in the general education class, and in extracurricular and nonacademic activities (K.S.A. 72-3429(c)(5)). Children with disabilities are to be removed from the general education environment only if the nature or severity of the disability is such that education in general education classes with the use of supplementary aids and services or modifications cannot be achieved satisfactorily (K.S.A. 72-3420(a)).

In determining the location for special education and related services the IEP team must consider the continuum of educational placements necessary to implement the IEP. The school must ensure that the parents of each child are members of any group that makes decisions on the educational placement of their child. The placement decision must be made in conformity with the requirement of providing services in the LRE. The educational placement is to be:

- determined at least annually; and
- based upon the child's IEP (K.A.R. 91-40-21).

Although placement in the LRE is not legally required for children identified as gifted, the provision of FAPE still requires that the IEP team make an individualized placement determination for the child. Additionally, parents of gifted children must be part of the team making placement decisions. (For additional information on Educational Placement and Least Restrictive Environment, see Chapter 6.)

**34 C.F.R. 300.320. Definition of individualized education program.**

(a) *General.* As used in this part, the term individualized education program or IEP means a written statement for each child with a disability that is developed, reviewed, and revised in a meeting in accordance with §§ 300.320 through 300.324, and that must include—

(2) (ii) For children with disabilities who take alternate assessments aligned to alternate academic achievement standards, a description of benchmarks or short-term objectives;

(c) Failure to meet transition objectives.

(1) Participating agency failure. If a participating agency, (other than the public agency, fails to provide the transition services described in the IEP in accordance with §300.320(b), the public agency must reconvene the IEP Team to identify alternative strategies to meet the transition objectives for the child set out in the IEP.

(2) Construction. Nothing in this part relieves any participating agency, including a State vocational rehabilitation agency, of the responsibility to provide or pay for any transition service that the agency would otherwise provide to children with disabilities who meet the eligibility criteria of that agency.

**K.S.A. 72-3429. Individualized education program or family service plan; contents.**

(c) The IEP for each exceptional child shall include:

(1) A statement of the child's present levels of academic achievement and functional performance, including:

- (A) How the child's disability or giftedness affects the child's involvement and progress in the general education curriculum;
- (B) for preschool children, as appropriate, how the disability affects the child's participation in appropriate activities; and
- (C) for those children with disabilities who take alternate assessments aligned to alternate achievement standards, a description of benchmarks or short-term objections;\*

(2) a statement of measurable annual goals, including academic and functional goals designed to:

- (A) Meet the child's needs that result from the child's disability or giftedness, to enable the child to be involved in and make progress in the general education or advanced curriculum; and
- (B) meet each of the child's other educational needs that result from the child's disability or giftedness;

(3) a description of how the child's progress toward meeting the annual goals will be measured and when periodic reports on the progress the child is making toward meeting the annual goals will be provided, such as through the use of quarterly or other periodic reports issued concurrently with general education report cards;

(4) a statement of the special education and related services and supplementary aids, based on peer-reviewed research to the extent practicable, 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;
- (B) to be involved in and make progress in the general education curriculum in accordance with provision (1) and to participate in extracurricular and other nonacademic activities; and
- (C) to be educated and participate with other exceptional and nonexceptional children in the activities described in this paragraph;

(5) an explanation of the extent, if any, to which the child will not participate with nonexceptional children in the regular class and in the activities described in provision (4);

(6) (A) a statement of any individual appropriate accommodations that are necessary to measure the academic achievement and functional performance of the child on state and districtwide assessments; and

(B) if the IEP team determines that the child shall take an alternate assessment on a particular state or district-wide assessment of student achievement or part of such an assessment, a statement of why the child cannot participate in the regular assessment and why the particular alternate assessment selected is appropriate for the child;



(7) the projected date for the beginning of the services and modifications described in provision (4), and the anticipated frequency, location, and duration of those services and modifications;

(8) (A) beginning at age 14, and updated annually thereafter:

(A) Appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to training, education, employment and where appropriate, independent living skills; and

(B) the transition services, including appropriate courses of study, needed to assist the child in reaching the stated postsecondary goals; and

(C) beginning at age 16, or younger, if determined appropriate by the IEP team, a statement of needed transition services for the child, including, when appropriate, a statement of the interagency responsibilities or any needed linkages; and

(9) beginning at least one year before the child reaches the age of majority under state law, a statement that the child has been informed of the child's rights, if any, that will transfer to the child on reaching the age of majority as provided in K.S.A. 72-989, and amendments thereto.

Nothing in this section shall be construed to require:

(1) That additional information be included in a child's IEP beyond that which is specifically required by this section; and

(2) that an IEP team include information under one component of a child's IEP that is already contained under another component of the IEP.

[We note that K.S.A. 72-3429(c)(1)(C) incorrectly used the word "objections." We cite to the federal regulation, 34 C.F.R. 300.320, in order to use the correct language, "short-term objectives."]

#### **K.S.A. 72-3431. Rights of child with disability upon reaching 18 years of age.**

When a person who has been determined to be a child with a disability reaches the age of 18, except for such a person who has been determined to be incompetent under state law:

(a) An agency shall provide to both the person and to the person's parents any notice required by this act;

(b) all other rights accorded to parents under this act transfer to the person;

(c) the agency shall notify the person and the parents of the transfer of rights; and

(d) all rights accorded to parents under this act transfer to the person if incarcerated in an adult or juvenile federal, state or local correctional institution.

#### **K.A.R. 91-40-1. Definitions.**

(l) "Least restrictive environment" and "LRE" mean the educational placement in which, to the maximum extent appropriate, children with disabilities, including children in institutions or other care facilities, are educated with children who are not disabled, with this placement meeting the requirements of K.S.A. 72-976, and amendments thereto, and the following criteria:

(1) Determined at least annually;

(2) based upon the student's individualized education program; and

(3) provided as close as possible to the child's home.

#### **K.A.R. 91-40-18. IEP development and content.**

(e) At least one year before an exceptional child reaches 18 years of age, the agency providing services to the child shall ensure that the child's IEP includes a statement the student has been informed of rights provided in the federal law, if any, that will transfer to the child on reaching 18 years of age.

#### **K.A.R. 91-40-21. Educational placement.**

(a) Each agency shall ensure that the children with disabilities served by the agency are educated in the LRE.

(b) Each agency shall ensure that a continuum of alternative educational placements is available to meet the needs of children with disabilities. These alternative educational placements shall meet the following criteria:

(1) Include instruction in regular classes, special classes, and special schools; instruction in a child's home; and instruction in hospitals and other institutions; and

(2) make provision for supplementary services, including resource room and itinerant services, to be provided in conjunction with regular class placement.

(c) (1) In determining the educational placement of a child with a disability, including a preschool child with a disability, each agency shall ensure that the placement decision meets the following requirements:

(A) The decision shall be made by a group of persons, including the parent and other persons who are knowledgeable about the child, the meaning of the evaluation data, and the placement options.

(B) The decision shall be made in conformity with the requirement of providing services in the LRE.

(2) In determining the educational placement of a gifted child, each agency shall ensure that the placement decision is made by a group of persons, including the child's parent and other persons who are knowledgeable about the child, the meaning of the evaluation data, and appropriate placement options for gifted children.

## **F. MEETING TO REVIEW, REVISE, OR AMEND THE INDIVIDUALIZED EDUCATION PROGRAM**

### **1. Annual Review of the Individualized Education Program**

The individualized education program (IEP) is to be reviewed at least once every 12 months, to determine whether the annual goals for the child are being achieved and to revise the IEP as appropriate. The review and revision of the IEP is to address: (a) any lack of expected progress toward the annual goals and in the general education curriculum, where appropriate; (b) the results of any reevaluation conducted; (c) information about the child provided by the parents; (d) the child's anticipated needs; or (e) other matters. The IEP team is to consider any of the special factors related to the child's IEP (see Section D.1. of this Chapter; K.S.A. 72-3429(f)).

### **2. Amend the IEP**

At an annual IEP team meeting, changes to the IEP are to be made by the entire IEP team. However, between annual IEP reviews, if the parent and school representative agree, changes can be made without an IEP team meeting, by amending

the IEP rather than by rewriting the entire IEP. School districts are encouraged to develop and implement a policy indicating who has the authority to amend the IEP without a meeting (K.S.A. 72-3429(b)(4)(A)).

In amending a child's IEP, the parent of a child with an exceptionality and the school representative may agree not to convene an IEP team meeting for the purpose of making those changes, and instead may develop a written document to amend or modify the child's current IEP. There are no restrictions on the types of changes that may be made, so long as the parent and the school representative agree to make the changes without an IEP team meeting. If changes are made to the child's IEP without a meeting, the school must ensure that the child's IEP team is informed of those changes (K.S.A. 72-3429(b)(4)(B); 34 C.F.R. 300.324(a)(4)). Upon request, the parent must be provided with a revised copy of the IEP with the amendments incorporated (see IEP Amendment Form at <https://www.ksde.gov/Default.aspx?tabid=544>; Federal Register, August 14, 2006, pp. 46685–86).

Even when using the IEP amendment process, the school must provide Prior Written Notice of any changes in the IEP. If the changes in the IEP constitute a substantial change in placement or a material change in services, the school must request parent consent to implement the change. [See Chapter 5 Services for further details about substantial change in placement and material change in services]

Specific day-to-day adjustments in instructional methods and approaches that are made by either a general or special education teacher to assist a child with an exceptionality to achieve his or her annual goals do not require action by the child's IEP team.

### 3. Request by Parent or School Staff for IEP Meeting

Although the school is responsible for determining when it is necessary to conduct an IEP meeting, the parents of a child with an exceptionality have the right to request an IEP meeting at any time. The child's teacher or other school staff may also propose an IEP meeting at any time they feel the IEP has become inappropriate for the child and revision should be considered (K.S.A. 72-3429(f)).

#### **K.S.A. 72-3429. Individualized education program or family service plan; contents; development; duties of IEP team.**

- (b) (4) (A) After the annual IEP meeting for a school year, the parent of an exceptional child and an appropriate representative of the agency providing services to the child may agree to develop a written document amending or modifying the child's current IEP, without convening an IEP meeting.
- (B) If the parent and agency representative develop a written document amending or modifying a child's current IEP, the document shall be dated and signed by the parent and the agency representative. The parent and the agency shall be provided a copy of the document.
- (f) Each agency shall ensure that the IEP team:
- (1) Reviews the child's IEP periodically, but not less than annually to determine whether the annual goals for the child are being achieved; and
  - (2) revises the IEP, as appropriate, to address:
    - (A) Any lack of expected progress toward the annual goals and in the general education curriculum, where appropriate;
    - (B) the results of any reevaluation conducted under this section;
    - (C) information about the child provided by the parents;
    - (D) the child's anticipated needs; or
    - (E) other matters.

#### **K.A.R. 91-40-16. IEP requirements.**

- (a) Each agency shall be responsible for initiating and conducting meetings to develop, review, and revise the IEP of each exceptional child served by the agency.
- (b) Except as otherwise provided in subsection (c), each agency shall ensure that the following conditions are met:
- (1) An IEP is in effect before special education and related services are provided to an exceptional child.
  - (2) Those services to which the parent has granted written consent as specified by law are implemented not later than 10 school days after parental consent is granted unless reasonable justification for a delay can be shown.
  - (3) An IEP is in effect for each exceptional child at the beginning of each school year.
  - (4) 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.
  - (5) Each teacher and provider described in paragraph (4) of this subsection is informed of the following:
    - (A) That individual's specific responsibilities related to implementing the child's IEP; and
    - (B) the specific accommodations, modifications, and supports that must be provided for the child in accordance with the IEP.

## G. TRANSFER WITHIN THE STATE AND FROM OUT OF STATE

When a student moves into a new school district, the school district must take reasonable steps to promptly obtain the child's records, including the individualized education program (IEP) and supporting documents and any other records relating to the provision of special education or related services to the child, from the previous school district in which the child was enrolled. The previous school district in which the child was enrolled must take reasonable steps to promptly respond to the request from the new school district (K.S.A. 72-3429(g); 34 C.F.R. 300.323(e), (f), (g)). Parent consent is not

required to transfer education records to a school where a student intends to enroll, or is already enrolled, if the sending school's annual Family Educational Rights and Privacy Act (FERPA) notice states that the school forwards education records to schools that have requested the records and in which the student seeks, or intends, to enroll, or is already enrolled (34 C.F.R. 99.31 (a)(2)).

### 1. Within State

When a child with an exceptionality transfers to a new school district in Kansas, with a current IEP in a previous school district in Kansas, the new school district, in consultation with the parents, must provide a free appropriate public education (FAPE) to the child, including services comparable to those described in the child's IEP from the previous school district. Once the new district receives the current IEP the new school district may adopt the child's IEP from the previous school district or develop and implement a new IEP. If the new district develops a new IEP, parent consent is required for any substantial change in placement or any material change in services proposed in the new IEP K.S.A. 72-3430(b)(6). When a student moves within the state, eligibility has already been established and a reevaluation is not required.

### 2. Out-of-State

When a child with an exceptionality, who has a current IEP in another state, transfers to a school district in Kansas, the new school district, in consultation with the parents, must provide the child with FAPE, including services comparable to those described in the child's IEP from the previous school district until the Kansas school district either adopts the current IEP, or conducts an initial evaluation of the child, if deemed necessary, and develops and implements a new IEP for the child. Comparable services have the meaning of services that are "similar" or "equivalent" to the services that were described in the child's IEP from the previous school, as determined by the child's newly designated IEP team in the new district (Federal Register, August 14, 2006, p. 46681). Accordingly, IEP teams should work together to come to a consensus in determining the content of the "comparable" services to be provided. If there is a dispute between the parent and the school district regarding what constitutes comparable services, the dispute could be resolved through mediation procedures or, as appropriate, the due process hearing procedures. If the parent disagrees with the new school district about the comparability of services, stay-put would not apply (Federal Register, August 14, 2006, p. 46682).

The new school district may: (a) adopt the current IEP; (b) develop and implement a new IEP; or (c) conduct an initial evaluation to determine eligibility, and develop and implement a new IEP. If the district elects to conduct an evaluation, the evaluation conducted by the new school district would be to determine if the child is a child with an exceptionality in Kansas and to determine the educational needs of the child. The evaluation would be an initial evaluation, which would require parental consent. The new IEP generated from any of the three processes described above, in (a) through (c), is an initial offer of special education and related services in Kansas and is the initial Kansas IEP. As such, the district must have parent consent before implementing the services proposed in the initial Kansas IEP. If a parent refuses to consent, or fails to respond to the request for consent, to the initial services offered in the proposed initial Kansas IEP, the district may not provide those services, the district may not initiate due process or mediation procedures, and the district will not be considered to be in violation of the requirement to make FAPE available to the child because of the failure of the district to provide the services specified in the proposed IEP (K.S.A. 72-3430(g)). The parent retains the right to request mediation or a due process hearing to challenge the district's offer of initial services.

Because the new Kansas IEP offered to a student who has transferred to Kansas from another state is the initial Kansas offer of special education and related services, the new Kansas IEP is not a proposed change in services or placement. Therefore, the consent requirement under Kansas law for making a substantial change in placement or material change in services does not apply to these initial Kansas IEPs for transfer students from other states.

**K.S.A. 72-3429. Individualized education program or family service plan; contents; development; duties of IEP team.**

- (g) (1) If an exceptional child with a current IEP transfers from one Kansas school district to another during the academic year, the new school district, in consultation with the child's parent, shall provide the child a FAPE, including services comparable to those described in the transferred IEP, until the new school district either adopts the transferred IEP, or develops and implements a new IEP for the child.
- (2) If during the academic year, an exceptional child who has a current IEP transfers from a school district in another state to a Kansas school district, the Kansas school district, in consultation with the child's parent, shall provide the child a FAPE, including services comparable to those described in the transferred IEP, until the Kansas school district either adopts the transferred IEP, or conducts an evaluation of the child, if deemed necessary, and develops and implements a new IEP for the child.

## H. IMPLEMENTING THE INDIVIDUALIZED EDUCATION PROGRAM

Once the individualized education program (IEP) team has completed developing the initial IEP, Prior Written Notice, describing the proposed action must be provided to the parents and a request made for consent to initiate special education and related services. Services are to be initiated within 10 school days after written parent consent is granted, unless reasonable justification for a delay can be shown. The implementation of initial services must be completed within the 60 school day timeline of initial evaluation (K.A.R. 91-40-8(f); K.A.R. 91-40-16(b)(2)).

The school must obtain informed consent from the parent of the child before the initial provision of special education and related services to the child. The school must make reasonable efforts to obtain informed consent from the parent. If the parent fails to respond or refuses to consent to the initial provision of services, the school may not use mediation or due process procedures in order to obtain agreement or a ruling that the services may be provided to the child.

However, in such cases, the school will not be considered to be in violation of the requirement to make available a free appropriate public education (FAPE) to the child for the failure to provide the child with the services for which the school requests consent. Under these circumstances, the school is not required to convene an IEP team meeting or develop an IEP for the child. In the situation where the parent fails to respond or refuses consent, this would also exclude the child from IDEA discipline protections that are provided to students when a district suspects the child to be a child with a disability.

Once an IEP has been completed and consent for services has been obtained from the parents, the child's IEP must be accessible to each regular education teacher, special education teacher, related services provider, and any other service provider who is responsible for its implementation. Regardless of whether an individual participates in the IEP meeting, all individuals who are providing education to the child (regular education teacher, special education teacher, related service provider, and any other service provider who is responsible for implementation of the IEP) must be informed by the IEP team of

- (1) his or her specific responsibilities related to implementing the child's IEP, and
- (2) the specific accommodations, modifications, and supports that must be provided for the child in accordance with the IEP (K.A.R. 91-40-16(b)(5); 34 C.F.R. 300.323(d)(2)).

### **K.A.R. 91-40-8. Evaluations.**

- (f) Unless an agency has obtained written parental consent to an extension of time and except as otherwise provided in subsection (g) of this regulation, the agency shall complete the following activities within 60 school days of the date the agency receives written parental consent for evaluation of a child:
- (1) Conduct the evaluation of the child;
  - (2) conduct a meeting to determine whether the child is an exceptional child and, if so, to develop an IEP for the child. The agency shall give notice of this meeting to the parents as required by K.A.R. 91-40-17(a); and
  - (3) implement the child's IEP in accordance with K.A.R. 91-40-16.
- (g) The agency shall not be subject to the timeframe prescribed in subsection (f) of this regulation if:
- (1) the parent of the child who is to be evaluated repeatedly fails or refuses to produce the child for the evaluation; or
  - (2) the child enrolls in a different school before the evaluation is completed and the parent and new school agree to a specific time when the evaluation will be completed.
- (h) In complying with subsection (f) of this regulation, each agency shall ensure that an IEP is developed for each exceptional child within 30 days from the date on which the child is determined to need special education and related services.

**1. May an individualized education program (IEP) be written with no measurable annual goals?**

No, IEPs must have at least one measurable annual goal. Measurable annual goals document the child’s anticipated progress as the result of special education. Special education is defined in K.A.R. 91-40-1(jjj) as “specially designed instruction to meet the unique needs of an exceptional child...” If no measurable annual goals are necessary and no specially designed instruction is necessary, the child’s continued need for special education and related services should be reconsidered. If only modifications, accommodations, consultation, or services that don’t require specially designed instruction are required, the child’s needs may be able to be met through a Section 504 plan or other means.

**2. When using short-term objectives for children who take an alternate assessment aligned to alternate achievement standards, can they be demonstrated through the use of graphs, or by simply stating the criteria for progress reporting periods without restating the entire goal multiple times?**

No specific format for short-term objectives is prescribed by law. So long as the short-term objectives are measurable intermediate steps that “enable a child’s teacher(s), parents, and others involved in developing and implementing the child’s IEP to gauge, at intermediate times during the year, how well the child is progressing toward achievement of the annual goal,” they are legally compliant.

**3. May a teacher develop their own assessments, including rubrics and informal probes, as criteria for the measurable annual goals?**

Yes, so long as the assessment contains specific, objective, measurable criteria that are aligned with local curriculum and instruction. Personal opinions and other subjective measures are not appropriate. If a teacher-made assessment is developed to establish baseline data in the present levels of academic achievement and functional performance (PLAAFP) and the measurable annual goal, it should be attached to the IEP so that anyone who may become involved in implementing the IEP can use it to develop appropriate instructional plans and assess child progress as necessary.

**4. What happens when the IEP team cannot reach an agreement?**

The IEP team should work toward consensus. It is not appropriate for an IEP team to make IEP decisions based upon a majority vote. If the IEP team cannot reach agreement the local education agency (LEA) representative at the meeting has the ultimate authority to make a decision and then to provide the parents with appropriate notice and request consent of the proposed action as appropriate.

**5. What should the school do if the child’s only parent is in jail and will not be released before the IEP annual review date?**

If neither parent is able to attend the IEP team meeting, the school must take steps to ensure parent participation, including individual or conference telephone calls. Depending upon the facility, it may even be possible to hold the IEP team meeting at the jail. Incarceration of a parent does not invalidate the parent’s right to participate in the development, review, and revision of their child’s IEP.

**6. Are IEP Team members required to sign the IEP?**

No. There is nothing in state or federal special education law that requires IEP Team members to sign the IEP (Office of Special Education Programs, 71, Federal Register, August 14, 2006, p. 46682). Documentation for the IEP Team meeting should record who was present and participated in the IEP Team meeting. This is especially necessary should there ever be a dispute about whether all required IEP Team members were present at an IEP Team meeting or excused by following required excusal procedures in 34 C.F.R. 300.321(e). Sometimes school districts choose to document participation in an IEP Team meeting by requesting signatures on the IEP of those present. Signatures for this purpose are simply to record which IEP Team members were present for an IEP Team meeting.

**7. May parents refuse consent for their child with a disability to participate in state and district-wide assessments, regardless of any decisions the IEP team may have made regarding the child’s participation?**

Yes, but school officials should encourage the parents to include their child in the state assessments. Any parent may request that their child be exempt from the state assessments. Not allowing parents of children with disabilities to exempt their children would be discrimination based on disability.

**8. Must students incarcerated in adult prisons take state and district-wide assessments?**

No. According to 34 C.F.R. 300.324(d) and K.A.R. 91-40-5(c)(2), requirements relating to students with disabilities taking state and district-wide assessments do not apply to students incarcerated in adult prisons. Students in local or state juvenile correctional facilities are not exempted from taking state and district-wide assessments.

**9. If a child has many general education teachers or special education teachers and related services personnel, which one must be a member of the IEP team?**

Not less than one general education teacher of the child and not less than one special education teacher or related services personnel who is or will be working with the child, must attend the IEP meeting. The school may designate which teacher or teachers will serve as IEP team member(s), taking into account the best interests of the child. The general education teacher who serves as a member of the child's IEP team should be one who is, or may be, responsible for implementing a portion of the IEP. More than one teacher may attend as appropriate.

**10. May parents sign a waiver stating that they do not wish to receive additional copies of the Parent Rights Notice this year?**

No waiver of the right to receive the Parent Rights Notice is permissible under special education statutes or regulations. It is permissible for the school to send the notice through electronic mail communication if the parent agrees to it and the school makes that option available (34 C.F.R. 300.505). It is permissible for the parents to refuse the Parent Rights Notice after the school has offered it, or to return the document to the school. The school must document that it provided the notice at the required times.

The Parent Rights Notice must be given to parents, at a minimum:

- (1) Only one time in a school year; and
- (2) Upon initial referral or parent request for evaluation;
- (3) Upon receipt of the first formal complaint to the State in a school year;
- (4) Upon receipt of the first due process complaint in a school year;
- (5) Upon initiation of a disciplinary change of placement; and
- (6) Upon parent request.

**11. What should the IEP team do if a child moves to the district with no records or IEP, or an unusable IEP?**

The IEP team may need to develop an interim IEP for a shorter than normal period of time to allow time to locate the child's records or conduct the assessments necessary to develop a new IEP. The provision of the special education and related services the child needs in order to receive FAPE and progress in the general curriculum should not be withheld pending the receipt of records when the school knows the child has been identified as a child with an exceptionality and has an IEP.

**12. Is it necessary to have the parent's signature to document that the parent received the 10-day written Notice of IEP team meetings?**

No, the parent's signature is not required. Keeping a copy of the Notice to the parent that indicates the date it was sent is adequate documentation. It is also helpful to document on the 10-day notice any other parent contacts that may have occurred before the date the notice was sent. For example, "As we discussed during our telephone conversation on September 3, your child's IEP meeting has been scheduled for Friday, September 14, 2018, at 3:00 p.m. in room 204 of Southeast Elementary School."

**13. If the IEP team does not have adequate information at the time of the IEP team meeting to determine what Extended School Year (ESY) services will be necessary for the child during the summer, what should be written on the IEP?**

One of the responsibilities of the IEP team is to consider whether or not ESY services are necessary for each child with a disability. If the IEP team decides that ESY is necessary for the child, they must then determine what those services will be and include them in the IEP.

If the IEP meeting is held in the fall of the school year or if the child is new to the school, the IEP team may not have enough data to determine if the child needs ESY services or what those services should be. In this case, the team should include in the IEP a statement that ESY services were considered and that there was inadequate information at the time of the meeting to make an appropriate decision. The team should also include in this statement a date later in the school year when more information will be available to reconvene and determine if ESY services are needed and amend the IEP as necessary (34 C.F.R. 300.106).



**14. If a child turns 21 during the school year, must ESY services be provided the summer after the student's final year of school?**

Children continue to be eligible for all necessary special education and related services, including ESY, until they appropriately exit special education. A student with a disability may be eligible for special education and related services through the school year (ending June 30) in which they turn 21. Thus, it is an IEP team decision whether ESY is necessary for the student until June 30 after their 21st birthday. Some factors in the IEP team's decision may include whether or not the June 30 deadline will give the child time to complete ESY services and whether or not the child will benefit from ESY services.

**15. After the child is age 14 or older, is the school required to provide the child with the child's own separate 10-day IEP meeting notice?**

No, the school is not required to send the child the child's own separate notice. However, children ages 14 to 17 must be invited and the school must document the student's participation in the IEP meeting or input into the IEP. After the age of majority (18 in Kansas), the school MUST provide any Notice to BOTH the adult student and the parents. The parents are only notified of the meeting. To attend the meeting, they will have to be invited by their child or the school.

**16. What if the child does not want the parent to attend the IEP meeting? Is it mandatory to send the notice to both?**

For children under the age of 18, the parent is a required member of the IEP team and must attend the IEP team meeting. The notice is to be sent to the parent and, if the child is invited to the IEP team meeting, the notice may be sent/given to the child, or the child may be invited orally. Once the child turns age 18, the school is required to send the notice to both the parent and the adult student. However, the parent has no right to attend the meeting unless invited by the student or the school as a person with knowledge or expertise about the student.

**17. What happens if the parent does not show up for the IEP meeting?**

The school may conduct an IEP meeting without the parents if the school has made repeated attempts (at least two contacts by two different methods), but has been unable to secure the parents participation.

If a parent has received only one notice of the IEP team meeting at least 10 calendar days prior to the meeting which includes the meeting date, time and location, and agrees to participate, but does not come to the meeting, the school must contact the parent to reschedule the IEP team meeting and conduct a complete IEP team meeting with all members in attendance. If necessary, other means of parent participation may be used, such as conference calls. Detailed records are to be maintained of attempts to contact the parents.

**18. What should the remaining IEP team members do if any required member of the IEP team who is invited to attend, and is not excused, does not show up for the meeting?**

If a required member, whose area of the curriculum or related services is being discussed or modified, has not been excused from the IEP team meeting, by consent of the parent and the school, and has not provided input into the development of the IEP in writing prior to the meeting, the school shall reschedule the meeting for a time when all required members can be present or can be officially excused, and, if necessary, provide written input into the meeting. To conduct an IEP meeting without all of the required IEP team members present or having the appropriate excusals is not legally compliant.

**19. Can the IEP team develop a draft IEP prior to the IEP team meeting?**

Yes, a draft IEP may be developed before any IEP meeting. However, in order to ensure parent participation in the development of the IEP, the IEP may not be completed before the IEP team meeting. Members of the IEP team may come with evaluation findings and recommended IEP components, but should make it clear to the parents that these are only suggestions and that the parents' input is required in making any final recommendations. If school personnel bring drafts of some or all of the IEP content to the IEP meeting, there must be a full discussion with the IEP team, including the parents, before the child's IEP is finalized, regarding content, the child's needs and the services to be provided to meet those needs. Parents have the right to bring questions, concerns, and recommendations to an IEP meeting for discussion (Federal Register, August 14, 2006, p. 46678).

**20. May occupational therapy or physical therapy stand alone on the IEP as a special education service?**

Yes, according to state law, OT and PT can be special education instead of a related service in certain circumstances (K.A.R. 91-40-1(kkk)(3)). The IEP team must determine the special education and related services needed by the child. If the child does not need specially designed academic instruction, but does need occupational therapy or physical therapy in order to be educated in the least restrictive environment (LRE), these services would be listed in the IEP as special education and addressed in the annual goals. It is important to note that this determination should be made based on the child's individual needs, not based on the child's disability category.

**21. May other related services stand alone in the IEP as a special education service?**

Yes, according to state law, any other related service can be special education instead of a related service if it consists of specially designed instruction (K.A.R. 91-40-1(kkk)(2)). If the child does not need any other specially designed academic instruction but does need a related service such as speech-language pathology, that related service can be the stand alone special education service in the IEP if the service consists of specially designed instruction to meet the unique needs of that child. Again, this determination should be made based on the child's individual needs, not based on the child's disability category.

**22. If someone is listed on the Notice of IEP Team Meeting do they have to come?**

No, listing a person's name on the Notice of IEP team meeting just documents they were invited and does not obligate their attendance unless they are one of the required IEP team members. The IEP may list the role of a team member, such as, general education teacher or speech therapist.

**23. Can IEP team meetings be recorded with audio or video recorders?**

There is no federal or state statute or regulation that either authorizes or prohibits the recording of an IEP meeting by either a parent or a school official. The school has the option to require, prohibit, or regulate the use of recording devices at IEP meetings. If there is a local policy that prohibits or limits the use of recording devices at IEP team meetings, that policy must provide for exceptions if they are necessary to ensure that the parent understands the IEP or the IEP process or to ensure parental rights guaranteed under Part B of the Individuals with Disabilities Education Act (IDEA). If a school adopts a policy, it should also ensure that the policy is uniformly applied. Additionally, any recording of an IEP team meeting maintained by the school is an "educational record" within the meaning of the Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. 1232g), and is subject to the confidentiality requirements of both FERPA and IDEA (Federal Register, March 12, 1999, p. 12477).

**24. Who is the general education teacher invited to the IEP team meeting of a three-year old that is in a home setting?**

The child who is receiving special education services in a home-based setting would not have a general education teacher unless the early childhood special education teacher is also licensed as an early childhood teacher. Therefore, a general education teacher would not be required to attend the IEP team meeting unless it is anticipated that the special education services will be provided in a general education setting during the next IEP year. In that case, the school would designate a teacher qualified to teach a child of that age.

**25. Can a required IEP team member be excused from more than one IEP meeting at a time?**

No, the excusal to attend an IEP meeting is specific to each individual meeting.

**26. Can a district choose to not allow the excusal of required IEP team members?**

Yes, a district may choose to implement a policy that would not allow any of the required IEP team members from being excused.

**27. Do the Notice of the IEP team meeting, evaluation reports and progress reports have to be translated into the parent's native language?**

The only legal requirements for providing documents in the parents native language of the parent or other mode of communication used by the parent are for the Prior Written Notice (34 C.F.R. 300.503(c)) and the Procedural Safeguards notice (34 C.F.R. 300.504(d)).

**28. What is a consultation only IEP?**

All IEPs must address all of the same legal requirements. If a student does not need specially designed instruction the IEP team should consider conducting a reevaluation to determine whether the child is still eligible for special education services. However, a child may receive specially designed instruction in a regular education classroom through the consultation of the special education teacher with the regular education teacher. There should be a goal addressing the child's needs on the IEP.

**29. Can an attorney come to an IEP team meeting on behalf of the parent or school?**

Yes, an attorney may attend an IEP meeting if the parents or school officials believe an attorney is needed. However, the presence of an attorney is discouraged as it often sets an adversarial tone for the meeting. If the attorney is coming at the invitation of the school, they must be included on the notice of meeting provided to the parents (34 C.F.R. 300.322(b)(1)(i)). Parents are encouraged, but are not required, to inform the school of any additional persons they are bringing regardless who they are.

**30. If a child was found eligible for special education under emotional disability (ED) must they have a behavioral goal or may they have only an academic goal?**

Measurable annual goals should never be dependent upon the child's exceptionality category; they should always be related to the individual child's needs. Therefore, some ED students will need behavioral goals, but others may not. The issue with many children with ED is that their behavior has interfered with their learning for so long, that even when their behavior comes under better control, they frequently continue to have academic deficits. The PLAAFP should clearly describe how the child's exceptionality impacts their ability to access and progress in the general education curriculum. Based upon the information the IEP team has they will need to prioritize needs and identify the goals, accommodations, behavior plans or other services needed to address the impact of the exceptionality. Depending upon the results of the assessment the child may have need for a behavioral goal and/or and academic goal. Either would be appropriate. For children whose behavior has improved, celebrate the achievement, and continue to address the issues around how their disability impacts their ability to access and progress in the general curriculum.

**31. Can a teacher or a principal keep a child from attending special education services in an IEP because they have not completed their general education assignments or do not have passing grades?**

Each teacher (and administrator) working with the child should be informed about the services on the child's IEP. They are legally responsible to ensure that the child receives the services. If they feel that the IEP is not adequate for the child to participate and make progress in the general education curriculum they can ask for an IEP meeting to see if the IEP should be revised.

**32. Can an IEP Team or parent decide that a child doesn't need postsecondary goals for education/training and employment due to the nature or severity of the child's disability?**

No. There is no exception for postsecondary goals in IDEA. Age appropriate assessments could be informal and include interviews with the child, observations of the child by teachers or the child's parents. IEP team members can request assistance from KSDE's Technical Assistance System Network (TASN) for additional guidance to suggest postsecondary goals that are appropriate for the child. Goals could include on-the-job training in a supported work environment, volunteering at an animal shelter if the child enjoys being around animals, etc.

