Mississippi Department of Education
Office of Special Education

PROCEDURES FOR STATE BOARD POLICY 7219

VOLUME II:

Free Appropriate Public Education
Individualized Education Program
Least Restrictive Environment
Extended School Year Services

MISSISSIPPI DEPARTMENT OF EDUCATION
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Using this Document

This multi-volume document *Procedures for State Board Policy 7219* is intended to assist Public Agencies in the implementation of the State Board of Education Policy 7219: *State Policies Regarding Children with Disabilities under the Individuals with Disabilities Education Act Amendments of 2004 (IDEA 2004)*. This document contains information about requirements of IDEA and SBE Policy 7219, recommendations from the Mississippi Department of Education's Office of Special Education's Division of Instructional Support, and guidance on Best Practices as determined by research and professional practice. Specific directives or requirements of IDEA and/or SBE Policy 7219 include *must* or *may not* in the statement. Other recommendations and guidance on Best Practices include *should* or *may* in the statements. In addition, all days listed in the document refer to calendar days, unless otherwise noted. The forms in the Procedures documents are not required forms. These forms are suggested or recommended forms designed to assist districts in having the appropriate documentation to use in implementing the requirements of State Board Policy 7219. The only required forms in the Procedures Document are the Individualized Education Program (IEP) and the Extended School Year Fact Sheet (ESY). A Public Agency may modify these forms or use their own forms as long as they meet the requirements of State Board Policy 7219.

For additional information or clarification, please contact

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CHAPTER 3:
FREE APPROPRIATE PUBLIC EDUCATION (FAPE)

Public Agency in this document refers to agencies responsible for providing education to children with disabilities including the Mississippi Department of Education (MDE), Local Education Agencies (LEAs), Educational Service Agencies (ESAs), State Schools, State Agency schools, and nonprofit public charter schools that are not a part of an LEA or ESA.

Free Appropriate Public Education

Free Appropriate Public Education (FAPE) means appropriate special education and related services provided at public expense, without cost to the parent, and under public supervision and direction. A FAPE must meet the requirements of the Mississippi Department of Education's *State Policies Regarding Children with Disabilities under the Individuals with Disabilities Education Act (IDEA) of 2004* (State Board Policy 7219). It is binding on all public agencies who receive payments under Part B of IDEA. A FAPE includes an appropriate preschool, elementary or secondary public education in the child's Least Restrictive Environment (LRE) as described in *Chapter 5: Least Restrictive Environment* and is provided in conformity with the child's Individualized Education Program (IEP) that meets the requirements described in *Chapter 4: Individualized Education Program*.

Eligibility for a FAPE

A FAPE must be **available** to all children who have been determined to be eligible for special education and whose parents reside in the State of Mississippi, including children who:

- Are between the ages of three (3) and twenty (20) years;
    - Including children from the date of their third birthday; and
    - Including youth who are twenty (20) years of age on or before September 1st, even if they will turn twenty-one (21) years of age during the school year;
- Have been suspended or expelled from school;
- Are placed by the public agency in a private school or preschool/early childhood program; or
- Are placed in a residential facility or long-term medical facility.

Special Education Services

Special education is defined as the provision of specially-designed instruction, related services and other accommodations or modifications necessary to meet the unique needs of a child with a disability. Special education must be provided at no cost to the parents, except in the incidental fees normally charged to nondisabled children and their parents as part of the general education program.

A FAPE must be based on the child's individual needs and not based on a disability category.

Specially Designed Instruction

Specially-designed instruction means adapting, as appropriate, the content, methodology or delivery of instruction to meet the unique needs of a child with a disability. The public agency must ensure the child benefits from his/her education and has access to the general curriculum, to the maximum extent appropriate, so that the child can meet the grade-level educational standards or, in the case of a child with a significant cognitive disability, individually-determined alternate standards. Specially designed instruction may be provided in the classroom, in the home, in hospitals or institutions, in community-based preschool programs and in other settings.

Specially designed instruction includes but is not limited to the provision of:

- Academic instruction;
- Speech and/or language instruction;
- Special and/or adapted physical education;
- Vocational instruction;
- Social skills instruction;
- Organizational skills/strategies;
- Training in functional living skills;
- Special and/or adapted instruction in developmental and pre-academic skills; and
- Extended School Year (ESY) services, if determined necessary by the IEP Committee.

Physical Education means the development of physical and motor fitness, fundamental motor skills and patterns, and skills for specific physical activities (e.g., dance, exercise, individual and/or group games and sports). It also includes special physical education, adapted physical education, movement education and motor development.

Physical education services, specially designed if necessary, must be made available to every child with a disability unless the public agency does not provide physical education to children without disabilities in the same grades. Regular physical education with nondisabled children

must be made available to children with disabilities unless the child is enrolled full time in a separate facility.

If the child is unable to participate in regular physical education with modifications, the child must receive specially-designed physical education as described in the child's IEP. The public agency is responsible for providing these services directly or for making arrangements for these services to be provided through other public or private programs.

Vocational Education is specialized instruction and practice by qualified personnel in a specific field to prepare children to enter into, continue, or upgrade employment in recognized trades or occupations. These are typically organized educational programs that are directly related to the preparation for paid or unpaid employment or for additional preparation for a career that does not require a baccalaureate or advanced degree.

Social Skills Instruction is specialized instruction to acquire and effectively apply knowledge, attitudes and skills necessary to understand and manage emotions, set and achieve positive goals, feel and show empathy for others, establish and maintain positive relationships, and make responsible decisions.

Organizational Skills Instruction is specialized instruction to acquire and effectively apply knowledge and skills necessary to use organizational tools and routines, to remember assignments and keep track of materials needed for assignments, to manage time effectively, and to create and execute plans.

Functional Living Skills means the development of skills used in daily living, such as, taking care of oneself (e.g., toileting, dressing, bathing, feeding), basic communication (e.g., expressing needs, asking for assistance, engaging in social conversation), and completing household chores (e.g., putting possessions away, setting table, laundry, using vacuum, sweeping). It also includes skills that enable involvement in the community, such as safety skills (e.g., crossing the street, stranger awareness), money management (e.g., recognizing money, making purchases), and pre-vocational tasks (e.g., clerical tasks, cleaning tasks, yard maintenance, stocking shelves).

Developmental and Pre-academic Skills is specialized instruction for children ages three (3) to five (5) years to enable them to be engaged in developmentally appropriate activities now and in the future in a variety of settings, including their homes, schools, and communities, to develop positive social-emotional skills, acquire and use knowledge and skills, and use appropriate behavior to meet their needs.
NOTE: Speech and/or language services may be considered specialized instruction or a related service depending upon whether or not language or speech impairments are considered the child's primary disability.

Related Services

Related services are developmental services, corrective services, and other supported services required to ensure a child with a disability benefits from special education. The IEP Committee must review all of the evaluation information, to identify any related services the child may need and to include them in the IEP.

Related services include but are not limited to:

- Assistive technology services;
- Audiology services;
- Early identification and assessment of disabilities;
- Interpretive services;
- Medical services for diagnosis or evaluation purposes;
- Orientation and mobility services;
- Parent counseling and training;
- Physical and/or occupational therapy services;
- Psychological and/or counseling services;
- Recreation and/or therapeutic recreation services;
- Rehabilitation counseling;
- School health services and school nurse services;
- Social work services in schools;
- Speech and/or language services; and
- Transportation services.

This list of related services is not exhaustive. Other developmental, corrective, or supportive services may be required to assist a child with a disability to benefit from special education.

Assistive Technology Device is any item, piece of equipment or product system, whether acquired commercially, modified or customized, used to increase, maintain, or improve the functional capabilities of a child with a disability. Examples include mobility equipment, hearing aids, and augmentative communication devices.

The term does not include a surgically implanted medical device such as a cochlear implant. For surgically implanted medical devices, the public agency must ensure that the external components are functioning properly. The public agency is not responsible for post-surgical maintenance, programming or replacement of such devices or for the replacement of an external component of the surgically implanted device.

NOTE: As hearing aids are assistive technology devices, each public agency must ensure that the hearing aids worn in school by children with hearing impairments are functioning properly. However, it is not the responsibility of the LEA to provide hearing aids at the expense of the LEA.

Assistive Technology Service is any service that directly assists a child with a disability in the selection, acquisition, or use of an assistive technology device. Some examples would include:

- Evaluating the needs of a child with a disability, including functional evaluation of the child in his/her customary environment;
- Purchasing, leasing or otherwise providing for the acquisition of assistive technology devices;
- Selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing or replacing assistive technology devices;
- Coordinating and using other therapies, interventions or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;
- Training or technical assistance for a child with a disability or, if appropriate, the child's family; and
- Training or technical assistance for professionals, including individuals providing education or rehabilitation services. This would also include employers or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of the child.

Each public agency must insure that assistive technology devices and/or assistive technology services are made available to a child with a disability, if deemed appropriate by the IEP Committee. School-purchased assistive technology devices may be used in the child's home or in other settings if determined to be necessary by the IEP Committee and specified on the child's IEP.

NOTE: IDEA regulations do not relieve any insurer or similar third party from their own obligation to provide or to pay for assistive technology devices and services provided to a child with a disability. For more information, see SBE Policy 7219 §300.154 – Methods of ensuring services.

Early Identification and Assessment of Disabilities may be considered as a related service for an individual child. In situations where the IEP Committee determines that further assessment is needed to identify and assess the nature of a child's disability for the child to benefit from his or her special education, then this identification and assessment becomes a related service and must be listed in the child's IEP. For example, if a young child with impairments in functioning meets the criteria for eligibility under Developmental Delay, however, the underlying cause of the

delay is not known, additional assessment may be needed to determine the cause and/or any additional services that may be warranted. In these cases, a formal plan should be written to establish the process and procedures by which the IEP Committee will determine the type and extent of services for the child.

Accommodations and Modifications

Accommodations are changes to the environment, instruction and/or assessments to enable children with disabilities to be successful learners and to participate actively with other children in the general education classroom and in school-wide activities. An accommodation is a teaching support or service that a child needs to meet expectations or goals of the general education curriculum. Accommodations do not change what the child learns but rather addresses strategies instructors use to help the child learn and methods the child will use to demonstrate what s/he has learned.

Generally, most accommodations can be grouped into four categories:

- ***Timing/Scheduling accommodations*** are changes to the total amount of time allowed or segmenting the task over a larger time frame. Examples include giving a child extended time to complete a task or a test or allowing a child to separate a task into smaller segments completed over several days.

- ***Setting accommodations*** are changes to the location or environment where a task is to be completed. Examples include completing a test in a quiet room or in a carrel or working with a small group to complete an assignment.

- ***Presentation accommodations*** are changes to the way instruction is provided. Examples include ensuring that written directions are also provided orally or providing graphic displays to support instruction provided orally. Presentation accommodations may also include accommodations to materials or equipment such as changes to the instructional material provided to the child. Examples include allowing a child to use a calculator or manipulatives to complete a task or using large print materials.

- ***Response accommodations*** are changes to the way the child demonstrates acquisition of the skill being learned. Examples include the child completing a test orally or using a scribe or the child making an oral presentation/graphic representation/written report to demonstrate knowledge.

Modifications are changes to the environment, instruction and/or assessments for children with disabilities that alter, lower, or reduce expectations for what the child learns. Modifications may

change the complexity of the task or reduce the amount of content to be learned. Modifications of the child's curriculum, activities and/or responses are designed to meet the needs of the child so s/he can participate actively with other children in the general education classroom and school-wide activities; however, this results in child work that is not equal to the work required to demonstrate mastery of grade-level standards.
It may be difficult to determine the difference between an accommodation and a modification. First, you must determine what the child is expected to learn and master. Second, you must determine what changes the child needs to be able to complete the task. Last, you must determine how the change affects whether or not the child can demonstrate similar mastery of the learning expectation as children who do not receive supports. If the change made to the instruction and/or assessment allows the child to demonstrate mastery of the goal, then the change is an accommodation. If the change made to the instruction and/or assessment does not allow the child to demonstrate mastery of the goal, then the change is a modification.

To determine if a change in instruction or assessment practice is an accommodation or a modification, you must consider the intent of the standard. For example, allowing a child to give an oral presentation describing the setting and events in a story instead of producing a written report may be an accommodation for the standard *CCRS.ELA-Literacy.RL.4.3* [*Describe in depth a character, setting, or event in a story or drama, drawing on specific details in the text (e.g., a character's thoughts, words, or actions)*] and a modification for the standard *CCRS.ELA-Literacy.W.4.3* [*Write narratives to develop real or imagined experiences or events using effective technique, descriptive details, and clear event sequences.*]. In the *CCRS.ELA-Literacy.RL.4.3* standard, the requirement to "describe" can be demonstrated equally well through an oral presentation or a written report; however, in the *CCRS.ELA-Literacy.W.4.3* standard, the requirement specifies that the child will produce a written narrative.

Also note, for any specific standard, both accommodations and modifications can be devised:

Standard	Accommodation	Modification
CCRS.ELA-Literacy.RL.4.3 Describe in depth a character, setting, or event in a story or drama, drawing on specific details in the text (e.g., a character's thoughts, words, or actions).	A child is allowed to give an oral presentation describing the setting and events in a story instead of producing a written report.	Given three options, a child identifies an event that occurred in the story.
CCRS.Math.Content.4.G.A.1 Draw points, lines, line segments, rays, angles (right, acute, obtuse), and perpendicular and parallel lines. Identify these in two-dimensional figures.	A child is allowed to use graph paper to assist in drawing angles (right, acute, obtuse) accurately.	A child is provided a picture glossary with images of right angles, acute angles, and obtuse angles to assist in

		identifying angles on an assessment.

The IEP Committee must review all of the evaluation information, to identify any accommodations and/or modifications the child may need and to include them in the IEP.

Extended School Year

ESY services are special education and related services provided to a child with a disability beyond the typical school year (as set by State law and/or guidelines). Each public agency must ensure that ESY services are available as necessary for a child with a disability to receive a FAPE and to benefit from his/her education. ESY services must be provided in accordance with the child's IEP and at no cost to the parents. Refer to *Chapter 6: Extended School Year Services.*

The IEP Committee must consider the need for ESY services at every IEP meeting for all children, ages three (3) through twenty (20) who have a current eligibility, even if the decision to provide the services is not made at that time. The public agency cannot limit these services to specific disability categories or unilaterally limit the type, amount or duration of the services.

NOTE: The determination for the need for ESY should be completed by April 15th of each school year to facilitate the submission of the ESY Project Application. However, if any child with a disability enrolls in school or will be three (3) years after the April 15th date, the IEP Committee must still consider ESY as a part of FAPE and amend the ESY Project, if necessary.

Program Options or Service Delivery Models to Provide a FAPE

Children with disabilities must be provided special education and related services through a continuum of placement options that allow for the provision of supplementary aids and services. Options for service delivery must be considered by the IEP Committee based on the child's needs and outlined on the IEP. Refer to *Chapter 5: Least Restrictive Environment.*

Research shows children with disabilities who are included in general education classes have better social and communication skills, higher academic achievement, wider social networks, and fewer behavior problems (National Center on Inclusive Education, 2012). In addition, positive school and post-school outcomes are associated with an increased amount of time children with disabilities spend in general education classes regardless of their disability category, severity of their disability, or socioeconomic status (National Longitudinal Transition Study, 2003; 2005). Placing a child in a general education classroom, however, is not sufficient to ensure the child will be able to successfully participate and learn. Instead, the philosophy of inclusion should be

used to guide practices to ensure that children with disabilities genuinely have access to and participate in the general education curriculum.

Inclusion is not a service delivery model but rather *a belief system that values diversity and fosters a shared responsibility to help all children to reach their potential.** Different service delivery models (e.g., co-teaching) can be used to foster the successful inclusion of children with disabilities in the general education classroom. The public agency must ensure children with disabilities have access to the general curriculum, to the maximum extent appropriate, so that they benefit from their education.

** Texas Education Agency & Statewide Access to the General Curriculum Network. (n.d.) Co-teaching: A how-to guide: Guidelines for co-teaching in Texas. http://www.esc17.net/users/0209/GuidelinesforCoTeachinginTexas.pdf*

Public agencies may use whatever State, local, Federal, and private sources of support that are available in Mississippi to meet the FAPE requirements of the IDEA 2004 regulations (e.g., Medicaid's Early Periodic Screening Detection and Treatment [EPSDT] program known as Mississippi Cool Kids or School Health Related Services Program, Community Mental Health, private insurance, etc.). Public agencies may use joint agreements among agencies serving children with disabilities to share the costs of providing appropriate services; however, the public agency must ensure there is no delay in implementing a child's IEP in any case in which the payment source for providing special education and related services has not yet been determined. The public agency may not require the parent to sign up for or enroll in public benefits or insurance programs, require parents to incur out-or-pocket expenses such as the payment of a deductible or co-pay, or use public benefits if it decreases available lifetime coverage. The parent cannot be required to pay for services that are covered by the public benefits or an insurance program and that are required for the child outside of the time the child is in school or would increase the premiums or lead to discontinuation of benefits or loss of eligibility/home and community based waivers. The public agency must obtain written parental consent prior to accessing a parent's or child's public benefits or insurance.

NOTE: IDEA regulations do not relieve any insurer or similar third party from their own obligation to provide or to pay for services provided to a child with a disability. For more information, see SBE Policy 7219 §300.154 – Methods of ensuring services.

Additional Placement Options Required To Provide a FAPE

At times, a child with a disability may require specialized services and supports that are not available within the local education agency (LEA). In these cases, the LEA must consider additional placement options that may be required to provide the child a FAPE. For more

information, see *Responsibility for Children, Child Find, FAPE, and IEPs* (Appendix FAPE.B) and *Public and Private Facilities for Additional Placement Options* (Appendix FAPE.C).

Placement by an LEA

An LEA may place a child with a disability in a private school or residential facility as a means of providing special education and related services. The special education and related services must be provided in accordance with the IEP and at no cost to the parent. The services provided must also meet the standards that apply to education provided by the LEA. These children have all of the rights of a child with a disability who is served by the LEA.

NOTE: Children with disabilities enrolled by their parents in private schools or facilities that meet the definition of elementary or secondary school, including religious schools, may be served by the LEA in which the school or facility is located; however, they are not entitled to receive a FAPE. The LEA is responsible for Child Find and for determining whether the child services through equitable participation as outlined on the Service Plan

Placement Due to Lack of a FAPE in the LEA

If a Hearing Officer determines that an LEA has not made FAPE available to a child with a disability or has not made FAPE available in a timely manner, the parents may place the child in a private school or facility that provides appropriate services. In addition, the Hearing Officer may order the LEA to pay for these services. A Hearing Officer or a court may find the parental placement is appropriate even if it does not meet Mississippi's standards that apply to public agencies.

Exceptions to a FAPE

The obligation to provide a FAPE does not apply in the following circumstances:

- Children whose 21st birthday occurs on or before September 1.
- Children eighteen (18) to twenty-one (21) years who were not identified as a child with a disability in their last educational placements prior to incarceration.
- Children with disabilities who have graduated from secondary school with a standard high school diploma.
- Children who have been determined through an evaluation to no longer be a child with a disability.
- Children who move out of state
- Children whose parent revokes consent for special education and related services.

REGULATORY REFERENCE

§§300.5-300.6; 300.17; 300.34; 300.101-300.110; 300.132-300.139; 300.148; 300.154; 300.513

APPENDICES

Appendix FAPE.A	Top 10 Highlights for Free Appropriate Public Education
Appendix FAPE.B	Responsibility for Children, Child Find, FAPE, and IEPs
Appendix FAPE.C	Public and Private Facilities for Additional Placement Options

Top 10 Highlights for Free Appropriate Public Education

1. A FAPE must be available to all children determined to be eligible for special education including children who:
    a. Are between the ages of three (3) and twenty (20) years;
        i. Including children from the date of their third birthday; and
        ii. Including youth who are twenty (20) years of age on or before September 1st, even if they will turn twenty-one (21) years of age during the school year;
    b. Have been suspended or expelled from school;
    c. Are placed by the public agency in a private school or preschool/early childhood program; or
    d. Are placed in a residential facility or long-term medical facility.

2. Once a child is determined to be a child with a disability and eligible for special education and related services, s/he is entitled to receive a Free Appropriate Public Education (FAPE) until one of the following events occurs:
    a. The child exceeds the age of eligibility for FAPE under State law (*NOTE: Children can continue their education if they turn twenty-one (21) after September 1.*);
    b. A child ages eighteen (18) to twenty-one (21) years old who was not identified as a child with a disability in his/her last educational placement prior to incarceration;
    c. The child graduates from secondary school with a standard high school diploma;
    d. The child is determined through an evaluation to no longer be a child with a disability;
    e. The child moves to another state; or
    f. The parent revokes consent for special education and related services.

3. A FAPE requires the provision of specially-designed instruction, related services and other accommodations or modifications necessary to meet the unique needs of a child with a disability.

4. A FAPE must be based on the child's individual needs—not based on a disability category.

5. To receive a FAPE, a child with a disability must have access to and make progress in the general education curriculum and receive educational benefit in his/her least restrictive environment (LRE).

6. Local education agencies (LEAs) must provide a continuum of placement options and service delivery models for special education and related services.

7. Inclusion is not a service delivery model but rather *a belief system that values diversity and fosters a shared responsibility to help all children to reach their potential*. Different service delivery models (e.g., co-teaching) can be used to foster the successful inclusion of children with disabilities in the general education classroom.

8. The LEA must consider additional placement options when a child with a disability requires specialized services and supports that are not available within the LEA.

9. Children with disabilities enrolled by their parents in private schools or facilities that meet the definition of an elementary or secondary school, including religious schools, may be served by the LEA in which the school or facility is located; however, they are not entitled to receive a FAPE. The LEA is responsible for Child Find and for determining whether the child will receive services through equitable participation as outlined on the Service Plan.

10. A Hearing Officer may determine that an LEA has not made FAPE available to a child with a disability or has not made FAPE available in a timely manner. In these cases, the Hearing Officer may allow the child to be placed in a private school or facility to provide appropriate services and order the LEA to pay for these services.

Responsibility for Children, Child Find, FAPE, and IEPs

	Responsibility for Child	Child Find (Initial Evaluation)	Provision of FAPE	Develop, Review and Revise IEP
State Agency Schools (e.g., MSB/MSD)	State Agency School	State Agency School	State Agency School	State Agency School
University-Based Program	University-Based School, if placed by parent	LEA of Residence	University-Based School, if placed by parent	University-Based School, if placed by parent
	LEA of Residence, if placed by LEA	LEA of Residence	LEA of Residence, if placed by LEA	LEA of Residence, if placed by LEA
County/Regional Detention Center	LEA of Residence	LEA of Residence	LEA of Residence	LEA of Residence
Juvenile Detention Center	Local Sponsoring School District	Local Sponsoring School District	Local Sponsoring School District	Local Sponsoring School District
State Juvenile Correctional Facility	State Juvenile Correctional Facility	State Juvenile Correctional Facility	State Juvenile Correctional Facility	State Juvenile Correctional Facility
State Adult Correctional Facility	State Adult Correctional Facility	State Adult Correctional Facility, if under 18 years of age	State Adult Correctional Facility	State Adult Correctional Facility
	State Adult Correctional Facility	N/A, unless child arrives with Out-of-State IEP, if 18 years of age or older	State Adult Correctional Facility	State Adult Correctional Facility
State Facilities	State Facilities	State Facilities	State Facilities	State Facilities
Private Residential or Day Treatment Facilities	LEA of Residence, if placed by LEA	LEA of Residence, if placed by LEA	LEA of Residence, if placed by LEA	LEA of Residence, if placed by LEA
	N/A	LEA of Facility Location, if placed by parent	N/A	LEA of Facility Location, if Service Plan is provided
	LEA of Facility Location, if placed by DHS or court	LEA of Facility Location, if placed by DHS or court	LEA of Facility Location, if placed by DHS or court	LEA of Facility Location, if placed by DHS or court
Private School	N/A	LEA of Facility Location, if placed by parent*	N/A	LEA of Facility Location, if Service Plan is provided
	LEA of Residence, if placed by LEA	LEA of Residence, if placed by LEA	LEA of Residence, if placed by LEA	LEA of Residence, if placed by LEA

** The parent may also request an additional evaluation by the LEA of Residence to consider what services would be made available if the child was to enroll in the LEA of Residence to be provided a FAPE. In these cases, the LEA of Residence may ask for a release of records from the LEA where the Private School is located to obtain any educational records, including assessment records, to assist in their evaluation.*

Public and Private Facilities

State Agency Schools	County/Regional Detention Centers		Private Facilities
MS School for the Blind	Alcorn County Regional Correctional Facility	Jefferson-Franklin County/Regional Correctional Facility	Millcreek Rehabilitation Centers
MS School for the Deaf	Bolivar County Correctional Facility	Kemper-Neshoba County/Regional Correctional Facility	CARES
MS School for the Arts	Carroll-Montgomery County/Regional Correctional Facility	Leake County Correctional Facility	Diamond Grove
MS School for Mathematics and Science	Chickasaw County RCF	Marion-Walthall County/Regional Correctional Facility	Park Academy/Olive Branch
University-Based Schools	Holmes-Humphreys County/Regional Correctional Facility	Winston-Choctaw County/Regional Correctional Facility	Sand Hill Academy
USM The Children's Center for Communication and Development	Issaquena County Correctional Facility		Gulf Oaks Therapeutic Day School
USM Dubard Language School			New Learning Resources
USM Autism Demonstration			Magnolia Speech School
MSU T.K. Martin Center			Crossroads School/The Crossing
UMC Children's Hospital			

State Adult Correctional Facilities	Juvenile Detention Centers		State Facilities
Central Mississippi Correctional Facility	Adams County Juvenile Detention Center	Lee County Juvenile Detention Center	Hudspeth
Mississippi State Penitentiary (Parchman)	Alcorn County Juvenile Detention Center	Leflore County Juvenile Detention Center	Ellisville State School
South Mississippi Correctional Institution	Desoto County Juvenile Detention Center	Lowndes County Juvenile Detention Center	MS Adolescent Center
State Juvenile Correctional Facilities	Forrest County Juvenile Detention Center	Rankin County Juvenile Detention Center	Magnolia Grove School
The Youth Offender Unit	Harrison County Juvenile Detention Center	Warren County Juvenile Detention Center	East MS State Hospital
Walnut Grove	Hinds County Juvenile Detention Center	Washington County Juvenile Detention Center	MS State Hospital
Williams School	Jackson County Juvenile Detention Center	Yazoo County Juvenile Detention Center	North MS Regional Center
	Jones County Juvenile Detention Center		South MS Regional Center
			Lakeside School
			Roger Amos McMurtry School / Specialized Treatment Facility

CHAPTER 4:
INDIVIDUALIZED EDUCATION PROGRAM (IEP)

Public Agency in this document refers to agencies responsible for providing education to children with disabilities including the Mississippi Department of Education (MDE), Local Education Agencies (LEAs), Educational Service Agencies (ESAs), State Schools, State Agency schools, and nonprofit public charter schools that are not a part of an LEA or ESA.

Individualized Education Programs (IEP)

The Individuals with Disabilities Education Act (IDEA) and State Board of Education (SBE) Policy 7219 have established the Individualized Education Program (IEP) as the structure for planning and implementing individualized services and supports for children with disabilities. The IEP is collaboratively written by an IEP Committee, comprised of the parents, the child with a disability (if appropriate), agency representative, and other members as needed. The IEP describes the unique needs of a child, annual goals the child is expected to achieve, and the educational program developed to assist the child. The IEP is a legally-binding document describing the specially designed instruction, related services, and accommodations and modifications needed to provide a child with a disability a Free Appropriate Public Education (FAPE).

The IEP must be designed to:

- Indicate what the child is expected to be able to achieve within one (1) year;
- Provide high expectations and educational benefit for children with disabilities;
- Ensure access to the general education curriculum and standards in the general classroom, to the maximum extent possible; and
- Provide effective transition services to promote successful postsecondary experiences including college and career to prepare children with disabilities to lead productive and independent adult lives.

Responsibility for IEP Development, Review, and Revision

The public agency responsible for providing a FAPE to a child with a disability is responsible for ensuring the development, review, and revision of the IEP for a child with a disability. For most children with disabilities, the responsible public agency will be the Local Education Agency

(LEA) of residence. Some children with disabilities may be placed in or attend another public or private educational facility including state agency schools and institutions, private facilities and schools, university-based programs, and correctional facilities. See *Responsibility for Children, Child Find, FAPE, and IEPs* (Appendix FAPE.B).

Local Education Agencies (LEA)

The local education agency (LEA) of residence is responsible for the development, review, and revision of the IEP for children with disabilities, ages three (3) through twenty (20) years, who:

- Reside with a parent or guardian within the boundaries of the LEA;
- Reside by placement of a court order within the boundaries of the LEA;
- Reside by placement of a State agency within the boundaries of the LEA, for children who are wards of the State;
- Are legally transferred to the LEA as allowed under State law and/or State Board of Education policies; or
- Are allowed under the McKinley-Vento Act, for children who meet the definition of homeless.

State Agency Schools and Institutions

A state school or institution that provides educational services is responsible for the development, review and revision of IEPs for children with disabilities, ages three (3) through twenty (20) years, who are placed in the state school or institution.

Private Facilities and Schools

For a child placed in a private facility or enrolled in a private school, the responsibilities for providing a FAPE and an educational plan (i.e., IEP or Service Plan) depend upon which person or entity has placed the child in the private facility or school.

LEA Placement in a Private Facility or Private School. If an LEA determines it is necessary to place a child with disability in a private residential or day program or private school in order to provide the child a FAPE, the LEA must ensure the development, review, and revision of the child's IEP. The LEA must develop the IEP in consultation with a representative from the private facility or school. The representative from the private facility or school may participate in person, through a telephone conference call, or other allowed methods.

After initial placement, the private facility or school may, at the discretion of the LEA, initiate and conduct a meeting to review or revise a child's IEP; however, the LEA has the final responsibility for ensuring the development and implementation of the IEP for each child placed

in the private facility or school by the LEA. If the private facility or school initiates and conducts the IEP meeting, the LEA must ensure:

- IEP meetings are conducted in accordance with SBE Policy 7219; and
- Parents and an agency representative from the LEA are involved in any decisions about the IEP; and
- Parents and an agency representative from the LEA agree to any proposed changes before those changes are implemented.

Parental Placement in a Private Facility or Private School. If a child with a disability is parentally-placed in a private facility or school, the LEA where the private facility or school is located may develop a Service Plan for the child if the LEA has determined the provision of equitable services. If the LEA of the private facility's or school's location develops a Service Plan, the Plan must be developed in consultation with a representative from the private school or facility. The representative from the private school or facility may participate in person, through a telephone conference call, or other allowed methods.

NOTE: The LEA where the private school or facility is located is responsible for locating, identifying, and evaluating all children with disabilities in those private schools or facilities through Child Find activities. See Chapter 1: Child Find for more information. The LEA may develop a Service Plan for any children who are determined to be eligible and for whom the LEA has determined the provision of equitable services.

DHS or Court Placement in a Private Residential or Private Day Treatment Facility. When a child with a disability who is a ward of the State is placed in a private residential or a private day treatment facility with a school, the LEA in which the private facility is located must participate in and be responsible for the development, review, and revision of the child's IEP. The LEA must develop the IEP in consultation with a representative from the private facility as well as a surrogate parent appointed by the LEA in which the private facility is located or Court responsible for the placement. The representative from the private facility may participate in person, through a telephone conference call, or other allowed methods
After initial placement, the private residential or the private day treatment facility, may at the discretion of the LEA, initiate and conduct a meeting to review or revise the child's IEP, however, the LEA in which the private facility is located has the final responsibility for ensuring the development and implementation of the IEP for each child placed in the private residential or private day treatment facility. If the private facility initiated and conducts the IEP meeting, the LEA must ensure:

- IEP meetings are conducted in accordance with SBE Policy 7219; and
- The surrogate parent and an agency representative from the LEA are involved in any decision about the IEP; and

- The surrogate parent and an agency representative from the LEA agree to any proposed changes before those changes are implemented.

*NOTE: The LEA in which the private facility is located is required to determine if a child with a disability requires a surrogate parent and, if so, to assign one. If the child is a ward of the State, the judge overseeing the case **may** appoint a surrogate parent. This person may serve as the surrogate parent for educational decision-making provided the surrogate parent is not an employee of a public agency responsible for the education and/or care of the child and meets additional criteria described in Volume III: Chapter 7: Procedural Safeguards.*

University-Based Programs

For a child placed in a University-Based Program (UBP), the responsibilities for providing a FAPE and IEP depend upon which person or entity has placed the child in the UBP.

LEA Placement in a University-Based Program. If an LEA determines it is necessary to place a child with disability in a UBP in order to provide a FAPE, the LEA must ensure the development, review, and revision of the child's IEP. The LEA must develop an IEP in consultation with a representative from the UBP. The representative from the UBP may participate in person, through a telephone conference call, or other allowed methods.

After initial placement, the UBP may, at the discretion of the LEA, initiate and conduct a meeting to review or revise a child's IEP; however, the LEA has the final responsibility for ensuring the development and implementation of the IEP for each child placed in the UBP by the LEA. If the UBP initiates and conducts the IEP meeting, the LEA must ensure:

- IEP meetings are conducted in accordance with SBE Policy 7219; and
- Parents and an agency representative from the LEA are involved in any decision about the IEP; and
- Parents and an agency representative from the LEA agree to any proposed changes before those changes are implemented.

Parental Placement in a University-Based Program. If a parent requests to place a child with a disability in a UBP, the UBP must first determine if the LEA of residence has an organized program to serve children of that age and with the child's disability.

- If the LEA has such a program, the UBP must explain to the parent that it is prohibited by State law from duplicating the organized program in accordance with SBE Policy 7208. In these cases, the UBP may not enroll the child unless the child's IEP Committee decides the placement is appropriate for the child.

- If the LEA does not have an organized program for the child, the UBP may accept the parent's request and assumes all responsibility for the development, review, and revision of the child's IEP, including all services specified in the IEP.

In the event there is a question as to whether the LEA has an organized program to serve children of that age and with the child's disability, the UBP staff may contact the MDE staff responsible for the UBP for a decision.

Head Start

Each LEA is responsible for the provision of a FAPE and the development, review and revision of an IEP for any preschool children who attend Head Start and reside in their district. The residence of the child—not the location of the Head Start program the child attends—determines which LEA provides services to the child. Each LEA should have a local interagency agreement with each Head Start program/agency that enrolls children from its district. The interagency agreement should address issues of service provision and the development, review and revision of an IEP with the participation of Head Start personnel, as well as Child Find, evaluation, and eligibility decisions. See *Chapter 1: Child Find and Chapter 2: Evaluation and Eligibility* for more information.

Correctional Facilities

When a child with a disability is located in a juvenile detention center, the sponsoring LEA is responsible for the development, review, and revision of the child's IEP. The child's LEA of residence must collaborate in the process by providing the child's educational record and, as necessary, providing assistance in determining the educational needs of the child in a timely manner.

When a child with a disability is located in a State juvenile correctional facility, the public agency responsible by law for such facilities, i.e., the Mississippi Department of Human Services, is responsible for the development, review and revision of the child's IEP in accordance with the policies and procedures for IEPs. The LEA of residence must provide the child's educational records in accordance with confidentiality requirements to assist in the provision of services. See *Volume III, Chapter 9: Confidentiality* for more information.

When a child with a disability is located in a State adult correctional facility, the Department of Corrections is responsible for the development, review and revision of the child's IEP in accordance with the policies and procedures addressed above. The LEA of residence must provide the child's educational record in accordance with the confidentiality requirements to

assist in the provision of services. See *Volume III, Chapter 9: Confidentiality* for more information.

IEP Committee Participants

The IEP Committee is a team of individuals who work collaboratively to develop, review, or revise the IEP designed to meet the needs of a child with a disability in his/her Least Restrictive Environment (LRE). The IEP Committee must include the parent, the child (if appropriate), at least one general educator of the child, at least one special educator or service provider of the child, and a representative of the public agency. At the discretion of the parent and/or the public agency, other individuals with knowledge or special expertise regarding the child may serve as IEP Committee members. Representatives of other public or private agencies may be invited to participate on the IEP Committee, as appropriate. At least one member of the IEP Committee must be able to interpret the instructional implications of evaluation results. This person may be a member of the child's Multidisciplinary Evaluation Team (MET) or one of the other members of the IEP Committee.

For each child with a disability, his/her IEP Committee must include:

- ***Parent***: the biological, adoptive, or foster parent; a guardian authorized to act as the child's parent and/or authorized to make educational decisions for the child; an individual with whom the child lives who acts in the place of a biological or adoptive parent; an individual legally responsible for the child's welfare; or an appointed surrogate parent;
- ***Child***: the child with a disability, whenever appropriate and at the discretion of the parent, to ensure s/he actively participates in his/her educational planning;
- ***General Education Teacher***: not less than one general education teacher of the child who is knowledgeable of the general education curriculum for the age/grade of the child when the child participates in or may participate in the general education curriculum;
- ***Special Education Teacher***: not less than one special education teacher or service provider of the child who is responsible for implementing the child's IEP; and
- ***Public Agency Representative***: a representative of the district, or a designee, who is qualified to provide or supervise the provision of special education, is knowledgeable about the general curriculum, and has the authority to allocate resources to provide the services outlined in the IEP.

NOTE: For preschool-age children, the general education teacher must be an individual qualified to teach children of that age in a regular education program. The IEP Committee may include a teacher in a Head Start, public or private preschool classes, public or private Kindergarten, pre-K in the public school, and child development/child care centers.

At the discretion of the parent and/or the public agency, other individuals with knowledge or special expertise regarding the child may serve as IEP Committee members. The parent or public

agency who invites the individual to be a member of the IEP Committee determines who has *knowledge and special expertise regarding the child*. Examples of individuals who have knowledge or special expertise regarding the child may include but are not limited to:

- ***After-school care providers, other family members, and/or disability specialists***: an individual with knowledge of the child's performance outside of the school environment and/or special expertise in the child's specific disability;
- ***School Counselor, Behavior Specialist, School Psychologist, and/or Clinical or Counseling Psychologist***: an individual with knowledge or special expertise in mental health and/or social-emotional development;
- ***Interventionist and/or Academic Specialist***: an individual with knowledge or special expertise in reading or math instruction;
- ***Occupational Therapist, Physical Therapist, Rehabilitation Counselor, and/or Mobility Specialist***: an individual with knowledge or special expertise in physical development and mobility; and
- ***Pediatrician, Nurse Practitioner, Audiologist, Optometrist, Ophthalmologist, and/or Other Medical Specialist***: an individual with knowledge or special expertise in physical health and medical conditions.

NOTE: The inclusion of an attorney as an individual who has knowledge or special expertise regarding the child must be made on a case-by-case basis. The Office of Special Education Programs (OSEP) has strongly discouraged the attendance of attorneys at IEP meetings as the presence of attorneys can contribute to a potentially adversarial atmosphere at the meeting that would not necessarily be in the best interests of the child. In addition, attorneys' fees may not be awarded relating to any meeting of the IEP team unless the meeting is convened as a result of an administrative proceeding or judicial action, or, at the discretion of the State, for a mediation conducted prior to the request for a due process hearing. For more information, see Letter to Clinton (http://www2.ed/gov/policy/speced/guid/idea/letters/2001-3/clinton072330iep.doc).

Representatives of other public or private agencies may be invited to participate on the IEP Committee as appropriate. These representatives may include but are not limited to:

- ***Part C Service Coordinator or Service Provider***: the Part C Service Coordinator or a service provider of the child, invited at the discretion the parent;
- ***University-Based Program Representative***: a representative of the university-based program when the school places a child in the program;
- ***Private School Representative***: a representative of the private school in which the child is enrolled;
- ***Private Facility Representative***: a representative of the private facility in which the child resides or is enrolled; and
- ***Transition Agency Representative***: a representative of any public agency that may be responsible for assisting with or providing transition services for children with disabilities

fourteen (14) years of age, or younger if appropriate.

NOTE: The name of any representative and his/her agency must be included on the Notice of Invitation to Committee Meeting for the IEP Committee meeting."

IEP Committee Meetings

The IEP Committee meeting functions as the main method for communication among the IEP Committee members allowing them to make informed decisions jointly as equal partners in determining the special education and related services, supplemental aids and services, program modifications and accommodations, and supports for school personnel necessary to provide the child a FAPE and what constitutes the child's LRE.

The IEP Committee is responsible for ensuring the child:

- Participates in the general curriculum and extracurricular activities to the maximum extent appropriate with his/her non-disabled peers;
- Is offered the same rigorous opportunities as general education children and is held accountable for meeting appropriate age-/grade-level expectations;
- Has measurable annual goals that address the child's educational needs affected by the disability and are linked to appropriate State standards;
- Benefits from the educational program; and
- Is being prepared for college, careers, and life beyond the completion of high school.

When an IEP Committee Meeting Is Required

The IEP Committee must hold a formal IEP Committee to make the following decisions:

- To develop the child's initial IEP, including annual goals, short-term instructional objectives or benchmarks, services and supports, secondary transition plans, and behavior support plans and to determine the child's LRE and need for Extended School Year (ESY) services;
- To make significant changes to the child's IEP based on the results of formal assessment or reevaluation (e.g., adding a Behavior Intervention Plan (BIP) program modification based on the results of a Functional Behavior Assessment (FBA)), due to changing needs or situations (e.g., considering a more restrictive environment or determining the child should participate in a Subject Area Alternative Assessment after successfully completing a subject area course but failing the related Subject Area Test), due to insufficient progress on his/her annual goals (e.g., deciding to increase the amount or type of services provided), or due to a request from a parent, teacher, or other IEP Committee member to meet to review and/or revise the IEP;
- To discuss disciplinary actions or conduct a Manifestation Determination Review (MDR);
- To develop an IEP before the public agency places the child in a private school/facility; and
- To review and revise the child's IEP, at least once annually.

When an IEP Committee Meeting Is Not Required

The IEP Committee may review data about the child's performance collaboratively and make minor changes to the IEP without a formal IEP Committee meeting.

- When conducting a reevaluation, the IEP Committee may opt to review existing data without a meeting to determine if there is a need to collect additional data to establish continued eligibility and to determine appropriate service. If a meeting is not held, each IEP Committee member, including the parent, must be given the opportunity to review all existing data and information. See *Vol. I: Chapter 2: Evaluation and Eligibility*, for more information.
- If the IEP needs corrections or minor changes between annual meetings, the IEP Committee may agree to amend the IEP without a meeting as long as (1) the changes and the parent's and public agency's agreement to the changes are in writing and (2) every member of the IEP Committee is informed of the changes. See *IEP Amendment Form* (Appendix IEP.E).

NOTE: Changes to the IEP made without a meeting may not involve a redrafting of the entire IEP and may not be substituted for holding an annual meeting. If there is any confusion on whether or not a meeting is necessary to make the changes desired, the public agency is recommended to err on the side of caution and to hold an IEP Committee meeting.

Requesting an IEP Committee Meeting

Although the public agency must call a meeting to address the development of and changes to the IEP as described in *When an IEP Committee Meeting Is Required* (p. 18), the parent may also request an IEP Committee meeting to request changes to the child's IEP (e.g., changes to special education and related services, annual goals, placement, etc.) to ensure s/he is provided a FAPE. As there is not maximum number of IEP Committee meetings to develop or revise an IEP to meet a child's needs, the public agency must grant any reasonable request for such a meeting and should hold the meeting within a reasonable time frame of the request. If the public agency refuses to convene an IEP meeting requested by the parent, the public agency must provide the parent a written notice with an explanation of why the public agency has determined the meeting to be unnecessary to provide the child a FAPE. The parent may dispute this decision using dispute resolution procedures. See *Vol. III: Chapter 8: Dispute Resolution* for more information.

If another member of the IEP Committee feels an IEP Committee meeting is needed to address changes to the child's IEP (e.g., changes to placement or services) to ensure the provision of a FAPE, the IEP Committee member may request an IEP Committee meeting according to the policies of the public agency to which the IEP Committee member belongs.

Calling an IEP Committee Meeting

When calling an IEP Committee meeting, the public agency must schedule the meeting at times and locations to enable the IEP Committee members, including the parent, to participate. The parent must be given a *Notice of Invitation to Committee Meeting* (Appendix PS.D), or a similar form, that includes:

- A list of who will be in attendance by name and position, including any legal representative(s) and his/her law firm;
- A statement that the parent or public agency may invite other individuals who have knowledge or special expertise regarding the child; and
- The time, location, and a description of the purpose of the meeting.

Parent Participation

The public agency must undertake efforts to ensure the parent is given the opportunity to participate in any meeting to develop or revise the child's IEP. First, the public agency must find mutually-agreed times and locations for the IEP Committee meeting. The meeting may be rescheduled to another time and/or location to accommodate the parent provided the timelines for meetings are not violated, including the thirty (30) day timeline to develop the IEP after the determination of eligibility and an annual IEP Committee meeting to review and revise the IEP.

Second, the public agency must notify the parent of any IEP Committee meeting early enough to ensure s/he has an opportunity to make arrangements to attend the meeting. The public may need to use multiple methods to notify the parent (e.g., written notices, emails, telephone calls, and personal visits) to ensure the parent is aware of the IEP Committee meeting. In addition, the public agency must document all of its efforts to notify the parent of the IEP Committee meeting and the results of those efforts. Files must be maintained on (a) detailed records of any telephone calls made or attempted and the results of those calls; (b) copies of any correspondence sent to the parents and any responses received; and (c) detailed records of any visits made to the parent's home or place of employment and the results of those visits.

Third, if the parent is unable to attend the IEP Committee meeting in person, alternate means must be offered to allow the parent to participate, such as video conferences or conference calls. If the parent is still unable to participate, the remaining members of the IEP Committee may meet; however, the parent must be notified of the outcomes of the meeting and a *Prior Written Notice* (Appendix PS.E), or similar form, must be provided to the parent before any changes determined during the meeting are implemented.

The public agency must also ensure the parent can actively participate during the IEP Committee meeting. The public agency must provide an interpreter for a parent who is deaf or a translator for a parent whose native language is not English if needed to ensure the parent can understand the proceedings of the meeting and is able to participate in any group discussions related to the educational decisions for their child.

Participation of a Child with a Disability

A child with a disability should be provided the opportunity to participate in meetings to develop or revise their IEP if the parent determines this is appropriate. The public agency must inform the parent of his/her right to invite the child to attend the IEP Committee meeting. A child who is fourteen (14) years of age, or younger if appropriate, must be invited via written notice to participate in any meeting to develop a secondary transition plan, including the consideration of postsecondary goals and transition services. If the child does not attend the IEP Committee meeting, the public agency must ensure the child's preferences and interests are considered in the development of the secondary transition plan.

Excusal of IEP Committee Members

Any IEP Committee member may be excused from an IEP Committee meeting, in whole or in part, only if the parent and the public agency agree in writing. If the excused member's curricular or service area is to be addressed, s/he must provide written input for the development of the IEP to the IEP Committee, including the parent, prior to the meeting for which s/he was excused. This input may include:

- Interpretations of data from assessment(s) and/or progress monitoring;
- Recommendations on measureable annual goals, services, and/or supports;
- Recommendations on participation in State-wide assessments and/or accommodations;
- Recommendations on postsecondary goals, secondary transition services, and/or exit options;
- Considerations on placement and the child's Least Restrictive Environment (LRE); and/or
- Recommendations on the need for Extended School Year (ESY) services.

The parent and the public agency may use the *Excusal of IEP Committee Member* (Appendix IEP.B), or a similar form, to document their agreement and the written input, if required.

NOTE: If the public agency representative is excused, another IEP Committee member who is in attendance must have the authority to obligate the public agency to the decisions of the IEP Committee. If a representative of a public agency responsible for assisting with or providing transition services does not attend, efforts must be made to obtain participation from the agency in transition planning and must be documented in the IEP under transition services.

Substituting IEP Committee Members

Some IEP Committee members may be substituted (e.g., the general education teacher or public agency representative) provided the substituted person is able to serve the same role and is equally knowledgeable of the child and content area/specialty as the person originally scheduled to attend. For example, if the general education reading teacher of a child with deficiencies in reading cannot attend the IEP meeting, another general education teacher who is highly-qualified in reading for the child's grade would be an appropriate substitute—not a general education teacher who is highly-qualified in math. See *IEP Committee Participants* (p. 16) for more information about the roles each member is to play.

Conducting an IEP Committee Meeting

The IEP Committee meeting must be conducted by an IEP Committee member (e.g., the public agency representative or special education teacher) or an assigned facilitator. Decisions of the IEP Committee are to be made by consensus. If the parent or public agency feels that, due to present or previous disagreements, the IEP Committee will need assistance in reaching consensus, the parent or public agency may request a facilitator to be provided by the Mississippi Department of Education (MDE). In addition, the parent or the public agency may choose to record IEP Committee meeting provided the other party is notified at least twenty-four (24) hours prior to the IEP Committee meeting.

The public agency must provide the parent a copy of the *Procedural Safeguards Notice* at least once annually (Appendix PS.H). At subsequent IEP Committee meetings the parent may waive their right to be provided the Procedural Safeguards Notice. However, during any IEP Committee meeting, the public agency must assist the parent in understanding his/her and her/his child's rights as described in the Procedural Safeguards Notice. In addition, the public agency must assist the parent in understanding the IEP developed for his/her child.

Following an IEP Committee Meeting

Following the IEP Committee meeting, the public agency must provide the parent a copy of the IEP as developed at the meeting and a *Prior Written Notice* (Appendix PS.E), or a similar form, of any proposed changes or refused changes with justifications. The Prior Written Notice must be given to the parent whenever a change is made to the IEP or upon request.

NOTE: The copy of the IEP must be provided to the parent at no cost.

In addition, each general education teacher, special education teacher, related service provider, and any other service provider responsible for implementing any portion of the IEP must be provided access to the complete IEP and be informed of his/her specific responsibilities in implementing the IEP, including the provision of any services, accommodations, modifications, and supports to provide the child a FAPE.

IEP Development

The IEP is a legally-binding document describing the specially designed instruction, related services, and accommodations and modifications needed to provide a child with a disability a FAPE.

In developing a child's IEP, the IEP Committee must consider:

- The strengths of the child;
- The concerns of the parents for enhancing the education of the child;
- The results of the initial or most recent evaluation of the child;
- The expectations for children, including age-/grade-level academic standards; and
- The academic, developmental, and functional needs of the child.

Components of the IEP

The IEP must contain the following data-informed components:

- The child's Present Levels of Academic Achievement and Functional Performance (PLAAFP);
- Measurable Annual Goals and Short-Term Instructional Objectives/Benchmarks (STIO/Bs);
- Special Considerations for Communication and Assistive Technology;
- Special Considerations for Behavior (as needed);
- Services for Children who are Blind or Visually Impaired, Children who are Deaf or Hearing Impaired, and Children with Limited English Proficiency (as needed);
- Special Education and Related Services;
- Instructional Accommodations and Program Modifications (as needed);
- Determination of whether or not the child meets the criteria for a Significant Cognitive Disability (SCD);
- Determinations of how the child will participate in State-Wide Assessments, including any Accessibility Features and/or Accommodations to be used;
- Secondary Transition Goals and Services and Interagency Linkages to provide those services (as required);
- The child's Exit Option and Course of Study (as required);

- Determination of the child's Least Restrictive Environment; and
- Determination of the child's need for Extended School Year (ESY) Services and, if needed, the ESY Services, Goals, STIO/Bs.

The MDE requires public agencies to use the *Individualized Education Program Form* (Appendix IEP.C). See *IEP Development Guidance* (Appendix IEP.D) for guidance on developing the IEP document.

NOTE: For a child with a disability ages three (3) to five (5) years [or age two (2) years who will turn three (3) during the school year], the IEP Committee must consider using an Individualized Family Service Plan (IFSP) as the IEP of the child provided it is developed with the IFSP content, including the natural environments statement, and in accordance with the IEP procedures, including educational components that promote school readiness and incorporates pre-literacy, language, and numeracy skills for children who are at least three (3) years of age. If after providing the parent a detailed explanation of the differences between an IFSP and an IEP, the public agency and the parent agree to use an IFSP as the IEP, the public agency must obtain written informed consent from the parent.

Standards-Based IEPs

The IEP Committee must develop the IEP using the currently adopted general or alternate State grade-level academic standards. The MDE requires public agencies to use the Standards-Based IEP process outlined in the *IEP Development Guidance* (Appendix IEP.D) in conjunction with the *Individualized Education Program Form* (Appendix IEP.C).

Implementing the IEP

In order to provide FAPE to all children with disabilities, public agencies are required to have an IEP in effect for each child ages three (3) through twenty (20) years with a disability:

- Immediately upon the development of the initial IEP;
- Immediately upon the adoption or development of an IEP for a child who transfers into the public agency;
- At the beginning of each school year; and
- By the child's third birthday for children transitioning from Part C (First Steps) services.

Initial IEP

For any child who has been determined to be a child with a disability, the public agency must hold an IEP Committee meeting to develop an initial IEP within thirty (30) days of making this determination. The IEP Committee must develop the IEP collaboratively with input from the

parent. After the IEP document is developed, the public agency must make reasonable efforts to obtain informed parental consent in writing for the provision of services. The public agency must assist the parent in understanding the services, supports, and other provisions in the IEP before obtaining this permission for initial provision of services. To provide written parental consent for services, the parent must sign under *Written Parental Permission for Initial Placement* on the IEP Form. Once the public agency receives written parental consent for services, the IEP must be implemented immediately, without delay.

NOTE: For children determined to be eligible during the summer months, the IEP Committee must develop an IEP within thirty (30) days and consider the need for ESY services. If appropriate, these ESY services must be provided.

In-State Transfers

For any child with an IEP in effect who transfers from one in-State public agency to another in-State public agency during the school year, the new public agency, in consultation with the parent, must provide the child comparable services based on the child's current IEP until:

- The new public agency adopts the child's current IEP from the previous public agency-OR-
- The new public agency develops and implements a new IEP.

Out-of-State Transfers

For any child with an IEP in effect who transfers from an out-of-State public agency to an in-State public agency during the school year, the new public agency, in consultation with the parent, must provide the child comparable services based on the child's current IEP until:

- The new public agency conducts a comprehensive evaluation using the initial evaluation procedures (See *Volume I: Chapter 2: Evaluation and Eligibility* for additional information on these procedures) to determine eligibility according to SBE Policy 7219 criteria-AND-
- If eligible, the new public agency develops and implements a new IEP.

NOTE: If the child has sufficient existing data that falls within the definition of current according to Volume I: Chapter 2: Evaluation and Eligibility, Existing Records (p. 17), the Multidisciplinary Evaluation Team (MET)/IEP Committee may conduct a comprehensive evaluation without collecting new data and make the eligibility determination using this data.

IEP at Transition from Part C to Part B

For any child who receives services through Part C Early Intervention (First Step) services who has been determined to be eligible for and will be transitioning to Part B 619 (Preschool) services, the public agency must develop and implement an IEP by the child's third birthday. If

the child's third birthday occurs during the summer, the IEP Committee must consider the child's need for ESY services. If appropriate, these ESY services must be provided.

NOTE: If the public agency receives a late notification of a child transitioning from Part C to Part B (i.e., less than ninety (90) days before the child's third birthday), the public agency is not required to complete the evaluation, determine eligibility, and develop and implement the IEP by the child's third birthday. However, the public agency must continue to meet the sixty (60) day timeline for conducting an evaluation, the fourteen (14) day timeline for determining eligibility, and the thirty (30) day timeline for developing and implementing the IEP. See Volume I: Chapter 2: Evaluation and Eligibility for information about evaluation and eligibility determination timelines.

Parental Consent for Services Not Provided

If the parent fails to respond to the public agency's efforts to obtain consent or if the parent refuses to provide consent for special education and related services, the public agency is not considered to be in violation of the requirement to provide the child a FAPE. The public agency may not use dispute resolution procedures (e.g., mediation or due process) to obtain consent nor is the public agency required to convene an IEP Committee meeting or develop an IEP.

*NOTE: The parent may choose not to sign the IEP at the IEP Committee meeting because s/he wants more time to consider the proposed services on the drafted IEP or due to a disagreement over the disability category (but not disability status). This **does not** mean the parent is refusing services altogether or the child should no longer be considered a child with a disability. See Volume III: Chapter 7: Procedural Safeguards for more information about parental consent.*

Review and Revision of IEP

Although the IEP is a legally-binding document, it is also living document that may be changed as often as needed to meet the unique needs of the child and to ensure the child benefits from his/her education. The IEP must be updated at least once annually; however, there is no limit to the number of IEP Committee meetings or IEP changes that may occur throughout the year.

A review and/or revision of the IEP may occur for the following purposes:

- To determine whether the annual goals have been achieved and to revise the IEP if additional goals are needed or if a lack of expected progress toward the annual goals and/or in the general education curriculum is found;
- To review and revise the child's postsecondary goals, as needed, and to determine whether the child is making sufficient progress to achieve these postsecondary goals and/or if

revisions to the type or amount of transition services are needed;
- To determine whether any additional assessments are necessary and/or to incorporate the results of any assessments conducted;
- To review any new information about the child provided to, or by, the parent; and
- To address the child's new academic, developmental, and functional needs.

Annual Review

The IEP Committee must review and/or revise each child's IEP at least once each year, on or before the date of the last annual review. The IEP Committee may conduct the annual review meeting anytime throughout the year, as long as the twelve (12) month timeframe is met and the IEP is in effect at the beginning of the school year. During the annual review meeting, the IEP Committee must consider and update each section of the IEP as appropriate. Following the IEP Committee meeting, the public agency must provide the parent a copy of the new IEP and a *Prior Written Notice* (Appendix PS.E), or a similar form, of any proposed changes or refused changes with justifications. In addition, every member of the IEP Committee and every service provider responsible for implementing the IEP must be informed of any changes.

NOTE: The IEP Committee Meeting Date and Projected Date of Annual Review recorded on the first page of the IEP should be updated.

Revisions or Amendments Between the Annual Review

The IEP Committee may choose to conduct reviews, revisions, or amendments to a child's IEP of a more limited scope that are not considered an annual review. These changes may occur with or without an IEP Committee meeting. See *When an IEP Committee Meeting Is Required* and *When an IEP Committee Meeting Is Not Required* (p. 18) to determine if a meeting is required. If an IEP Committee is held, the meeting and changes should be recorded in the *Additional IEP Meetings to Review, Revise, or Amend the IEP* and *Summary of Revision* sections of the IEP. If the IEP Committee decides to amend the IEP without a meeting, the parent and the public agency must agree to the process and the amendments in writing. The *IEP Amendment Form* (Appendix IEP.E), or a similar form, may be used to document this process and agreement. In addition, changes may be recorded in the *Summary of Revision* section of the IEP. Following any revision or amendment to the IEP, the public agency must provide the parent a copy of the new IEP and a *Prior Written NoticePrior Written Notice* (Appendix PS.E), or a similar form, of any proposed changes or refused changes with justifications. Every member of the IEP Committee and every service provider responsible for implementing the IEP must be informed of any changes.

NOTE: The purpose, date, and attendees of the IEP Committee meeting should be recorded on the second page of the IEP; however, the IEP Committee Meeting Date and Projected Date of Annual Review recorded on the first page of the IEP should not be updated.

Access to the IEP Document

Accessibility of IEP

Each general education teacher, special education teacher, related service provider, and any other service provider responsible for implementing any portion of the IEP must be provided access to the complete IEP and be informed of his/her specific responsibilities in implementing the IEP, including the provision of any services, accommodations, modifications, and supports to provide the child a FAPE.

Transmittal of Records

When a child transfers from one public agency to another, the new public agency must take reasonable steps to obtain the child's records promptly from the previous public agency. Records include the child's IEP and any supporting documents or other records relating to the provision of special education or related services to the child. The previous public agency must take reasonable steps to promptly respond to the request from the new public agency.

Educational Benefit

In the landmark decision of Board of Education v. Rowley, the U.S. Supreme Court noted that while The Education for All Handicapped Children Act of 1975, a precursor to The Individuals with Disabilities Education Act (IDEA), **does not** require States to develop IEPs that "maximize the potential of each handicapped child," it **does** requires them to "identify and evaluate handicapped children, and to provide them with access to a free public education." The U.S. Supreme Court further noted that the purpose of these services was to provide children with disabilities access to a FAPE, defined as "access to specialized instruction and related services which are individually designed to provide *educational benefit* to the handicapped child."

As a result, the U.S. Supreme Court held that in order to satisfy the FAPE requirement the personalized instruction and services provided to children with disabilities must:

- Be provided at public expense;
- Meet the State's educational standards;

- Approximate the grade levels used in the State's regular education (i.e., in Mississippi, this would be Kindergarten through 12th grade, including preschool and secondary education to twenty-one (21) years, unless the child turns twenty-one (21) years on or prior to September 1st); and
- Be delivered in the LRE according to the child's IEP.

Furthermore, to receive a FAPE, a child's IEP should not only be *procedurally compliant* but also should enable the child to *benefit from the education* in the LRE. For example the IEP for a child with a disability who is educated in the regular classroom should enable the child to be successful in the regular education environment. Although it is difficult to determine how much progress the child should make to be able to demonstrate sufficient educational benefit, the U.S. Supreme Court cited evidence such as achieving passing marks, advancing from grade to grade, and graduating. For children who are not able to be educated in the regular classroom, subsequent decisions have emphasized the provision of a full continuum of alternate settings that are selected individually for the child based on his/her unique needs and enabling the child to progress in not just academic learning, but also in socialization, adaptive/functional skills, language/communication, and appropriate behavior.
The subsequent IDEA and State Board Policy 7219 have further expounded upon the requirements of FAPE and content to be included in the IEP. This includes:

- Having high expectations for all children;
- Ensuring children with disabilities have access to the general education curriculum and standards in the general classroom to the maximum extent possible;
- Preparing children with disabilities to lead productive and independent adult lives; and
- Providing effective transition services to promote successful post-school employment or education.

See *Chapter 3: Free Appropriate Public Education* and *Appendix IEP.D: IEP Development Guidance* for more information about the requirements for FAPE and the IEP.

To ensure educational benefit, the IEP Committee must:

- Systematically develop and monitor progress for a child's IEP for each year;
- Evaluate the overall outcomes of the IEP at the annual review; and
- Periodically monitor the collective outcomes over multiple years.

To ensure the child benefits from his/her annual educational program, the child's IEP must be developed using a data-driven process:

- First, consider the child's grade-level or alternate standards and determine the child's level of functioning relative to these standards;
- Second, using available data, identify the child's educational needs in the PLAAFP;

- Next, using the PLAAFP as the baseline, develop measureable annual goals and STIO/Bs designed to help the child make progress on grade-level or alternate standards;
- Then, select the services and supports necessary for the child to attain her/his goals;
- Finally, monitor the child's progress, making adjustments as needed.

If the child benefits from each annual IEP, the IEP Committee should be able to track growth trends from year to year, seeing progress not only on goals but in access to the general or alternate education curriculum. See *Educational Benefit Flowchart* (Appendix IEP.F).

The IEP Committee may use the *Educational Benefit Checklists* (Appendix IEP.G) to:

- Evaluate a newly developed IEP (New IEP Checklist);
- Evaluate the outcomes from a previous IEP (IEP Annual Review);
- Evaluate the educational benefit for a child over a three-year time period (IEP Educational Benefit 3 Year Review).

REGULATORY REFERENCE
§§300.116; 300.320-300.324

APPENDICES

Appendix IEP.A	Top 12 Highlights for Individualized Education Programs
Appendix IEP.B	Excusal of IEP Committee Member
Appendix IEP.C	Individualized Education Program Form
Appendix IEP.D	IEP Development Guidance
Appendix IEP.E	IEP Amendment Form
Appendix IEP.F	Educational Benefit Flowchart
Appendix IEP.G	Educational Benefit Checklists

Top 12 Highlights for Individualized Education Programs

1. The Individual Education Program (IEP) is a legal and binding document, which must be implemented as written.

2. The IEP is a living document which must be reviewed and revised annually or more frequently, if needed, to provide a Free Appropriate Public Education (FAPE) and ensure educational benefit.

3. IEP goals and short-term instructional objectives/benchmarks are based on the child's needs – not the child's eligibility category – and must provide a program that meets the needs of the child in all areas of concern.

4. The IEP must be written to provide access to and make progress in the general education curriculum, as appropriate, and receive educational benefit in his/her least restrictive environment. Children must be included with their nondisabled peers to the maximum extent appropriate, including nonacademic and extracurricular activities.

5. If the child is presenting with any social/emotional/behavioral concerns, the IEP must contain goals/objectives to address these areas of concern regardless of the eligibility category.

6. A child with a disability who transfers to a public agency from another State with a current IEP must receive comparable service until the LEA conducts an evaluation, if necessary, to determine eligibility and develops, adopts, or implements a new IEP.

7. The parent is an essential member of the IEP Committee. The parent **must** be given the opportunity to participate in the development or revision of her/his child's IEP, including any IEP meeting held for this purpose or a process of amending an IEP without a meeting.

8. All IEP meetings must be scheduled with the parent at a mutually agreed upon time and place.

9. Required IEP Committee members include the parent, the child (if appropriate), general education teacher, special education teacher, and representative of the public agency. The parent or public agency may invite an individual(s) who has knowledge and special expertise regarding the child to be an IEP Committee member. Optional IEP Committee members may include, but not limited to, a private school representative, transition agency representative, Part C Service Coordinator/Provider, and/or an academic or behavioral specialist.

10. An IEP Committee member, including the general education teacher, special education teacher, agency representative, or another member may be excused from an IEP meeting, in whole or in part, if the parent and district agree **in writing**. If the meeting deals with the excused member's area, s/he must provide written input to the IEP team prior to the meeting. If the public agency representative is excused, another IEP Committee member in attendance must have the authority to obligate the public agency to the decisions of the IEP Committee.

11. Meetings to review and revise the IEP can occur at any time during the year. Reasons for a review may include, but are not limited to:
    a. To determine whether the child's annual goals have been achieved;
    b. To revise the IEP if there is insufficient progress toward annual goals and in the general education curriculum, if appropriate;
    c. To determine whether any additional assessments are necessary and to review the results of those conducted;
    d. To review information about the child provided to, or by, the parent;
    e. To address the child's anticipated needs; and
    f. To update and revise transition objectives and supports based on performance, achievement, and/or interests.

12. The parent and the LEA may agree **in writing** to not convene an IEP meeting for the purpose of making changes, and instead may develop a written document to amend the child' current IEP.

Excusal of IEP Committee Member

The *Excusal of IEP Committee Member* documents the agreement of the parent and the public agency to excuse a required IEP Committee member, in whole or in part, from an IEP Committee Meeting. It should be used to notify the members of the IEP Committee of the expected absence of a member, to secure written agreement for the absence from the parent and the public agency, and to document any information that must be shared prior to the IEP Committee meeting from the excused member whose area will be discussed. The *Excusal of IEP Committee Member*, or a similar form containing the same information, should be used when a member of the IEP Committee is to be absent from all or part of any IEP Committee meeting.

1. The *Excusal of IEP Committee Member* must be completed **prior** to the IEP Committee meeting in which an IEP Committee member is requesting to be excused.

2. The IEP Committee member requesting to be excused records the child's *Personal Data*, the IEP Committee meeting information (e.g., time, date, and location), and name of the member requesting to be excused. In addition, the IEP Committee member checks the respective boxes to indicate his/her role, amount of the meeting from which to be excused, and whether or not her/his curricular or service area will be addressed in the meeting. *NOTE: If the public agency representative is excused, another IEP Committee member in attendance must have the authority to obligate the public agency to the decisions of the IEP Committee.*

3. If the IEP Committee member's curricular or service area will be address in the meeting, the IEP Committee member must compose written input for the development of the IEP and attach it to the form. The IEP Committee member indicates the type of input attached by checking the appropriate boxes under *Written Input for the Development of the IEP Attached*.

4. The IEP Committee member requesting to be excused forwards the form to a public agency representative. The public agency representative completes the *Public Agency Agreement to Excuse IEP Committee Member* section by checking one box that represents the public agency's agreement or disagreement of the excusal.
   - If the public agency representative does not agree to excuse the member, the form is returned to the IEP Committee member to either attend or reschedule the meeting.
   - If the public agency representative does agree to excuse the member, the form is forwarded to the parent.

5. The parent completes the *Parent Agreement to Excuse IEP Committee Member* section by checking the boxes for both assurance statements and checking one box that represents the parent's agreement or disagreement of the excusal. The parent returns the form to the public agency to require the IEP Committee member to either attend or reschedule the meeting.

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EXCUSAL OF IEP COMMITTEE MEMBER

PERSONAL DATA		
Child's Name:	**MSIS #:**	**DOB:**
District:	**School:**	**Grade:**
Time and Date of IEP Committee Meeting:		
Location of IEP Committee Meeting:		

COMMITTEE MEMBER REQUESTING TO BE EXCUSED

IEP Committee Member Name:	**Role:** ☐ General Educator ☐ Agency Representative ☐ Special Educator ☐ Other: _____
Request to be excused for: ☐ Entire meeting ☐ Part of meeting	**Indicate whether the IEP Committee member's area will be addressed:** ☐ Member's curricular/service area is not to be addressed. ☐ Member's curricular/service area is to be addressed. ***The IEP Committee member must provide written input prior to the IEP Committee meeting.***

PUBLIC AGENCY AGREEMENT TO EXCUSE IEP COMMITTEE MEMBER

Public Agency:

☐ The Public Agency does agree to excuse the IEP Committee member for the indicated meeting.

☐ The Public Agency does NOT agree to excuse the IEP Committee member for the indicated meeting. The Public Agency requests that the IEP Committee member attend the meeting at the scheduled time.

☐ The Public Agency does NOT agree to excuse the IEP Committee member for the indicated meeting. The Public Agency would like to reschedule the meeting for: _____

Public Agency Representative:	**Date:**

PARENT AGREEMENT TO EXCUSE IEP COMMITTEE MEMBER

As the Parent, I have been informed and understand:

☐ All of the IEP Committee members must attend all IEP Committee meetings in their entirety unless the Parent and the Public Agency agree in writing that the IEP Committee member may be excused in whole or in part.

☐ If the IEP Committee member's curricular or service area is to be addressed during the scheduled meeting, the IEP Committee member must submit written input for the development of the IEP prior to the meeting, such as:

- Interpretations of data from assessment(s) and/or progress monitoring;
- Recommendations on measureable annual goals, services, and/or supports;
- Recommendations on participation in State-wide assessments and/or accommodations;
- Recommendations on postsecondary goals, secondary transition services, and/or exit options;
- Considerations on placement and the child's Least Restrictive Environment (LRE); and/or
- Recommendations on the need for Extended School Year (ESY) services.

Parent:

☐ I do agree to excuse the IEP Committee member for the indicated meeting.

☐ I do NOT agree to excuse the IEP Committee member for the indicated meeting. I request that the IEP Committee member attend the meeting at the scheduled time.

☐ I do NOT agree to excuse the IEP Committee member for the indicated meeting. I would like to reschedule the meeting for: _____

Parent:	**Date:**

WRITTEN INPUT FOR THE DEVELOPMENT OF THE IEP ATTACHED

☐ Interpretations of data from assessment(s) and/or progress monitoring	☐ Recommendations on measureable annual goals, services, and/or supports
☐ Recommendations on participation in State-wide assessments and/or accommodations	☐ Recommendations on postsecondary goals, secondary transition services, and/or exit options
☐ Considerations for placement and the child's LRE	☐ Recommendations for ESY services

The IEP Form can be located on the Mississippi Department of Education, Office of Special Education website:

http://www.mde.k12.ms.us/OSE/IP

The Individualized Education Program (IEP) Development Guidance Creating a Program to Benefit Children with Disabilities document can be located on the Mississippi Department of Education, Office of Special Education website:

http://www.mde.k12.ms.us/OSE/IP

IEP Amendment Form

The *IEP Amendment Form* is used to document amendments made to the IEP without holding an IEP Committee meeting. These changes are more limited in scope than a complete revision of the IEP and are not considered part of an annual review. The *IEP Amendment Form*, or a similar form containing the same information, should be used to document the parent and the public agency's agreement to the amendment process and the specific amendments made.

The IEP Committee may review data about the child's performance collaboratively and make minor changes to the IEP without a formal IEP Committee meeting.

- When conducting a reevaluation, the IEP Committee may opt to review existing data without a meeting to determine if there is a need to collect additional data.
- If the IEP needs corrections or minor changes between annual meetings, the IEP Committee may agree to amend the IEP without a meeting as long as:
  - The parent and the public agency agree to the process and the amendments in writing and
  - Every member of the IEP Committee is informed of the changes.

1. Either the special education teacher or the agency representative records the child's personal data and completes the *Proposed Amendment* section. The public agency representative and/or special education teacher signs *Public Agency Agreement to Amendment* section to indicate the public agency's agreement to the proposed amendment.

2. The public agency forwards the form to the parent. The parent completes the *Parent Agreement to Amendment* section by checking one box that represents the parent's agreement or disagreement to the proposed amendment and signs the form. The parent may also include alternate language in place of the proposed amendment or make a comment. The parent may also request an IEP Committee meeting to discuss the proposed amendment.

3. The parent returns the form to the public agency:
   - If both the public agency and the parent agree to the amendment as written, the amendment will be incorporated into the IEP and implemented on the listed implementation date.
   - If either party fails to provide agreement to the amendment, the amendment must not be implemented. A new amendment form with a revised proposed amendment may be attached and sent through the process again.

4. Once the language of an amendment is agreed upon, the public agency must provide the parent with a revised copy of the amended IEP and a *Prior Written Notice* (Appendix PS.E), or a similar form, of any proposed changes or refused changes with justifications.

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IEP AMENDMENT FORM

PERSONAL DATA		
Child's Name:	**MSIS #:**	**DOB:**
District:	**School:**	**Grade:**

PROPOSED AMENDMENT

This proposed amendment would change this section of the IEP:

- ☐ Timeline, Child, and Parent Information
- ☐ PLAAFP: Child's Strengths, Preferences, and Interests
- ☐ PLAAFP: Impact of Disability and Child Needs
- ☐ PLAAFP: Parent/Child Input
- ☐ PLAAFP: Performance Summary [Goal # _____]
- ☐ Measurable Annual Goal [Goal # _____]
- ☐ Short-term Instructional Objectives
- ☐ Special Considerations
- ☐ Special Education and Related Services
- ☐ Participation in State-Wide Assessment Program
- ☐ State-Wide/District-Wide Test Accessibility/Accommodations
- ☐ Individual Transition Plan
- ☐ Placement Considerations and LRE Determinations
- ☐ Extended School Year (ESY)
- ☐ Other: _____

CURRENT VERSION:	PROPOSED AMENDMENT:
	Proposed Implementation Date: _____

REASON FOR PROPOSED AMENDMENT

PUBLIC AGENCY AGREEMENT TO AMENDMENT

By signing below, the Public Agency agrees to the proposed amendment to the IEP as written above.

Special Education Teacher:	**Date:**
Public Agency Representative:	**Date:**

PARENT AGREEMENT TO AMENDMENT

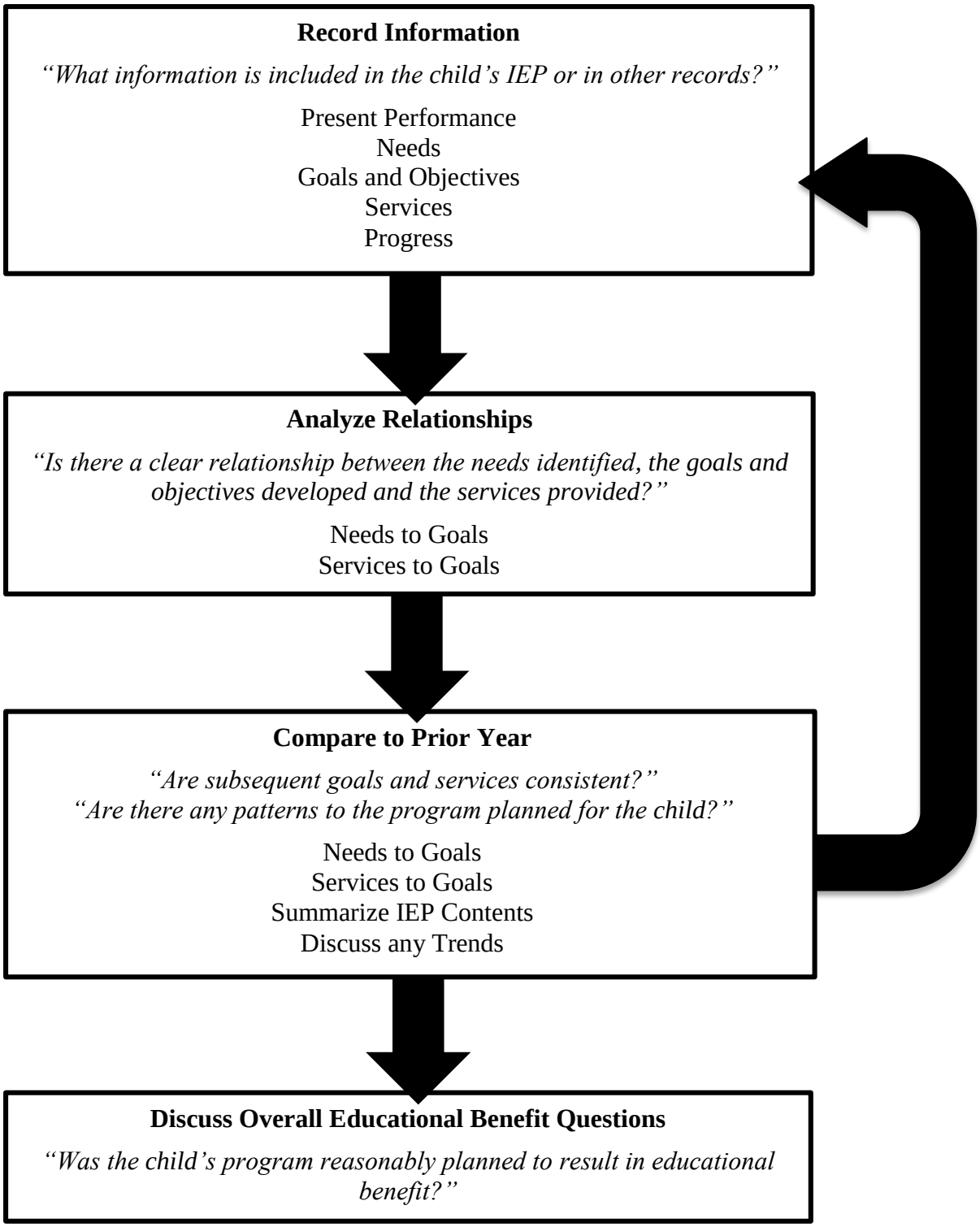
By signing below, the Public Agency agrees to the amendment to the IEP as written above.

- ☐ I agree to the proposed amendment as written above.
- ☐ I disagree with the proposed amendment and wish to keep the current version.
- ☐ I disagree with the proposed amendment and wish to request an IEP Committee meeting to discuss options.
- ☐ I disagree with the proposed amendment and recommend the following in place of the proposed amendment :

- ☐ I disagree with the proposed amendment and wish to make the following comment :

Parent:	**Date:**

Educational Benefit Flowchart



Modified from San Joaquin County Office of Education, Stockton, CA

Educational Benefit Checklists

The *Educational Benefit Checklists* can be used to evaluate the development of a new IEP, to evaluate the outcomes of an IEP at an annual review, or to evaluate the educational benefit of a child's educational program over a three (3) year period.

Educational Benefit Checklist: New IEP Checklist

To evaluate a newly developed IEP, the IEP Committee should collect the evaluation report and the newly developed IEP:

1. Review the evaluation report and any evaluation data.
   a. Indicate yes (Y) or no (N) for any area that was assessed.
   b. Indicate yes (Y) or no (N) for any area in which a need was identified.

2. Review the newly developed IEP:
   a. Indicate yes (Y) or no (N) for any identified need that was included in the PLAAFP.
   b. Indicate yes (Y) or no (N) for any need in the PLAAFP for which a goal was developed.
   c. Indicate yes (Y) or no (N) for any goal for which services and supports are targeted.

3. Review the results of each column and each row:
   a. Indicate yes (Y) or no (N) if all of the areas (i.e., physical, communication, adaptive, social-emotional, and academic/cognitive) have assessments indicated.
   b. Indicate yes (Y) or no (N) if all of the child's needs across all of the areas (i.e., physical, communication, adaptive, social-emotional, and academic/cognitive) were identified in the evaluation.
   c. Indicate yes (Y) or no (N) if all of the child's needs identified in the evaluation were written in the PLAAFP.
   d. Indicate yes (Y) or no (N) if all of the child's needs listed in the PLAAFP have a corresponding goal.
   e. Indicate yes (Y) or no (N) if all of the goals have corresponding services and supports.

4. Revise the IEP as needed to ensure educational benefit.

Educational Benefit Checklist: IEP Annual Review

To evaluate the outcomes from an IEP, the IEP Committee should collect the implemented IEP, including any revisions, any records of service delivery, and any progress notes:

1. Review the progress notes and the current IEP.
   a. Indicate yes (Y) or no (N) if current areas of need, including any new areas of need identified over the year, are accurately reflected in the current PLAAFP.

2. Review the IEP and any service delivery notes:
   a. Indicate yes (Y) or no (N) if the services and supports listed on the IEP were implemented with the frequency, duration, and intensity listed on the IEP.

3. Review the IEP, including and revisions, and the progress notes:
   a. Indicate yes (Y) or no (N) if the child attained the annual goal.
   b. Indicate any changes (services/supports and/or goals) that occurred over the year due to lack of progress.

4. Review the results of each column and each row:
   a. Indicate yes (Y) or no (N) if all of the child's current needs are in the PLAAFP?
   b. Indicate yes (Y) or no (N) if all services and supports were implemented as written?
   c. Indicate yes (Y) or no (N) if the child attained all of his/her goals?
   d. Indicate yes (Y) or no (N) if all revisions were sufficient?

Educational Benefit Checklist: IEP 3-Year Review

To evaluate the educational benefit for a child over a three-year time period, the IEP Committee should collect a child's entire special education file including any evaluation report, IEPs, progress notes, IEP Annual Review forms, etc.:

1. Create a Chart for each area for a three (3) year period. Label the area (i.e., physical, communication, adaptive, social-emotional, and academic/cognitive) on the blank under need.
   1. Needs/Concerns: Describe all of the child's needs/concerns by area.
   2. PLAAFP: Record data showing deficits in the child's IEP.
   3. Annual Goals/Accommodations & Modifications: List each goal in the child's IEP.
   4. Services and Placement: Document the type and amount of services and supports the child has received.
   5. Progress: Document the progress for each goal area.
   6. Revisions: Describe the revisions to goals or services and supports either when the child attained the goal or when the child was not making sufficient progress.

2. Review the results of each column and link across columns to answer the questions at the bottom.

3. Using the data from the chart and the evaluation question at the bottom, answer the ten (10) item 3-Year Review Checklist.

EDUCATIONAL BENEFIT CHECKLIST: NEW IEP CHECKLIST

		Assessments	Needs	PLAAFP	Goals	Services and Supports
PHYSICAL	Health	☐ Y ☐ N	☐ Y ☐ N	☐ Y ☐ N	☐ Y ☐ N	☐ Y ☐ N
	Hearing/ Vision	☐ Y ☐ N	☐ Y ☐ N	☐ Y ☐ N	☐ Y ☐ N	☐ Y ☐ N
	Gross and Fine Motor	☐ Y ☐ N	☐ Y ☐ N	☐ Y ☐ N	☐ Y ☐ N	☐ Y ☐ N
COMMUNICATION	Articulation	☐ Y ☐ N	☐ Y ☐ N	☐ Y ☐ N	☐ Y ☐ N	☐ Y ☐ N
	Voice/ Fluency	☐ Y ☐ N	☐ Y ☐ N	☐ Y ☐ N	☐ Y ☐ N	☐ Y ☐ N
	Receptive Expressive Pragmatic	☐ Y ☐ N	☐ Y ☐ N	☐ Y ☐ N	☐ Y ☐ N	☐ Y ☐ N
ADAPTIVE	Daily Living Skills	☐ Y ☐ N	☐ Y ☐ N	☐ Y ☐ N	☐ Y ☐ N	☐ Y ☐ N
	CTE and Employment	☐ Y ☐ N	☐ Y ☐ N	☐ Y ☐ N	☐ Y ☐ N	☐ Y ☐ N
SOCIAL-EMOTIONAL	Emotion	☐ Y ☐ N	☐ Y ☐ N	☐ Y ☐ N	☐ Y ☐ N	☐ Y ☐ N
	Social skills	☐ Y ☐ N	☐ Y ☐ N	☐ Y ☐ N	☐ Y ☐ N	☐ Y ☐ N
	Behavior	☐ Y ☐ N	☐ Y ☐ N	☐ Y ☐ N	☐ Y ☐ N	☐ Y ☐ N
COGNITIVE/ACADEMIC	Early Literacy/ Reading	☐ Y ☐ N	☐ Y ☐ N	☐ Y ☐ N	☐ Y ☐ N	☐ Y ☐ N
	Early Numeracy/ Math	☐ Y ☐ N	☐ Y ☐ N	☐ Y ☐ N	☐ Y ☐ N	☐ Y ☐ N
	Cognitive/ Problem Solving	☐ Y ☐ N	☐ Y ☐ N	☐ Y ☐ N	☐ Y ☐ N	☐ Y ☐ N
HIGH-QUALITY IEP COMPONENTS		**All Areas Assessed?** ☐ **Y** ☐ **N**	**All Needs Identified?** ☐ **Y** ☐ **N**	**All Needs in PLAAFP?** ☐ **Y** ☐ **N**	**PLAAFP Linked to Goals?** ☐ **Y** ☐ **N**	**Goals Linked to Services/Supports?** ☐ **Y** ☐ **N**

MISSISSIPPI DEPARTMENT OF EDUCATION • OFFICE OF SPECIAL EDUCATION

EDUCATIONAL BENEFIT CHECKLIST: IEP ANNUAL REVIEW

		PLAAFP Updated to Reflect Need	Implementation of Services/Supports	Progress on Goals	Revision
PHYSICAL	Health	☐ Y ☐ N	☐ Y ☐ N	☐ Y ☐ N	☐ Change Services/Supports ☐ Change Goals
	Hearing/ Vision	☐ Y ☐ N	☐ Y ☐ N	☐ Y ☐ N	☐ Change Services/Supports ☐ Change Goals
	Gross and Fine Motor	☐ Y ☐ N	☐ Y ☐ N	☐ Y ☐ N	☐ Change Services/Supports ☐ Change Goals
COMMUNICATION	Articulation	☐ Y ☐ N	☐ Y ☐ N	☐ Y ☐ N	☐ Change Services/Supports ☐ Change Goals
	Voice/ Fluency	☐ Y ☐ N	☐ Y ☐ N	☐ Y ☐ N	☐ Change Services/Supports ☐ Change Goals
	Receptive Expressive Pragmatic	☐ Y ☐ N	☐ Y ☐ N	☐ Y ☐ N	☐ Change Services/Supports ☐ Change Goals
ADAPTIVE	Daily Living Skills	☐ Y ☐ N	☐ Y ☐ N	☐ Y ☐ N	☐ Change Services/Supports ☐ Change Goals
	CTE and Employment	☐ Y ☐ N	☐ Y ☐ N	☐ Y ☐ N	☐ Change Services/Supports ☐ Change Goals
SOCIAL-EMOTIONAL	Emotion	☐ Y ☐ N	☐ Y ☐ N	☐ Y ☐ N	☐ Change Services/Supports ☐ Change Goals
	Social skills	☐ Y ☐ N	☐ Y ☐ N	☐ Y ☐ N	☐ Change Services/Supports ☐ Change Goals
	Behavior	☐ Y ☐ N	☐ Y ☐ N	☐ Y ☐ N	☐ Change Services/Supports ☐ Change Goals
COGNITIVE/ACADEMIC	Early Literacy/ Reading	☐ Y ☐ N	☐ Y ☐ N	☐ Y ☐ N	☐ Change Services/Supports ☐ Change Goals
	Early Numeracy/ Math	☐ Y ☐ N	☐ Y ☐ N	☐ Y ☐ N	☐ Change Services/Supports ☐ Change Goals
	Cognitive/ Problem Solving	☐ Y ☐ N	☐ Y ☐ N	☐ Y ☐ N	☐ Change Services/Supports ☐ Change Goals
RESPONSIVE IEP PRACTICES		**All Current Needs in PLAAFP?** ☐ **Y** ☐ **N**	**Services/Supports Implemented?** ☐ **Y** ☐ **N**	**All Goals Attained?** ☐ **Y** ☐ **N**	**Sufficient Revisions?** ☐ **Y** ☐ **N**

Educational Benefit Checklist: 3-Year Review

After reviewing the data and information, answer each of the questions below.

1.	Are the assessments complete and do they identify all of the child's needs, including postsecondary outcomes and/or career assessments/functional vocational evaluation for secondary students?	☐ Yes ☐ No ☐ N/A
2.	Does the IEP, through the Present Levels of Academic Achievement and Functional Performance statement or other IEP information, identify all of the child's significant needs?	☐ Yes ☐ No ☐ N/A
3.	Are all of the child's needs addressed by goals and objectives, transition services, and/or supplementary aids and services, including, for secondary students, postsecondary outcomes?	☐ Yes ☐ No ☐ N/A
4.	Are there programs and services to support all of the child's goals and objectives?	☐ Yes ☐ No ☐ N/A
5.	Do the transition services provided for the child over the three-year period of review represent a coordinated set of activities related to the child's vision for adult life?	☐ Yes ☐ No ☐ N/A
6.	In reviewing the comparison of the Present Levels of Performance from Year 1 to Year 2 and from Year 2 to Year 3, if the child ***did not*** make progress, were the goals and objectives, transition activities, or programs and services in Year 3 changed in the IEP to facilitate the child's future progress?	☐ Yes ☐ No ☐ N/A
7.	In reviewing the comparison of the Present Levels of Performance from Year 1 to Year 2 and from Year 2 to Year 3, if the child ***did*** make progress, were the goals and objectives, transition activities, or programs and services in Year 3 changed in the IEP to facilitate the child's future progress, including participation in general education?	☐ Yes ☐ No ☐ N/A
8.	Were sufficient services provided to ensure that the child would make progress?	☐ Yes ☐ No ☐ N/A
9.	Is this child provided with supplementary aids and services to support participation in extracurricular and non-academic activities, if the IEP Committee determined these to be needed?	☐ Yes ☐ No ☐ N/A
10.	Based upon the review of questions 1-9 above, the school district has determined that the child has received educational benefit?	☐ Yes ☐ No ☐ N/A

From the Northwest Tri-County Intermediate Unit, Edinboro, Pennsylvania

Educational Benefit Checklist: 3-Year Review

PERSONAL DATA					
Child's Name:		**Race/Ethnicity:**		**Gender:**	**DOB:**
District:		**School:**		**MSIS #:**	
Needs/Concerns:	**PLAAFP**	**Annual Goals**	**Services and Supports**	**Progress on Goals**	**Revision**
All Areas Assessed? **All Needs Identified?** ☐ Y ☐ N	**All Needs in PLAAFP?** **PLAAFP updated?** ☐ Y ☐ N	**PLAAFP Linked to Goals?** ☐ Y ☐ N	**Goals Linked to Services/Supports? Implemented?** ☐ Y ☐ N	**All Goals Attained?** ☐ Y ☐ N	**Sufficient Revisions?** ☐ Y ☐ N

CHAPTER 5:
LEAST RESTRICTIVE ENVIRONMENT

Public Agency in this document refers to agencies responsible for providing education to children with disabilities including the Mississippi Department of Education (MDE), Local Education Agencies (LEAs), Educational Service Agencies (ESAs), State Schools, State Agency schools, and nonprofit public charter schools that are not a part of an LEA or ESA.

Least Restrictive Environment

The Individuals with Disabilities Education Act (IDEA) of 2004 established the provision for educating children with disabilities in their Least Restrictive Environment (LRE). All children with disabilities ages three (3) through twenty (20) years are to be educated with age-appropriate, nondisabled peers to the maximum extent appropriate, including children who are placed in public or private institutions and other care facilities. The public agency should offer an array of services and a continuum of educational settings to meet the individual LRE needs of each child.

An appropriate LRE is one that enables the child to make reasonable gains toward goals identified in an individualized education program (IEP). The child's IEP indicates his/her LRE and describes the extent to which, if any, the child will participate in the general education classroom environment, the general education curriculum, and/or extracurricular or other nonacademic activities.

Special classes, separate schooling, and other removals of a child with a disability from the general education environment may occur only when the nature or severity of the disability is such that education in the general education class, even with the use of supplementary aids and services, cannot be achieved satisfactorily.

Continuum of Services

In determining appropriate settings and services for a child with a disability, the IEP Committee must consider the child's needs and the continuum of alternative placements and related services appropriate to meet those needs. The continuum of settings includes instruction in general education classes, special classes, special schools, home bound instruction and instruction in

hospitals and institutions. In addition, a public agency must make a provision for supplemental services, such as resource services or itinerant instruction, to be provided in conjunction with the general classroom. See *Continuum of Educational Options* (Appendix LRE.B) for descriptions of each level of service provision.

NOTE: All LRE considerations also apply to preschool children ages 3 to 5 years with disabilities who are entitled to receive a free appropriate public education (FAPE).

Placement Options

Each child's educational placement, including the placement for preschool children, is determined at least once a year based on the child's IEP and determined by the child's IEP Committee. Federal law requires children with disabilities to be educated "to the maximum extent appropriate in the regular education classroom." Education in a regular classroom may not meet the needs of all children with disabilities; however, serious consideration must be given to educating children with disabilities in regular classrooms or other opportunities to participate with their non-disabled peers.

As placement decisions are made, the following general principles must be considered:

- The child's placement is as close to his/her home as possible.
- The child attends the school s/he would attend if s/he did not have a disability, unless the IEP requires some other arrangement.
- The placement should not produce harm to the child that cannot be addressed through supplementary aids and services.
- The child is not removed from education in age-appropriate regular classrooms solely because of needed modifications in the general curriculum or the failure to provide supplementary aids and services.

The *Continuum of Educational Options* (Appendix LRE.B) includes, but is not limited to:

- General Education Classroom with Consultative Services
- Itinerant Instruction in the General Education Classroom
- Co-Teaching with the Regular Educator
- Resource Room Instructional Support
- Part-Time Special Class
- Full-Time Special Class
- Community-Based Services
- Special School
- Residential Facilities
- Home/Hospital

NOTE: Inclusion is not a service delivery option. Inclusion is a belief system or philosophy that guides all the practices in any specific school. Inclusion philosophy adheres to the belief that all staff members believe that it is their job to provide the best education for all children, respecting their pupils' diversity and maximizing their potential. Full participation with peers is the strong preference with the goal of membership in the same learning community to the maximum extent possible, with the first consideration being the needs of the individual child.

Considerations for Placement Decisions

The IEP Committee makes LRE decisions annually for each child with a disability considering the following factors:

The Child's IEP: The child's IEP is developed prior to the determination of the location of services and settings. The services and settings needed by each child with a disability are determined by his/her IEP Committee and, must be based on the child's IEP and unique needs that result from his/her disability, not on the child's disability category.

Location of School: A child with a disability should be educated in the school as close as possible to the child's home. Unless the IEP requires some other arrangement, the child is educated in the school s/he would attend if not disabled.

Harmful Effects: Consideration should be given to any potential current or long-term harmful effect on the child or on the quality of services the child receives, including the child's ability to graduate and achieve his/her postsecondary goals.

Age-Appropriate Peers: A child with a disability should be educated with age-appropriate peers to the maximum extent appropriate. A child with a disability is not removed from age-appropriate general education environments solely because of needed accommodations and/or adaptations in the general education curriculum.

Accommodations and Modifications: A child with a disability is not removed from general education settings solely because of needed accommodations and/or adaptations in the general education curriculum. Public agencies are required to make a genuine effort to first provide supplementary aides and services in regular education classes and to modify the regular education curriculum for children with disabilities. Public agencies are not required to modify the regular education program beyond recognition or to the extent that the disabled child is not required to learn any of the skills normally taught in regular education.

Nonacademic and Extracurricular Services and Activities

Public agencies are required to allow children with disabilities the opportunity to participate with nondisabled peers in nonacademic and extracurricular services and activities to the maximum extent appropriate. These services and activities may include, but are not limited to, meals, recess, field trips, counseling services, athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by the district, referrals to community agencies, career development, and assistance in making outside employment available. The IEP Committee is required to determine the supplementary aids and services that are appropriate and necessary for the child to participate in nonacademic settings and extracurricular services and activities.

Four Steps for Placement Decisions

Public Agencies are encouraged to use the four-step procedure for making LRE decisions developed by Dr. Marilyn Friend, former president of the Council of Exceptional Children and founder of Co-Teaching Connection. The procedure is designed to help the IEP Committee make a valid decision regarding placement in the LRE for each child. The IEP Committee may use the *Least Restrictive Environment Survey* (Appendix LRE.D) to document this procedure.

Step One: Review IEP and Setting Information

1. The IEP Committee should begin with the assumption that the appropriate placement for the child is the general education classroom for at least 80% of the school day. The IEP Committee should ensure the child's IEP goals and short-term instructional objectives and benchmarks (STIO/Bs) are written so they can be implemented in a general education setting.

2. The IEP Committee should address the following questions in the discussion:

   A. What are the characteristics and needs of the child? For example:
      - What is the child's overall functioning level?
      - At what rate does the child learn?
      - What are the child's learning strengths?
      - What are the child's preferences that might contribute to learning?
      - How skillful is the child in social interactions with peers and adults?
      - What are the child's strengths and needs in the area of behavior?
      - What other special considerations need to be made for this child: Health matters? Safety matters? Physical matters?

B. What are the characteristics of the general education setting? For example:
   - What learning competencies are a part of the curriculum for the setting?
   - What are the characteristics of the physical environment?
   - To what extent can social, behavioral, functional, and other goals be integrated with those pertaining to academics?

C. What are possible nonacademic and extracurricular settings that must be considered in addition to the general education classroom in deliberations about the least restrictive environment (e.g., lunch, recess, physical education, school field trips, clubs, athletic committees, yearbook staff)?

Step Two: Discuss Supplementary Aids and Services

The IEP Committee should address the following questions in the discussion:

A. What supplementary aids and services are needed in this child's educational environment to enable the child to be successful? If appropriate, what documentation has been gathered to demonstrate the extent to which accommodations and/or modifications have been implemented and the impact of these on child outcomes?

B. If these accommodations and/or modifications cannot be made in the general education setting, why is that so?
   - What specific aspects of the child's education cannot be implemented in the general education setting? Why not?
   - If the general education curriculum is utilized in the special education classroom, what prevents the child from accessing it in general education with accommodations and/or modifications?

C. What supports (e.g., equipment, personnel, professional development) might assist the teacher to be able to provide appropriate accommodations and/or modifications?

NOTE: See Examples of Supplementary Aids and Services (Appendix LRE.C) and Section: Accommodations and Modifications (p. 6-7) in Chapter 3: Free Appropriate Public Education for additional information.

Step Three: Address Additional Factors

For any decision that involves removal of the child from general education, the IEP Committee should address the following questions in the discussion:

A. How long is it anticipated that this child should be placed in a setting other than general education?

B. What criteria will be used to judge the child's rate of progress in the setting outside general education? How will the child's progress be documented? How frequently will the child's progress be reviewed? What level of progress will be sufficient to consider changing the child's placement back to the general education environment?

C. What is the cost to the child (loss sustained by the child) of placement outside general education? How can that cost (loss) be minimized? For example, how might expectations in the separate setting be different from those in general education? How might this negatively affect the child's learning? What are the potential effects of the stigma of the separate setting?

D. What are the potential harmful effects of the planned setting on the child and the educational process (e.g., would travel to a different school result in a lengthy bus ride that would detract from educational goals)?

Step Four: Document the Decision and the Specific Process Used to Reach It

1. The IEP Committee should document the LRE decisions as well as the specific basis on which the decisions were made.

2. The IEP Committee should select the data collection procedures to be used for monitoring progress on the IEP goals and STIO/Bs for the assigned placement.

Additional Considerations for LRE Discussions

As discussion of the appropriate placement for a child eligible for special education services proceeds, these points also should be kept in mind:

- LRE must be considered at least annually, and any placement outside general education should be carefully assessed for costs to the child in terms of loss of learning opportunities (loss of educational benefit) versus benefits.
- LRE applies to early childhood programs as well as programs for school-age children.
- Children should make satisfactory progress in the general education setting for that setting to be considered their least restrictive environment.
- The fact that a child cannot make the same progress in the general curriculum as other children is not in and of itself a valid basis for selecting another placement. Decisions about placement in general education should not be made based on whether children can "keep up". Instead they must be based on progress as defined by the child's characteristics and the IEP.

- A child's ability to learn via print is not in and of itself a valid basis for selecting another placement.
- The fact that a child learns very differently from other children is not in and of itself a valid basis for selecting another placement.
- If a child is not placed in the general education setting, the public agency still has a responsibility to ensure that the child has as much contact with nondisabled peers as is appropriate based on the child needs.
- Placement decisions may never be made solely on the basis of the disability specified in the eligibility ruling or the severity of that disability.
- Placement decisions may not be made based on the willingness or comfort level of general education or special education staff related to working with a particular child or in a particular setting.
- Placement decisions may not be made on the basis of the availability of space.
- Placement decisions may not be made on the basis of teacher or administrative convenience or convention.

Children in Public or Private Institutions

LEAs are required to ensure LRE requirements are implemented in public and private institutions.

State Agencies

State agencies that provide long-term residential care are an integral part of the continuum of services available to serve children with disabilities in Mississippi. Each agency is committed to provide services to children with disabilities in an institutional setting only when the child's needs or the nature of the disability requires such a placement. The MDE works with each of these agencies to ensure that a child with a disability placed in a State institution or school participates in a local day program as appropriate.

The process requires that:

A. State institution or school personnel will assess children on at least an annual basis (as a part of IEP review to determine LRE) in collaboration with public agency personnel in which the State institution or school is located;
B. Any child placed in a State institution or school who requires interaction with their non-disabled peers will be provided an opportunity. The State agency personnel will work with MDE personnel and enter into interagency agreements with the local school district in which the institution or school is located. The interagency agreements will commit the local school district to provide appropriate day educational programs for each child referred by the

institution. The institution will commit to provide program planning and assistance to the district on request to arrange for the child's involvement in the local school district where the institution is located. The placement decision made by the IEP Committee will be a cooperative agreement between the agency and the involved local school district;

C. If the child is ready to return to the home and local school environment, then the agency personnel will work with the local school district to ensure that an appropriate program is available or to help develop such a program. As soon as the agency begins planning for transitioning a child to his home and local school environment, the local school district must be notified. Collaborative transition plans should be developed to ensure a smooth and effective transition. Recommendations for educational services and placement should be made by the agency in collaboration with the local school district. As soon as a decision is made to release a child from a State institution or school and to return the child to a local school district program, the institution or school will provide the district with a copy of the IEP, educational evaluations and other relevant records.

Private Schools

A child with a disability may not be placed for educational purposes in a private school by a public agency unless that private school can provide a FAPE for the child in the LRE. The local education agency (LEA) should work with the private school and enter into an interagency agreement.

Funding Mechanism

The MDE provides funding to local school districts for teacher units based on the amount of participation in regulation education. A child with a disability who participates in a regular education classroom for at least two (2) class periods a day (one of which must be considered an academic course) is counted in the funding for a special education teacher unit as well as being allowed to count the child for funding a regular education teacher unit. Therefore, the funding mechanism supports the placement of children with disabilities in the regular education program. The MDE will ensure that no funding formula based on the placement of children with disabilities will alter the implementation of the policies and procedures under this section.

REGULATORY REFERENCE
§§300.114-300.120

APPENDICES

Appendix LRE.A	Top 7 Highlights for LRE
Appendix LRE.B	Continuum of Educational Options
Appendix LRE.C	Examples of Supplementary Aids and Services
Appendix LRE.D	LRE Survey

Top 8 Highlights for Least Restrictive Environment

1. Each school district **must** have a continuum of services to ensure that children with disabilities are educated with nondisabled peers to the maximum extent appropriate.

2. The appropriate least restrictive environment (LRE) is one that enables the child with a disability access to the general education environment, the general education curriculum and extracurricular or nonacademic activities and make progress in the general education curriculum.

3. The continuum of setting includes, but is not limited to: general education classes with consultative services, itinerant instruction in the general education classroom, co-teaching in the general education classroom, resource room instructional support, self-contained classes, special schools, home-bound services, and instruction in hospitals and institutions.

4. All LRE considerations also apply to preschool children ages 3 to 5 years with disabilities who are entitled to receive a free appropriate public education (FAPE).

5. The IEP Committee determines LRE at least once a year.

6. To make LRE decisions, the school district must consider:
   a. The ability to implement the child's IEP within the school.
   b. The ability to educate the child in the school as close as possible to the child's home.
   c. The potential current or long-term harmful effects on the child's post-secondary outcome or the quality of services.
   d. The ability to education children with age-appropriate peers to the maximum extent appropriate.
   e. Accommodations and/or modifications that can be provided for access to and facilitation of progress in the general education curriculum.

7. Children with disabilities must be allowed to participate in all nonacademic and extracurricular activities to the maximum extent appropriate.

8. Removal of the child with a disability from the general education classroom may occur only when the nature or severity of the disability is such that education in the general education class, even with the use of supplementary aids and services, does not result in educational benefit.

Continuum of Educational Options

Placement	Description
General Education Classroom with Consultative Services	The special education teacher and/or specialized support personnel provide regularly scheduled, ongoing assistance through effective consultative collaboration with the regular classroom teacher(s) to assist in assessing and altering/redesigning the instructional modifications and support services provided for a child.
Itinerant Instruction in the General Education Classroom	Itinerant instruction means instruction or support services which are provided to a child in the regular education environment. A special education teacher, support personnel, such as paraprofessionals and/or related services personnel, can provide supportive service in the regular education classroom. If support personnel are utilized, then the special education teacher(s) must consult or collaborate with the regular education teacher(s). Services are provided within the regular classroom environment to a child with a disability or group of children with disabilities.
Co-Teaching with the Regular Educator	Special education teachers are paired with regular education personnel to provide services in the regular education environment. The teachers share instructional and related responsibilities. Either teacher may present the instruction to the entire group of children. The children may be divided into smaller homogeneous groups with each teacher leading a group. Instruction occurs with two educators working in the same physical space.
Resource Room Instructional Support	Special instruction is provided to children who receive the majority of their educational instruction in the regular education environment. The children are removed from the regular classroom for a period of time during the school day for intense instruction in areas of weakness. Methods can include intensive instruction in curricula areas or review of material presented in the regular classroom. This is considered a supplementary service to the child in conjunction with regular classroom placement.
Part-Time Special Class	Children are provided their primary instruction only a minor portion of the day in a self-contained environment or class.
Full-Time Special Class	Children are provided their primary instruction for the majority of a day in a self-contained environment or class. If appropriate, children will continue to participate in nonacademic classes and extracurricular activities with their peer group.
Community-Based Services	Children are provided their instruction or a portion of their instruction in a community-based environment.
Special School	The program is located in a school which has a separate administration from the general education program and is designed to serve children with one or more types of disabilities.
Residential Facilities	The program is located in a facility which provides special education and related services as well as room and board. The child resides in the facility. The administration is separate for the general education environment.
Home/Hospital	Individualized special education and related services are provided in the home or in the hospital.

Examples of Supplementary Aids and Services

Supplementary aids and services comprise a very broad set of supports for children with disabilities that enable them to be successful in the general education setting. The following list of examples is not exhaustive. The IEP Committee should provide a range of supplementary aids and services to enable the child to be successful in the general education setting before considering a change to a more restrictive placement.

Physical Environment

- Preferential seating
- Provision of a study carrel, quiet location, or other nonpunitive but private workspace
- Rearrangement of the classroom (e.g., rows and aisles instead of clusters of desks)
- Regular assistance in keeping workspace uncluttered
- Permission to move from place to place in the room (e.g., assignment of two desks placed on opposite sides of the classroom)

Materials and Instruction

- Materials in an alternative format such as large print or books on tape
- Materials with appropriate highlighting
- Materials addressing the same concepts or skills but at a different level
- Books on tape
- Provision of detailed study guides
- Provision of an agenda or assignment notebook
- Extra time to complete assignments
- Reduction in the length of assignments
- Division of lengthy assignments into segments
- Provision of checklists for completing assignments
- Provision of rubrics against which assignments will be evaluated
- Use of instructional strategies and techniques that match the child's learning style(s)
- Alternative assignments
- Alternative methods of responding (e.g., oral instead of written, bullet points instead of paragraphs, pictures instead of words)
- Elimination of timing on timed tests
- Option of open-book tests
- Option of test items being read aloud
- Provision of a second set of textbooks or supplementary materials for use at home
- Use of manipulatives
- Exclusion of poor spelling or handwriting from grading criteria

- Alternative grading criteria (e.g., extended grading scales; inclusion of process and efforts as well as product in grade calculation, grading based on improvement)
- Instruction related to learning strategies
- Instruction related to study skills

Behavior and Social Interactions

- Extra time to travel between classes
- Travel between classes before or after other children
- Behavior contract or behavior support plan
- Advance warning of transitions and changes in schedules
- Provision of choice for children (e.g., among assignments or activities, among nights to do homework)
- Clarification of classroom schedule or routines and clear adherence to them
- Cognitive behavior management training
- Provision of breaks from instruction that include opportunities to move or rest
- Access to preferred reinforcers with various schedules of reinforcement
- Provision of a visual daily schedule

People

- Use of a note taker (child or paraprofessional)
- Provision of professional development to teacher working with the child on characteristics of the child and strategies and techniques for effectively teaching that child
- Assignment of a peer buddy
- Reciprocal peer tutoring
- Use of cooperative learning
- Use of co-teaching
- Provision of a classroom assistant
- Implementation of Circle of Friends or a comparable program
- Access to counseling
- Use of nonverbal signals to guide behavior
- Use of verbal signals to guide behavior
- Option for a daily check-in with a support adult (e.g., teacher, counselor)
- Access to a behavior consultant, Autism expert, or other specialist to assist the teacher in addressing child needs
- Provision of an interpreter

Assistive Technology

- Modified computer equipment (e.g., alternative keyboard, different type of mouse, different size screen, different size or color of font)

- Adapted writing instruments (e.g., pencil grips, larger or smaller pencils or pens)
- Provision of spell checking, word prediction, and related software
- Provision of software that provides practice on basic skills
- Provision of voice recognition software
- Use of calculator
- Use of tape recorder (e.g., assignments and testing)
- Use of no/low tech, medium tech, or high tech to support child learning and overcome learning barriers (e.g., pencil grip, paper with raised lines or larger or smaller lines, use of a slant board for writing, use of word processing instead of handwriting)
- Use of augmentative communication devices (e.g., communication boards)

Least Restrictive Environment Survey

The *Least Restrictive Environment Survey* documents the IEP Committee's decision-making process for determining a child's LRE. It may be used to record any discussions and evidence cited to support the decision for selecting the child's LRE from the continuum of educational options. The *Least Restrictive Environment Survey* may be used when the IEP Committee is determining a child's initial LRE or considering a change in placement. Refer to Free and Appropriate Education, pages 6-8, and Least Restrictive Environment pages 33-35, for additional information.

LEAST RESTRICTIVE ENVIRONMENT SURVEY

IEP REVIEW AND SETTING INFORMATION	
What are the characteristics and needs of the child (e.g., how the child learns, what are the children's strengths and preferences)?	
What are the characteristics of the general education setting (e.g., the physical setting, requirements of the curriculum, and integration of social, behavior, and functional goals)?	
What are possible nonacademic and extracurricular settings that must be considered in addition to the general education classroom (e.g., lunch, recess, physical education, field trips, clubs, and athletics)?	
SUPPLEMENTARY AIDS AND SERVICES	
What supplementary aids and services might be needed to enable the child to be successful in the general education and other considered settings?	
Have accommodations and/or modifications been implemented? If so, what was their impact on the child's performance and/or progress?	
Can (additional) accommodations and/or modifications be made in the general education setting? If no, why not?	
What supports (e.g., equipment, personnel, professional development) might the teacher require to provide appropriate accommodations and/or modifications?	
ADDITIONAL FACTORS	
If considering a placement other than the general education setting, how long is it anticipated that this child should be placed in this setting?	
What criteria will be used to judge the child's rate of progress in the setting? How will the child's progress be documented? How frequently will the child's progress be reviewed? What level of progress will be sufficient to consider changing the child's placement back to the general education setting?	
What may be the cost to the child of a placement outside of the general education setting? How could that cost be minimized?	
What are the potential harmful effects of the considered settings on the child and the educational process (e.g., lengthy bus ride to a different school that would detract from educational goals?)?	

CHAPTER 6:
EXTENDED SCHOOL YEAR SERVICES (ESY)

Public Agency in this document refers to agencies responsible for providing education to children with disabilities including the Mississippi Department of Education (MDE), Local Education Agencies (LEAs), Educational Service Agencies (ESAs), State Schools, State Agency schools, and nonprofit public charter schools that are not a part of an LEA or ESA.

Extended School Year Services

Extended School Year (ESY) services are special education and related services provided to the child beyond the normal school year, in accordance with the child's IEP in order to provide a free appropriate public education (FAPE), and at no cost to the parent. ESY services may be required for some, but not all, children with disabilities in order to receive a FAPE. ESY services must be provided if a child's IEP Committee determines, on an individual basis, that these services are necessary to ensure educational benefit. Public agencies may not limit ESY services to children with a particular disability category (e.g., limiting the provision of ESY services to children with Orthopedic Impairments or Multiple Disabilities) or set predetermined limits on the type, amount, or duration of ESY services (e.g., limiting the provision of ESY services to a maximum of two weeks for all children eligible for ESY). See *Extended School Year Standards* (Appendix ESY.B) for the standards approved by the State Board of Education.

Consistent with the obligation to provide a FAPE, ESY services must be determined annually and provided in the least restrictive environment (LRE) as determined by the child's IEP Committee. The IEP Committee should determine the need for ESY services early enough to ensure that the parent can meaningfully exercise his/her due process rights if s/he wishes to challenge the ESY decision. The public agency's financial resources must not be a consideration in determining the need for ESY services, the type of ESY services to be provided, or the duration of ESY services. See *Extended School Year Fact Sheet* (Appendix ESY.C) for additional information clarifying the definition of ESY services.

NOTE: Public agencies are not required to create new summer programs for nondisabled peers as a means of providing ESY services to children with disabilities in integrated programs. If the public agency does not provide services for its nondisabled children, the IEP Committee must

consider traditional and non-traditional approaches to achieve LRE. See Section: LRE and ESY Service Provision (p. 45) for more information.

Qualifying Criteria

There are three (3) qualifying criteria used to determine a child's need for ESY services. The IEP Committee must review the child's IEP and any available data of the child's performance. All IEP Committee members, including the child's parent, must have the opportunity to provide input in the determination of the need for ESY services. The IEP Committee must consider **all** three qualifying criteria in determining the need for ESY services:

1. **Pattern of Regression-Recoupment**: Refers to a child's loss of skills addressed on the child's IEP after at least two (2) breaks in instruction without regaining the documented level of skills within a period of time equal to the amount of time of the break or a maximum of four (4) weeks.
2. **Critical Point of Instruction:**
   - **CPI-1**: Refers to a need to maintain a child's skills to prevent a loss of general education class time or an increase in special education service time.
   - **CPI-2**: Refers to a point in the acquisition or maintenance of a critical skill during which a lengthy break in instruction would lead to a significant loss of progress.
3. **Extenuating Circumstances**: Refers to special situations that jeopardize the child's receipt of a FAPE unless ESY services are provided.

Determination of the Need for ESY Services

A child with a disability may be eligible for ESY services if there is evidence that ESY services are needed to allow the child to benefit from his/her special education services.

NOTE: The determination for the need of ESY services for the provision of a FAPE must be incorporated within IEP development and revisions. This process is not limited to a time period between January 15th and April 15th; the need for ESY services should be considered during the annual IEP meeting or when other revisions are considered for the child's educational program.

Regression-Recoupment

- *Regression* is defined as a loss of skill(s) on an IEP objective after a break in instruction of at least five (5) consecutive days.
- *Recoupment* is defined as the period of time the child requires to regain the level of performance on the IEP objective that was attained prior to the break.

The child's recoupment period must be compared to the length of time of a break in which a regression was noticed (i.e., a comparison of the number of days required to recoup a skill lost during a break to the number of days in the break) or a maximum time frame of four (4) weeks (i.e., twenty-eight (28) calendar days).

Example of Regression-Recoupment
Before the two-week Christmas Holiday break, a child demonstrated significant progress toward mastery of a skill on the child's IEP (i.e., reading 60 words per minute on a second grade connected text probe). After the break, the child demonstrated a regression in performance (i.e., reading 45 words per minute on a second grade connected text probe). The child required repeated instruction over four weeks to recoup—or recover—his previous level of progress.

NOTE: The above example is an illustration of regression-recoupment; however, to be eligible for ESY services a child must demonstrate a pattern of regression-recoupment.

A pattern of regression-recoupment is characterized as a repeated regression, or loss of skill(s), on an IEP objective or objectives after multiple breaks in instruction requiring more time to recoup, or recover, the lost skill(s) than the length of time of the breaks in instruction. To qualify for ESY services due to a pattern of regression-recoupment, the IEP Committee must document at least two (2) breaks in instruction resulting in a loss of skill(s) that require more time to recover than a period of time equal to the time of the breaks or four (4) weeks (i.e., twenty-eight (28) calendar days), if the break is longer. For example, if a child experienced regression in skills due two (2) breaks of five (5) consecutive days, the child would be expected to recoup any lost skills within a total of ten (10) instructional days. After a summer break, any recoupment must occur within four (4) weeks or twenty (20) instructional days.

Example of Regression-Recoupment Pattern
A child who demonstrated significant loss of progress after a two-week Christmas Holiday break required repeated instruction over four weeks to recoup his previous level of progress. After a subsequent week-long Spring Break Holiday, the child again demonstrated a loss of progress which required a two week period for recoupment.

The IEP Committee may use the *Regression-Recoupment Determination Form* (Appendix ESY.D) to document the basis for a determination of a child's need for ESY services due to a pattern of regression and recoupment of IEP objectives after a break.

Critical Point of Instruction

There are two (2) definitions of Critical Point of Instruction:

- *Critical Point of Instruction-1* may be defined as a need to maintain skills which prevent a loss of general education class time or an increase in special education service time (i.e., intensive work in specific areas, such as math, reading, or social skills, would prevent the loss of time in general education classes).

  Example of Critical Point of Instruction-1
  Child with Autism who has met a social/behavioral objective on his IEP designed to reduce the frequency of disruptive behavior. Unless he receives extended school year services to enable him to maintain his behavior, he is likely to resume this behavior at the previous level over the summer break which would require significantly less time in general education classes upon his return.

- *Critical Point of Instruction-2* may be defined as a point, during the acquisition or maintenance of a critical skill, at which a lengthy break in instruction (e.g., summer break) will precipitate a significant loss of progress (i.e., a significant loss of progress toward the acquisition and/or maintenance of critical self-help, community access, or social skills would occur during the summer break).

  Example A of Critical Point of Instruction-2
  Ten-year-old child with Multiple Disabilities has just learned to activate an augmentative communication device to answer basic questions and will not retain this skill unless it is practiced consistently in a structured setting.

  Example B of Critical Point of Instruction-2
  A child with a disability transitioning from Part C services with the MS State Department of Health (MSDH) Early Intervention Program (First Steps) to the school district Part B program will turn three at the beginning of June. The educational records from First Steps indicate that she needs physical therapy and that these services need to continue without a break in instruction to ensure she will maintain her range of motion.

The IEP Committee may use the *Determination of Critical Objectives* (Appendix ESY.E) to document their determination of a critical objectives for a child and the *Critical Point of Instruction Determination Form* (Appendix ESY.F) to document a child's need for ESY services due to a critical point of instruction.

Extenuating Circumstances

At times there are other special circumstances that when considered by the IEP Committee indicate a need for ESY services. When developing the IEP for a child, the IEP Committee must consider any extenuating circumstances in addition to regression-recoupment or a critical point of instruction. For example, the IEP Committee may determine that a break in instruction will have a negative impact on the child functioning, progress, or learning due to the child's special circumstances.

Extenuating Circumstances are defined as special circumstances that would significantly jeopardize the child's receipt of benefit from his/her educational program during the regular school year without the provision of ESY services. The IEP Committee must provide a justification based on the need to mitigate the negative impacts of a significant break in services.

Example A

A child enters the school at some point during the year with little or no assessment data or information from the sending school district and the IEP Committee does not have the time to collect the data as needed to determine regression-recoupment (e.g., they did not have two (2) breaks in instruction from which to collect data) or critical point of instruction. However, the IEP Committee has some data that indicate the child will experience regression on critical skills without the continued provision of special education services.

Example B

A child with developmental and physical disabilities was demonstrating a steady rate of progress on educational activities prior to a major surgery during the school year. She was unable to participate in educational activities for several months because of pain and post-surgery complications. Upon return, she required extensive instruction to begin to recover her previous skills. The IEP Committee members believe a break in instruction over the summer will disrupt all of the progress that is now being made.

Example C

A child recently placed in DHS custody with few records was referred to First Steps (the MSDH Early Intervention Program providing Part C services) at thirty-three (33) months. He was jointly evaluated and determined to be eligible for both Part C and Part B services. After only six (6) weeks of service provision before transitioning the child to Part B in late April, the First Steps early intervention service providers have very little information to share about the child's educational needs and responsiveness to services; however, all of the

IEP Committee members have great concerns that the child will experience serious negative impacts without the provision of services over the summer.

In cases such as these the IEP Committee must use all available data, their disability knowledge, their knowledge of the child, and their professional judgment to determine the child's need for ESY services. The IEP Committee may use the *Extenuating Circumstances Documentation Form* (Appendix ESY.G) to document the child's special circumstances and the justification for the provision of ESY services.

Planning of Extended School Year Services

The planning for ESY is based on the decision by the IEP Committee and must ensure the services to be provided are individually developed to meet the requirements of FAPE and LRE. The planning must include decisions concerning the selection of goals and objectives for the ESY services and the methods for delivering services including the frequency, duration, setting, and personnel. ESY goals/objectives and services are recorded in the ESY section of the IEP.

IEP Committee Composition for Making ESY Decisions

The IEP Committee which determines the need for ESY services and plans the specific ESY services to be provided must include:

- The parent;
- The child, if appropriate;
- At least one of the child's special education teachers;
- At least one of the child's regular education teachers; and
- The local education agency representative.

Other participants who may participate in planning ESY services include, as appropriate:

- The child's speech-language therapist;
- The child's occupational therapist;
- The child's physical therapist;
- A behavior specialist;
- A counselor; and
- The teacher who will provide ESY services.

Designing ESY Programs

In designing the ESY services for the child, the IEP Committee must consider the child's educational needs according to the qualifying criteria (i.e., Regression-Recoupment, Critical Point of Instruction, or Extenuating Circumstances).

Based on these needs, the IEP Committee then selects the goals and objectives for the child. The goals and objectives developed for ESY may include some but usually not all of the goals and objectives listed during the school year. Furthermore, the goals and objectives should be related to high-priority needs. For example, the IEP Committee may determine a child with academic, behavioral, and communication goals during the school year only needs ESY services for his behavioral and communication goals.

Once the goals and objectives are determined, the IEP Committee determines the services necessary to ensure a FAPE. The IEP Committee must determine when, where, how much, and by whom services will be provided. Related services may be needed as well. For example, transportation may be one of the ESY services determined to be necessary for the child to participate in the program.

Ongoing Communication

The public agency shall ensure there is ongoing communication between regular school year staff and ESY staff sufficient to ensure program continuity. This communication should provide updates of the child's progress toward meeting ESY goals and objectives between the designing of the ESY program and the implementation of ESY services.

Implementation of Extended School Year Services

ESY Service Provision

Public agencies must ensure any ESY services recorded on the IEP are provided as written including the:

- Type(s) of service(s) to be provided;
- Location of the service(s), consistent with the child's LRE;
- Frequency of service(s), including the number of days and amount of time per day; and
- Duration of service(s), number of weeks and beginning/ending dates.

LRE and ESY Service Provision

Public agencies must provide ESY services in the child's LRE. ESY services may be offered in the same physical site as summer school programs to allow for meaningful interaction with same age nondisabled peers; however, public agencies are not required to create new summer programs for nondisabled peers as a means of providing ESY services to children with disabilities in integrated programs. If the public agency does not provide services for its nondisabled children, the IEP Committee must consider traditional and non-traditional approaches to achieve LRE. Options may include providing services in:

- Community-based programs with nondisabled peers, such as a daycare facility, community recreational settings, or summer camp the child attends or has access to;
- Home settings with nondisabled siblings, other family members, or friends;
- Vocational settings; or
- Age-appropriate programs offered by other public agencies (e.g., an age-appropriate program offered collaboratively by three local education agencies).

Evaluation of Extended School Year Services

The effectiveness of ESY services must be monitored and reported to parents regularly.

ESY Goals, STIO/Bs, and Report of Progress

Typically the IEP Committee will select existing goals or STIO/Bs to be the focus of ESY services; however, the IEP Committee may determine the child needs to master a new goal or objective to be able to master or maintain the critical skill identified as the basis for the ESY determination. Only when new goals or objectives are required to master or maintain a critical skill may the IEP Committee write a new goal and/or objective to be addressed during ESY implementation.

Monitoring Child Progress during ESY Service Provision

Service providers must ensure that they are providing effective services and strategies to meet the individual needs of each child. Measurement of progress must be entered on the ESY services page of the child's IEP using the same codes for Report of Progress, Progress towards Annual Goal and Reason for not meeting the Goal. Progress reports must be disseminated to parents at the intervals specified on the IEP.

Effectiveness of the ESY services for each child should be reflected in the match between the needs of the child and the services provided as well as the child's progress toward meeting the

ESY service goals. The overall effectiveness of the program provided to all children should be examined to assist the agency in future planning. Program effectiveness is evaluated from both the individual child's progress as well as the entire program.

REGULATORY REFERENCE
§§300.114-300.120

APPENDICES

Appendix ESY.A	Top 10 Highlights for Extended School Year Services (ESY)
Appendix ESY.B	Extended School Year Standards
Appendix ESY.C	Extended School Year Fact Sheet
Appendix ESY.D	Regression-Recoupment Determination Form
Appendix ESY.E	Determination of Critical Objectives
Appendix ESY.F	Critical Point of Instruction Determination Form
Appendix ESY.G	Extenuating Circumstances Documentation Form

Top 10 Highlights for Extended School Year Services (ESY)

1. All children who are eligible for or receiving special education services must also be considered for Extended School Year services if the ESY services are necessary in order for the child to receive a Free **Appropriate** Public Education (FAPE).

2. The need for Extended School Year (ESY) services is not a separate planning process but is a component of the IEP process.

3. ESY services may include special education and/or related services goals and objectives if these goals and objectives are addressed on the child's IEP.

4. ESY services are not determined by the child's disability category but by the review of data which indicate that a break in instruction or other extenuating circumstances will be detrimental to the child's instructional progress.

5. ESY services **must** be decided on an individual basis and must not be unilaterally limited to a set number of days, hours of services or restrict the provision of ESY services for administrative convenience.

6. The IEP Committee **must** consider **all three criteria** in determining the need for ESY services. These criteria are: Regression-Recoupment, Critical Point of Instruction and Extenuating Circumstances.

7. ESY services are not a summer school program, a child care service, or an automatic program provision from year to year.

8. The IEP Committee should also consider ESY services in the area of vocational and transition needs for those children who are or will be exiting or "aging out of" the program.

9. Least Restrictive Environment (LRE) must be considered for ESY.

10. ESY services decisions are not made just between January and April but must be considered at every IEP development or revision or when there are extenuating circumstances or as needs change. The provision of ESY services to children is a FAPE issue and is not tied to funding.

Extended School Year Standards

The following ESY Standards were adopted by the Mississippi State Board of Education in October 2002.

Components	Standards
Qualifying Criteria	**Standard 1**: Local education agencies shall ensure that ESY qualifying criteria are completed in accordance with State ESY guidelines. **Standard 2**: Parents shall be advised of and involved in the ESY qualification process.
Planning	**Standard 1**: Local education agencies shall ensure that the ESY program of each child is individually designed, reflects high priority needs, and includes services necessary to conduct the program. **Standard 2**: Parents shall be given opportunities to be involved actively in the design and implementation of the ESY. **Standard 3**: Local education agencies shall ensure that there is ongoing communication between regular school year staff and ESY staff sufficient to ensure program continuity.
Implementation	**Standard 1**: Local education agencies shall continue to address LRE factors, including integration with nondisabled persons, in the implementation of the ESY program. **Standard 2**: Local education agencies shall ensure that the services listed on the IEP are provided. **Standard 3**: Local education agencies shall ensure that instructional activities conducted during ESY are documented.
Evaluation	**Standard 1**: Local education agencies shall ensure that instructional personnel measure and report child outcomes. **Standard 2**: Local education agencies shall evaluate ESY outcome data to determine program effectiveness.

EXTENDED SCHOOL YEAR (ESY) FACT SHEET

WHAT IS ESY? Extended school year (ESY) is special education and related services for children with disabilities during the summer months and at no cost to the parents of the child.

WHO SHOULD BE CONSIDERED FOR extended school year services (ESYS)? Children with disabilities ages 3 through 20.

HOW IS THE NEED FOR ESY DETERMINED? The IEP committee decides if the child needs Extended School Year services.

EXTENDED SCHOOL YEAR

IS	IS NOT
A program where ALL children with disabilities must be considered. It does not matter what kind of disability.	A program just for children with more severe disabilities.
School during the summer months for your child who needs special education and related services.	A year round school program
A decision made every year by the IEP committee.	A decision made without contacting you.
To help your child keep or gain critical skills from his or her school program.	To begin new skills or finish ones started during the school year unless your child has a problem with losing skills.
Based on the need of your child.	Decided based on money
A program to ensure a free appropriate public education (FAPE) in the least restrictive environment (LRE).	For your child to pass a class or correct all problems noted during the school year.

Things you should not be told about ESY:

1. We do not have any staff who want to work this summer.
2. We do not ever contract with physical therapists, occupational therapists and Speech/language pathologists in the summer.
3. We did not keep any data to see if your child needs ESY.
4. We will have to wait and see if there is any money for it.
5. The state does not approve that.
6. None of our students need it.
7. I have made the decision we are not having ESY.
8. We only have a set number of weeks for ESYS.
9. Your child has not met any goals.
10. We have never had any students get ESY.

HOW CAN I FIND OUT MORE ABOUT EXTENDED SCHOOL YEAR?

If you have questions or want a copy of the Mississippi Extended School Year Handbook, call the Mississippi Department of Education, Office of Special Education at 601-359-3498 or 1-877-544-0404 or visit the web site: http://www.mde.k12.ms.us/special_education /index.html.

Regression-Recoupment Determination Form

The *Regression-Recoupment Determination Form* documents the evidence of regression after two (2) breaks in instruction and the subsequent recoupment period for a child with a disability. Use this form as a guide in determining which IEP objectives are critical to the child's educational functioning. The form may be completed for all children whose IEP objectives indicate "Insufficient Progress" or "STIO/B Not Yet Met." The IEP Committee should use this form, or a similar form containing the same information, to document their justification in determining the need for Extended School Year (ESY) services.

1. Following the first break in instruction, document any IEP objectives that appear to have regressed in mastery level. Note the pre-break level of mastery vs. the post break level of mastery. At the end of each week, document the level of mastery obtained.

2. Determine the length of time required to obtain the same level of mastery as before the break in instruction. Document this length of time on the form. If the mastery level of the objective was not obtained, indicate this on the form.

3. Complete the some information following the second break in instruction. Use this form to document Regression-Recoupment for Extended School Year Services.

4. Based on the determination, the IEP Committee must ensure the services to be provided are individually developed to meet the requirements of FAPE and LRE. The planning must include the selection of goals and objectives for the ESY services according to the qualifying criteria. It must also include the methods for delivering the services including the frequency, duration, setting, and personnel. ESY goals/objectives and services are recorded in the ESY section of the IEP.

REGRESSION-RECOUPMENT DETERMINATION FORM

PERSONAL DATA		
Child's Name:	**MSIS #:**	**Grade:**
District/School:	**Teacher:**	**School Year:**

BREAK 1 REGRESSION-RECOUPMENT			
Dates: ___/___/___ to ___/___/___		**Length of Break: days***	
IEP Objectives with Loss of Mastery after the Break	**Mastery Level Regained**	**Length of Recoupment**	**Recoupment > length of Break or 28 Days****
	☐ Yes ☐ No	days	☐ Yes ☐ No
	☐ Yes ☐ No	days	☐ Yes ☐ No
	☐ Yes ☐ No	days	☐ Yes ☐ No
	☐ Yes ☐ No	days	☐ Yes ☐ No
	☐ Yes ☐ No	days	☐ Yes ☐ No
	☐ Yes ☐ No	days	☐ Yes ☐ No
	☐ Yes ☐ No	days	☐ Yes ☐ No
	☐ Yes ☐ No	days	☐ Yes ☐ No
	☐ Yes ☐ No	days	☐ Yes ☐ No
BREAK 2 REGRESSION-RECOUPMENT			
Dates: _____/_____/_____ to _____/_____/_____		**Length of Break: days***	
IEP Objectives with Loss of Mastery after the Break	**Mastery Level Regained**	**Length of Recoupment**	**Recoupment > length of Break or 28 Days****
	☐ Yes ☐ No	days	☐ Yes ☐ No
	☐ Yes ☐ No	days	☐ Yes ☐ No
	☐ Yes ☐ No	days	☐ Yes ☐ No
	☐ Yes ☐ No	days	☐ Yes ☐ No
	☐ Yes ☐ No	days	☐ Yes ☐ No
	☐ Yes ☐ No	days	☐ Yes ☐ No
	☐ Yes ☐ No	days	☐ Yes ☐ No
	☐ Yes ☐ No	days	☐ Yes ☐ No
	☐ Yes ☐ No	days	☐ Yes ☐ No
	☐ Yes ☐ No	days	☐ Yes ☐ No

ELIGIBILITY FOR ESY SERVICES

Are the criteria meet for ESY services due to a pattern of regression-recoupment? ☐ Yes ☐ No

The child must have a loss of mastery on an IEP objective(s) after two (2) or more breaks in instruction without recouping the level of mastery on the objective(s) attained prior to the break within an equal time period as that of the breaks or for a maximum of twenty-eight (28) calendar days to be eligible ESY services due to a pattern of regression-recoupment.

** The number of days considered a break in instruction must be at least five (5) consecutive days.*
*** The maximum period of recoupment is twenty-eight (28) calendar days.*

Determination of Critical Objectives

The *Determination of Critical Objectives* documents the determination of objectives the IEP Committee consider critical to the child's overall functioning and well-being. The IEP Committee should use this form, or a similar form containing the same information, to document their justification in determining the need for Extended School Year (ESY) services.

1. Record each objective considered on an individual form.

2. Answer each question as it relates to the objective and the child's continued mastery of the individual skill. Discuss possible effects the loss or decrease in mastery of the objective could have on the child's functioning level or ability to participate in integrated environments in general education or the community.

3. Consider any documentation or information gathered during breaks in instruction such as Christmas holidays or Spring Break where the child demonstrated a loss in his/her ability to perform the skill.

4. Based on the determination, the IEP Committee may use the Critical Objectives form or a similar form as a tool during the IEP Committee meeting to determine if the child requires ESY services and as documentation as to the decision of the IEP Committee.

5. Based on the determination, the IEP Committee must ensure the services to be provided are individually developed to meet the requirements of FAPE and LRE. The planning must include the selection of goals and objectives for the ESY services according to the qualifying criteria. It must also include the methods for delivering the services including the frequency, duration, setting, and personnel. ESY goals/objectives and services are recorded in the ESY section of the IEP.

DETERMINATION OF CRITICAL OBJECTIVES

PERSONAL DATA		
Child's Name:	**MSIS #:**	**Grade:**
District/School:	**Teacher:**	**School Year:**

Objective Considered:	**Yes**	**No**
1. Is the skill required across a number of environments, settings, or situations?		
2. If the child does not perform the skill, will someone else have to perform the skill for him?		
3. Will the maintenance of the skill allow the child to function more independently and enhance success in integrated environments in general education?		
4. Will the maintenance of the skill allow the child to function more independently and enhance success in integrated environments in the community?		
5. Will the maintenance of the skill allow the child to function more independently and enhance success in integrated environments in employment?		
6. Will maintenance of the skill enhance the child's participation in other activities with non-disabled peers?		
7. Will a break in instruction negatively impact the child or cause him to lose skills that will restrict his ability to function as independently as possible?		
8. Will a break in instruction negatively impact behavioral skills learned during the regular school year and result in in a more restrictive placement?		
9. Will a break in instruction negatively impact physical skills attained during the regular school year?		
10. Does the child need ongoing vocational instruction to be able to function in the appropriate vocational environment?		
IEP COMMITTEE DETERMINATION		
The IEP Committee has determined that the objective listed above is critical for this child? ☐ Yes ☐ No		

Critical Point of Instruction Determination Form

The *Critical Point of Instruction Determination Form* is to be used document those objectives that the IEP Committee have determined to be critical to the child's overall educational functioning and well-being. The form may be completed for all children whose IEP objectives indicate "Insufficient Progress" or "STIO/B Not Yet Met." The form may also be completed for any child to maintain a skill(s) already mastered to prevent a regression or loss of progress which could result in increased time in special education or decreased time with nondisabled peers. The IEP Committee should use this form, or a similar form containing the same information, to document their justification in determining the need for Extended School Year (ESY) services.

1. Each critical IEP objective should be listed separately on the form and marked as mastered or not mastered. Check the appropriate box under Critical Point of Instruction-1 or Critical Point of Instruction-2. List the Data Sources that were used to determine the Critical Point of Instruction. Attach any additional information as necessary. This form along with the completed Determination of Critical Objectives form(s) may be used by the IEP Committee to justify their decision in determining the need for ESY services.

2. The determination for the need of ESY services for the provision of a FAPE must be incorporated within IEP development and revisions. This process is <u>not</u> limited to a time period between January 15th and April 15th; the need for ESY services should be considered during the annual IEP meeting or when other revisions are considered for the child's educational program.

3. At the meeting, the IEP Committee can review the completed Critical Point of Instruction Determination Form and the Determination of Critical Objectives form(s) to determine the need for ESY services.

4. Based on the determination, the IEP Committee must ensure the services to be provided are individually developed to meet the requirements of FAPE and LRE. The planning must include the selection of goals and objectives for the ESY services according to the qualifying criteria. It must also include the methods for delivering the services including the frequency, duration, setting, and personnel. ESY goals/objectives and services are recorded in the ESY section of the IEP.

CRITICAL POINT OF INSTRUCTION DETERMINATION FORM

PERSONAL DATA		
Child's Name:	**MSIS #:**	**Grade:**
District/School:	**Teacher:**	**School Year:**

Critical IEP Objectives	Justification	Data Sources
Mastered: ☐ Yes ☐ No	***Critical Point of Instruction – 1*** ☐ Mastery of this objective would allow the child to participate in a less restrictive environment and spend more time with nondisabled peers. ☐ Failure to master this objective would increase the amount of time the child would require special education services.	
	Critical Point of Instruction – 2 ☐ The child is at a critical point in the acquisition or maintenance of this objective, and a break in instruction would result in a significant loss of progress.	
Mastered: ☐ Yes ☐ No	***Critical Point of Instruction – 1*** ☐ Mastery of this objective would allow the child to participate in a less restrictive environment and spend more time with nondisabled peers. ☐ Failure to master this objective would increase the amount of time the child would require special education services.	
	Critical Point of Instruction – 2 ☐ The child is at a critical point in the acquisition or maintenance of this objective, and a break in instruction would result in a significant loss of progress.	
Mastered: ☐ Yes ☐ No	***Critical Point of Instruction – 1*** ☐ Mastery of this objective would allow the child to participate in a less restrictive environment and spend more time with nondisabled peers. ☐ Failure to master this objective would increase the amount of time the child would require special education services.	
	Critical Point of Instruction – 2 ☐ The child is at a critical point in the acquisition or maintenance of this objective, and a break in instruction would result in a significant loss of progress.	
Mastered: ☐ Yes ☐ No	***Critical Point of Instruction – 1*** ☐ Mastery of this objective would allow the child to participate in a less restrictive environment and spend more time with nondisabled peers. ☐ Failure to master this objective would increase the amount of time the child would require special education services.	
	Critical Point of Instruction – 2 ☐ The child is at a critical point in the acquisition or maintenance of this objective, and a break in instruction would result in a significant loss of progress.	
Mastered: ☐ Yes ☐ No	***Critical Point of Instruction – 1*** ☐ Mastery of this objective would allow the child to participate in a less restrictive environment and spend more time with nondisabled peers. ☐ Failure to master this objective would increase the amount of time the child would require special education services.	
	Critical Point of Instruction – 2 ☐ The child is at a critical point in the acquisition or maintenance of this objective, and a break in instruction would result in a significant loss of progress.	

ELIGIBILITY FOR ESY SERVICES

Is the child eligible for Extended School Year (ESY) services due to a critical point of instruction? ☐ Yes ☐ No

If either justification under Critical Point of Instruction-1 or the justification under Critical Point of Instruction-2 has been indicated, the child has been determined to be eligible for ESY services due to a critical point of instruction.

Extenuating Circumstances Documentation Form

The *Extenuating Circumstances Documentation Form* documents the determination of objectives the IEP Committee consider critical to the child's functioning, progress or learning due to special circumstances. This form should be used to document situations where the child's receipt of benefit from the educational program would be negatively impacted by a significant break in instruction. The IEP Committee should use this form, or a similar form containing the same information, to document their justification in determining the need for Extended School Year (ESY) services.

1. A complete description of the child's special circumstances should be documented on the form as well as justification for the provision of ESY services and the basis for the decision.

2. At the meeting, the IEP Committee can review the completed Extenuating Circumstances Documentation Form to determine the need for ESY services.

3. Based on the determination, the IEP Committee must ensure the services to be provided are individually developed to meet the requirements of FAPE and LRE. The planning must include the selection of goals and objectives for the ESY services according to the qualifying criteria. It must also include the methods for delivering the services including the frequency, duration, setting, and personnel. ESY goals/objectives and services are recorded in the ESY section of the IEP.

Extenuating Circumstances Documentation Form

PERSONAL DATA		
Child's Name:	**MSIS #:**	**Grade:**
District/School:	**Teacher:**	**School Year:**

SPECIAL CIRCUMSTANCES
Provide a description of the child's special circumstances:
JUSTIFICATION
Is the child eligible for Extended School Year (ESY) services due to extenuating circumstances? ☐ Yes ☐ No *Provide the IEP Committee's justification for the provision of ESY services and the basis for the decision:*

NOTES



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