

## INDIVIDUAL EDUCATION PROGRAM

### RESPONSIBILITY FOR SERVICES

A LEA shall ensure that an IEP is developed and implemented for each child with a disability served by that LEA, and for each child with a disability placed in or referred to a private school or facility by the LEA.  
707 KAR 1:320 Section 1 (1)  
34 CFR 300.341 (a)

An IEP shall be in place for all eligible children aged three (3) through five (5).  
707 KAR 1:320 Section 1 (7)  
34 CFR 300.342 (c)  
34 CFR Part 300 Appendix A, Q. 3

A LEA shall have an IEP in effect for each child with a disability within its jurisdiction at the beginning of each school year.  
707 KAR 1:320 Section 1 (3)  
34 CFR 300.342 (a)

A LEA shall ensure the IEP is in effect before specially designed instruction and related services are provided to a child with a disability; and is implemented as soon as possible following an ARC meeting.  
707 KAR 1:320 Section 1 (4)  
34 CFR 300.342 (b) (1)  
34 CFR Part 300 Appendix A, Q.14 & 18

Owen County School District makes sure that an IEP is in place at the beginning of each school year for every student with a disability who is aged three (3) to twenty-one (21) years old and is eligible for special education and related services. This includes students who reside within the boundaries of Owen County School District, and students who are placed by Owen County School District in a private school.

The ARC members do **not** develop an IEP when a child:

1. has been evaluated and the ARC members have determined that the child does not have a disability under IDEA;
2. has a disability, but that disability does not adversely affect the educational performance of the child; or
3. has an IEP, developed within the last 12 months, that meets the needs of the child.

A LEA (or state agency responsible for developing the child's IEP) shall ensure that there is no delay in implementing a child's IEP, including any case in which the payment source for providing or paying the special education and related services to the child is being determined.  
707 KAR 1:320 Section 1 (5)  
34 CFR 300.301 (c)

“As soon as possible following an ARC meeting” allows delays in implementation that include:

1. meetings held during summer break;
2. developing an IEP for a child who is not yet three (3) years of age;

3. circumstances that require a short delay (e.g., working out transportation arrangements); OR
4. awaiting parent consent for the initial provision of services.

Owen County School District provides services directly through staff assignment or creation of resources, or indirectly by contracting with another public or private agency, or through other arrangements.

The ARC Chairperson assigns a case manager for every child with an IEP. The case manager tracks the delivery of all services and reports to the ARC Chairperson in a timely manner if any service is not being delivered in accordance with the IEP. If an identified educational need addressed on an IEP requires a service not currently or directly available from Owen County School District, or when a service is not being provided, the ARC Chairperson notifies the DoSE to make arrangements for delivery of services. These arrangements may include expanding current services, starting new services, or contracting for services.

If the ARC Chairperson and DoSE are unable to arrange for delivery of an identified service, the DoSE contacts KDE for assistance, including obtaining training and support in the identified area of need. The DoSE maintains records (correspondence, newspaper advertisements, etc.) of efforts made to obtain needed services.

### **IEP Accessibility**

A LEA shall ensure that; the child's IEP is accessible to each regular education teacher, special education teacher, related services provider, and other service providers who are responsible for its implementation; prior to the implementation of the IEP, each implementer is informed of his specific responsibilities related to implementing the child's IEP; and the specific accommodations, modifications, and supports are provided for the child in accordance with the IEP.

707 KAR 1:320 Section 1 (6)  
34 CFR 300.342 (b) (2-3)  
34 CFR Part 300 Appendix A, Q.23

The special education teacher/case manager informs each person responsible for implementation of the IEP of the specific responsibilities related to implementation by asking the implementers to sign an assurance statement.

### **IEP Form**

Each ARC uses an IEP form provided by Owen County School District for recording the content of the IEP. If the form does not have enough space for any component of the IEP, the ARC uses additional pages to fully explain each component. This IEP form:

1. contains the components specified by state and federal laws and regulations, as described in the remainder of these procedures; and
2. facilitates the flow of information for each of the planning phases.

### IEP Draft

Is it permissible for an agency to have the IEP completed before the IEP meeting begins?  
No. Agency staff may come to an IEP meeting prepared with evaluation findings and proposed recommendations regarding IEP content, but the agency must make it clear to the parents at the outset of the meeting that the services proposed by the agency are only recommendations for review and discussion with the parents.

34 CFR Part 300 Appendix A, Q.32

When committee members come prepared with information related to their areas of expertise:

1. the ARC Chairperson makes the parents aware at the beginning of the meeting that any prepared information is for suggestion and open for review and discussion;
2. each piece of information is discussed; and
3. committee decisions are made related to finalizing the components in the final IEP document. The IEP is developed and completed during an ARC meeting to ensure input from all members.

## **TRANSITION SERVICES**

The ARC discusses transition planning prior to finalizing the IEP.

### **Preschool Transition**

For preschool age children with disabilities, a LEA must ensure a smooth and effective transition from the early intervention program to preschool; and each LEA shall participate in transition planning conferences for children with disabilities served by early intervention programs.

707 KAR 1:300 Section 1 (5-6)  
34 CFR 300.125 (c)

For children receiving early intervention services under Part C, policies and procedures include a description of how the lead agency will notify the local educational agency for the area in which the child resides that the child will shortly reach the age of eligibility for preschool services under Part B of the Act, as determined in accordance with state law.

34 CFR 303.148 (b) (1)

Early Intervention Programs planning process involves the current service providers, the family of the child, and a representative of Owen County School District. The DoSE or designee participates in meetings related to transitional planning when early intervention program representatives contact Owen County School District about a child who may need preschool special education services. During the meeting, the DoSE or designee explains to the parent that services are available through Owen County School District and asks the parent if continued services are wanted. The DoSE or designee explains that not all children receiving early intervention services are eligible for special education and related services.

In the case of a child who may be eligible for preschool services under Part B of the Act, with the approval of the family of the child, convene a conference among the lead agency, the family, and the local educational agency at least 90 days, and at the discretion of the parties, up to 6 months, before the

child is eligible for the preschool services, to discuss any services that the child may receive.  
34 CFR 303.148 (b) (2) (i)

Owen County School District participates in meetings initiated by early intervention service providers to plan for a child's transition from the early intervention program to preschool special education services available through Owen County School District. If the parent of a preschool age child chooses to pursue services for a child, Owen County School District implements a plan for the child's programmatic transition to Owen County School District's services including:

1. when the child will be referred to Owen County School District;
2. when the parent will register the child to attend Owen County School District;
3. when the service provider will transmit child evaluation data to Owen County School District;
4. the timeframe for the ARC meeting to determine if evaluation information is adequate and if the child is eligible for special education and related services; and
5. how the early intervention service provider will assist in making the transition from the early intervention program to the Owen County School District.

If the ARC determines the child is eligible for special education and related services, the ARC:

1. develops an IEP according to procedures for **IEP**;
2. makes a placement decision according to procedures for **ARC DETERMINATION OF PLACEMENT** in procedures for **PLACEMENT IN THE LEAST RESTRICTIVE ENVIRONMENT**; and
3. implements the IEP.

If the parent chooses not to continue services for the eligible child, Owen County School District's involvement in the Early Intervention Program transitional planning process ends. Annually, the DoSE notifies the parent of the availability of preschool special education and related services until the child enters Owen County School District's primary program. The DoSE or designee records the parent's decision and child information on the Intake form and enters the information in the Child Tracking System according to **CHILD TRACKING SYSTEM** in procedures for **CHILD IDENTIFICATION**. The Intake Information form and copies of annual notices are filed in the education record of the child.

### Children not Eligible for Preschool Services

In the case of a child who may not be eligible for preschool services under Part B of the Act, with the approval of the family, make reasonable efforts to convene a conference among the lead agency, the family, and providers of other appropriate services for children who are not eligible for preschool services under Part B, to discuss the appropriate services that the child may receive.  
34 CFR 303.148 (b) (2) (ii)

If the ARC determines a child does not meet eligibility requirements for special education and related services, the ARC follows procedures for **ELIGIBILITY**. Copies

of the Conference Summary and any notices are filed in the education record of the child.

## **Post-School Transition Services**

Transition services means a coordinated set of activities for a student with a disability that:

- (a) is designed within an outcome-oriented process (i.e., a process that outlines how a student will achieve goals consistent with the general curriculum, as appropriate), that promotes movement from school to post-school activities, including postsecondary education, vocational training, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation;
- (b) is based on the individual student's needs, taking into account the student's preferences and interests; and
- (c) includes instruction; related services; community experiences; the development of employment and other post-school adult living objectives; and if appropriate, acquisition of daily living skills and functional vocational evaluation.

707 KAR 1:280 Section 1 (55)  
34 CFR 300.29

## Individual Graduation Plan

Beginning with the graduating class of 2002, each student in a common school shall complete an individual graduation plan which incorporates emphasis on career development and shall have a total of at least twenty-two (22) credits for high school graduation.

704 KAR 3:305 (2)

Owen County School District follows district procedures for developing an Individual Graduation Plan (IGP) for all students, prior to entry into high school. The ARC discusses the IGP prior to finalizing the IEP, and the IGP is updated annually thereafter.

The ARC makes sure the student and parent surveys are updated annually to reflect the desired post school outcomes in all transition areas.

If a child elects not to attend the ARC meeting where post-school transition services are discussed, the child's teacher takes steps to ensure that the youth's preferences and interests are considered. This information may be gained from an interview with the student.

## Failure of an Agency (other than the LEA) to Provide Transition Services

If an agency, other than the LEA, (or state agency responsible for developing the child's IEP) fails to provide the transition services described in the IEP, the LEA (or the state agency responsible for developing the child's IEP) shall reconvene the ARC to identify alternative strategies to meet the child's transition objectives set out in the IEP.

707 KAR 1:320 Section 6 (5)  
34 CFR 300.348 (a)  
34 CFR Part 300 Appendix A, Q. 12

If an agency fails to provide a service identified by the ARC, the ARC documents attempts made to identify alternative strategies.

Alternative strategies to meet the student's transition objectives may include the identification of another funding source, referral to another agency, the public agency's identification of other district-wide or community resources that it can use to meet the student's identified needs appropriately, or a combination of these strategies.

A participating agency shall not be relieved of the responsibility under IDEA to provide or pay for any transition service that the agency would otherwise provide to children with disabilities who meet the eligibility criteria of the agency.

707 KAR 1:320 Section 6 (6)  
34 CFR 300.348 (b)  
34 CFR Part 300 Appendix A, Q. 12

## ORGANIZING THE MEETING TO DEVELOP, REVIEW, OR REVISE AN IEP

Prior to the development, review, or revision of the IEP, the special education teacher/case manager selects and notifies ARC members for an ARC Meeting. The special education teacher/case manager notifies all members to bring data or information about the child to use in developing the IEP. If the IEP will be reviewed or revised, the special education teacher/case manager asks the IEP implementers to bring progress data toward the IEP goals/benchmarks/objectives. The information may include oral or written statements of recommendations for priority needs, evaluation results, student progress, present levels of educational performance, annual goals, benchmarks or objectives, and types of special education and related services. No member of an ARC presents a final IEP.

The special education teacher/case manager is responsible for making sure that the ARC decisions are documented on the Conference Summary and IEP, as appropriate.

A copy of the procedural safeguards shall be given to the parents of a child with a disability:

- (a) upon initial referral for evaluation;
- (b) upon invitation of each ARC meeting;
- (c) upon reevaluation of the child; and
- (d) upon receipt of a request for a due process hearing.

707 KAR 1:340 Section 3 (4)  
34 CFR 300.304 (a)

The ARC Chairperson or another ARC member asks the parent if they received a copy of the Procedural Safeguards (parent rights), and asks if the parent has questions or wants a review of the rights (according to **PROCEDURAL SAFEGUARDS**).

The steps for the development, review, and revision of the IEP include:

1. developing the Present Level of Educational Performance, including the consideration of special factors;
2. prioritizing needs, and developing goals and benchmarks/objectives;
3. specifying the special education and related services, supplementary aids and services, program modifications, assessment modifications, and supports for school personnel;

4. determining the extent of participation with non-disabled children in academic, nonacademic, and extracurricular activities;
5. determining beginning dates, frequency, location, and duration of services; and
6. determining the method for reporting progress toward the IEP goals and objectives, and a date for annual review of progress.

## Reaching Consensus

What is a public agency's responsibility if it is not possible to reach consensus on what services should be included in a child's IEP?

34 CFR Part 300 Appendix A, Q. 9

The ARC members try to reach consensus when developing, reviewing or revising an IEP. ARC members reach consensus by total agreement on an issue or by negotiating a compromise to which all members can agree. Before any decision is recorded on the IEP form, the ARC Chairperson summarizes the decision, and determines the level of agreement within the ARC.

If the parent and Owen County School District personnel cannot reach consensus or negotiate a compromise on a component of an initial IEP, the ARC may develop an interim course of action in terms of services to which both parties can agree. The ARC Chairperson reminds the parent of the right of the parent and the district to resolve differences through mediation or due process procedures.

If any ARC member, other than the parent, disagrees with any part of the proposed IEP, the dissenting member(s) may attach a written statement to the Conference Summary giving the reasons for disagreement. The ARC Chairperson states the district's position explains that position in the Conference Summary.

If the parent and Owen County School District personnel cannot reach consensus on a component while reviewing or revising an IEP:

1. The ARC may develop an interim course of action in terms of services to which both parties can agree;
2. The ARC Chairperson advises the parent of the right to resolve differences through the due process procedures;
3. The ARC Chairperson proposes the use of mediation for resolving the difference; and
4. The summary recorder summarizes the points of disagreement and the interim course of action in the Conference Summary.

If the ARC cannot reach consensus on an interim measure, the last agreed upon IEP remains in effect until the disagreement is resolved. The ARC reconvenes at an agreed upon time and date unless mediation or a due process hearing is requested or a complaint is filed according to procedures in **PROCEDURAL SAFEGUARDS**.

If mediation or a due process hearing is initiated by either the parent or Owen County School District because of disagreement over the IEP, or when a complaint is filed,

Owen County School District does not change the IEP or placement of the child unless the parent and Owen County School District agree otherwise according to procedures in **PROCEDURAL SAFEGUARDS**.

If the ARC does not complete the IEP at the meeting when initial eligibility is determined, the ARC members schedule a convenient date and time to continue the meeting to complete the IEP. A reconvened meeting is held within 30 calendar days of the eligibility meeting and within 60 school days of the receipt of the parent consent to evaluate, according to **TIMELINES** in procedures for **PROCEDURAL SAFEGUARDS**.

If the ARC members do not complete review and revision of the IEP, this is documented on the Conference Summary and the ARC schedules another meeting at an agreed upon date and time, within 30 days, and prior to the annual review date.

## **DEVELOPING THE INDIVIDUAL EDUCATION PROGRAM**

An ARC shall not be required to include information under one component of a child's IEP that is already contained under another component of the child's IEP.

707 KAR 1:320 Section 5 (6)  
34 CFR 300.346 (e)  
34 CFR Part 300 Appendix A, Q. 2, 24

### **Identifying Information Regarding the Child**

- Step 1: The IEP contains identifying information, which may include the following:
- a. name;
  - b. date of birth (month, day, and year);
  - c. grade level; and
  - d. date IEP completed (the day, month, and year when the ARC members agree all components of the IEP are complete).

### **Present Levels of Educational Performance (PLEP)**

An ARC shall consider in the development of an IEP:  
(a) the strengths of the child and the concerns of the parents for enhancing the education of their child;  
(b) the results of the initial or most recent evaluation of the child; and  
(c) as appropriate, the results of the child's performance on any general state or district-wide assessments program.

707 KAR 1:320 Section 5 (1)  
34 CFR 300.346 (a) (1)  
34 CFR Part 300 Appendix A, Q.1

The IEP for each child shall include a statement of the child's present levels of educational performance, including how the child's disability affects the child's involvement and progress in the general curriculum, as provided in the Kentucky Program of Studies, 707 KAR 3:303, or for preschool children, as appropriate, how the disability affects the child's participation in appropriate activities;

707 KAR 1:320 Section 5 (7) (a)  
34 CFR 300.347 (a) (1) (i-ii)  
34 CFR Part 300 Appendix A, Q. 1 & 2



- Step 2: The ARC describes the child's performance in the following areas: general intelligence; communication; academic performance; health, vision, hearing, and motor; social and emotional; and transition by:
- a. using student performance data, evaluation information, and progress data;
  - b. reviewing the curriculum documents to determine the child's performance within the curriculum;
  - c. indicating the areas in which the student is performing commensurate with peers; and
  - d. determining how the child's disability affects involvement and progress in the POS/curriculum.

### **Statement of Transition Service Needs (for students 14 or older)**

Beginning at age fourteen (14), or younger if deemed appropriate by the ARC, the IEP for a child with a disability shall include a statement of the transition service needs of the child under the applicable components of the child's IEP that focus on the child's course of study. This statement shall be updated annually.

707 KAR 1:320 Section 6 (1)  
34 CFR 300.347 (b) (1)  
34 CFR Part 300 Appendix A, Q. 11

The ARC reviews the IGP and assessment information and documents the statement of transition service needs in the PLEP (the focus is typically instruction). The ARC reviews and, as needed, revises the statement of transition service needs annually. The statement of transition service needs is developed to meet the post-school activities related to the Kentucky Program of Studies, and is based on results of formal and informal assessments, the IGP, and the transition domains.

### **Statement of Needed Transition Services (for students 16 or older)**

For a child beginning at age sixteen (16), or younger if deemed appropriate by the ARC, the IEP for the child with a disability shall include a statement of needed transition services for the child, including, if appropriate, a statement of the interagency responsibilities or any needed linkages.

707 KAR 1:320 Section 6 (2)  
34 CFR 300.347 (b) (2)

The ARC reviews the IGP, statement of transition service needs, and assessment information to develop a statement of interagency transition services, if appropriate. The ARC indicates:

- a. responsibilities of each agency, linkages, or both;
- b. a description of the specific services to be provided;
- c. projected dates for initiation of services and anticipated duration (beginning and ending dates); and
- d. the agency that is responsible.

The ARC decisions are documented on the IGP or IEP as appropriate (IEP component for students 16 and older)

### **Developing Measurable Annual Goals, Including Benchmarks or Objectives**

The IEP for each child shall include:

(b) a statement of measurable annual goals, including benchmarks or objectives related to:

1. meeting the child's needs that result from the disability to enable the child to be involved in and progress in the general curriculum as provided in the Kentucky Program of Studies, 707 KAR 3:303, or for preschool children, as appropriate, to participate in appropriate activities, and
2. meeting the child's other educational needs that result from the disability.

707 KAR 1:320 Section 5 (7) (b)

34 CFR 300.347 (a) (2)

34 CFR Part 300 Appendix A, Q.1, 2, 3

**Step 3:** The ARC reviews the PLEP to prioritize the skills and/or content knowledge most important for the student to acquire in the next twelve months. The ARC considers:

- a. student strengths and interests
- b. amount of time left in school
- c. skills needed to achieve life/transition goals
- d. behaviors that appear most modifiable
- e. parent, teacher, and student concerns

**Step 4:** Based on the prioritized areas, the ARC writes measurable goals using Kentucky's Learning Goals and Academic Expectations, the Kentucky Program of Studies or Owen County School District Curricular Documents.

The ARC uses the curricular materials and/or other materials to develop benchmarks and/or objectives to determine the focus for:

- a. the student's instruction; and
- b. meeting the child's other educational needs.

An IEP shall include a statement of:

(a) how the child's progress toward the annual goals will be measured; and

(b) how the parents will be regularly informed, at least as often as the school or LEA informs parents of the progress of all children.

707 KAR 1:320 Section 5 (13)

34 CFR 300.347 (7)

34 CFR Part 300 Appendix A, Q. 5, 10

**Step 5:** The ARC determines the methods needed to measure/evaluate the goals, benchmarks and/or objectives to document the student's success and progress toward the annual goals.

A parent shall be informed of:

(a) their child's progress towards the annual goals; and

(b) the extent to which that progress is sufficient to enable the child to achieve the goals by the end of the year.

- Step 6: The ARC determines how the parents will be regularly informed of:
- a. the progress of their child (i.e., mid-term, six weeks, quarterly); and
  - b. an indication if the progress is sufficient to enable the child to achieve the goals by the end of the year.

**IEP Services: Specially Designed Instruction, Supplementary Aids and Services, Assessment Modifications, Related Services, Program Modifications, and Support for School Personnel**

An IEP shall include a statement of the specially designed instruction and related services and supplementary aids and services to be provided to the child, or on behalf of the child. There shall also be a statement of the program modifications and supports for school personnel that will be provided for the child to:

- (a) advance appropriately toward attaining the annual goals;
- (b) be involved and progress in the general curriculum;
- (c) participate in extracurricular and other nonacademic activities; and
- (d) be educated and participate with other children with or without disabilities.

707 KAR 1:320 Section 5 (8)  
34 CFR 300.347 (a) (3)  
34 CFR Part 300 Appendix A, Q. 1

- Step 7: The ARC reviews the student performance information, the PLEP, and the goals, benchmarks, and/or objectives to determine the services needed to implement the IEP. The ARC documents the answers to the following questions:

Specially Designed Instruction

Transition services for children with disabilities may be special education, if provided as specially designed instruction or related services, if required to assist a child with a disability to benefit from special education.

707 KAR 1:320 Section 6 (3)  
34 CFR 300.29 (b)  
34 CFR Part 300 Appendix A, Q. 12

What changes in content, methodology, or instruction are needed for to the student to make progress in the general curriculum?

Supplementary Aids and Services

What aids, services, and supports need to be provided to the student in general education classes or other educational settings to enable the student to be educated with nondisabled students?

Participation in State-Wide Assessment

An IEP shall contain a statement of any individual modifications to be provided the child in order to participate in the state or district-wide assessment. These modifications shall be based on the requirements contained in 703 KAR 5:070, Inclusion of Special Populations in the State-Required Assessment and Accountability Programs.

707 KAR 1:320 Section 5 (10)  
34 CFR 300.347 (a) (5) (i)  
34 CFR Part 300 Appendix A, Q. 1

If the ARC determines that the child meets the criteria for participation in the alternate portfolio, as provided in 703 KAR 5:070, it shall provide a statement of its decision and the reasons for the decision.

707 KAR 1:320 Section 5 (11)  
34 CFR 300.347 (a) (5) (ii)  
34 CFR Part 300 Appendix A, Q. 1

A LEA shall be responsible for including children with disabilities in the state-wide assessment as provided in 703 KAR Chapter 5.

707 KAR 1:320 Section 8 (2)  
34 CFR 300.138

What modifications are needed by the student in order to participate in state or district-wide assessment? The ARC documents the decisions on the Accommodations and Modifications Determination Form.

If the student qualifies for an alternate portfolio, (according to **Determining Certificate of Completion and Alternate Portfolio** in procedures for **IMPLEMENTATION AND SERVICE DELIVERY**) the ARC documents the decision on the IEP.

### Related Services

If specially designed instruction alone will not facilitate progress toward the IEP goals, benchmarks and objectives, the ARC documents the answers to the following:

What related service(s) is needed by the student to:

1. benefit from, participate in, or be provided specially designed instruction?
2. facilitate access to public school?
3. be educated and participate with other students, with or without disabilities?

### Program Modifications and Supports for School Personnel

What specialized training, use of school time, or use of school staff needs to be provided to personnel or parents, on behalf of the student to meet the unique needs?

### **Beginning Dates, Duration, Frequency, and Location of Services**

An IEP shall include the projected date of the beginning of the services and modifications listed on the IEP and the anticipated frequency, location (i.e., regular or special education), and duration of the services and modifications.

707 KAR 1:320 Section 5 (12)  
34 CFR 300.347 (a) (6)  
34 CFR Part 300 Appendix A, Q. 35

Must the IEP specify the amount of services or may it simply list the services to be provided?  
The amount of a special education or related service to be provided to a child may be stated in the IEP as

a range (e.g., speech therapy to be provided three times per week for 30-45 minutes per session) only if the ARC determines that stating the amount of services as a range is necessary to meet the unique needs of the child. For example, it would be appropriate for the IEP to specify, based upon the IEP team's determination of the student's unique needs, that particular services are needed only under specific circumstances, such as the occurrence of a seizure or of a particular behavior. A range may not be used because of personnel shortages or uncertainty regarding the availability of staff.

34 CFR Part 300 Appendix A, Q. 35

Step 8: The ARC reviews the services determined and documents:

- a. the projected date for the beginning of each service on the IEP;
- b. how long the service(s) will be provided for each type of service specified on the IEP;
- c. how often the student will receive each service on the IEP; and
- d. where the services(s) will be provided (i.e., regular education, special education, or both.)

### Participation in the General Education Program

An IEP shall contain an explanation of the extent, if any, to which the child will not participate with nondisabled children in regular classes.

707 KAR 1:320 Section 5 (9)  
34 CFR 300.347 (a) (4)

and in extracurricular and nonacademic activities.

34 CFR 300.347 (a) (3) (ii) and (4)  
34 CFR Part 300 Appendix A, Q. 1  
34 CFR Part 300, Analysis of Comments, p. 12593

Step 9: The ARC lists the classes and activities in which the child will participate in the:

- a. special education environment; and
- b. general education environment.

### Physical Education

A LEA shall make available to every child with a disability:

- (1) physical education services, specially designed if necessary; or
- (2) the opportunity to participate in the regular physical education program available to children without disabilities unless:

- (a) the child is enrolled full time in a separate facility in which case the agency responsible for the education of the child in that facility shall ensure the child receives appropriate physical education; or
- (b) the child needs specially designed physical education as prescribed in the child's IEP.

707 KAR 1:290 Section 6  
34 CFR 300.307

Step 10: The ARC members decide, based on data collected and the PLEP descriptions in the IEP, if the child is to receive physical education in the general education classes, with or without supplementary aids and services, or specially designed physical education. If goals/benchmarks/objectives include PE, then the ARC describes the specially designed instruction or adaptive PE in the IEP.

## Student Reaching the age of Majority

At least one year prior to the child reaching age of majority, the IEP shall include a statement that the child (and the parents) has been informed of his rights under 707 KAR Chapter 1 and that the rights will transfer to the child upon reaching age of majority.

707 KAR 1:320 Section 6 (4)  
34 CFR 300.347 (c)  
34 CFR 300.517  
34 CFR Appendix A, Q. 6

Step 11: At the annual review meeting prior to the student's eighteenth (18<sup>th</sup>) birthday, the ARC Chairperson gives the parent and the student notice (according to **RIGHTS OF THE ELIGIBLE STUDENT** in procedures for **CONFIDENTIALITY**) that the rights of the parent and access to educational records transfer from the parent to the student upon the student's eighteenth birthday. The IEP recorder documents the statement on the IEP.

## Consideration of Special Factors

An ARC shall:

(a) in the case of a child whose behavior impedes his or her learning or that of others, consider, if appropriate, strategies, including positive behavioral interventions, strategies and supports, to address that behavior;

(b) in the case of a child with limited English proficiency, consider the language needs of the child as those needs relate to the child's IEP;

(c) in the case of a child who is blind or visually impaired, provide for instruction in Braille and the use of Braille, unless the ARC determines, after an evaluation of the child's reading and writing skills, needs, and appropriate reading and writing media (including an evaluation of the child's future needs for instruction in Braille or the use of Braille), that instruction in Braille or the use of Braille is not appropriate for the child;

(d) consider the communication needs of the child;

(e) in the case of a child who is deaf or hard of hearing, consider the child's language and communication needs, opportunities for direct communications with peers and professional personnel in the child's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the child's language and communication mode: and

(f) consider whether the child needs assistive technology.

All these factors shall be considered, as appropriate, in the review, and if necessary, revision of a child's IEP.

707 KAR 1:320 Section 5 (2-3)  
34 CFR 300.346 (a) (2)  
34 CFR Part 300 Appendix A, Q.38

See also KRS 158.282, Instruction of all blind students in the use of Braille.

Once the ARC has considered all of these factors, the ARC shall include a statement on the IEP indicating the needs for a particular device or service (including an intervention, accommodation, or other program modification), if any are needed, in order for the child to receive a free appropriate public education (FAPE).

707 KAR 1:320 Section 5 (4)  
34 CFR 300.346 (c)

Step 12: The ARC reviews the IEP and considers any special factors for the child (i.e., behavior concerns, Limited English Proficiency, blind/visually impaired,

communication needs, deaf/hearing impaired, and assistive technology needs) that may need to be addressed.

### Assistive Technology Services and Devices

A LEA shall ensure that assistive technology devices or assistive technology services, or both are made available to a child with a disability if required as part of the child's special education, related services, or supplemental aids and services.

707 KAR 1:290 Section 7 (1)  
34 CFR 300.308 (a)

On a case by case basis, the use of school-purchased assistive technology devices in a child's home or in other settings is required if the ARC determines that the child needs access to those devices in order to receive FAPE.

707 KAR 1:290 Section 7 (2)  
34 CFR 300.308 (b)  
34 CFR Part 300 Appendix A, Q. 36

Step 13: The ARC determines if assistive technology devices and/or services are needed to implement the IEP. If the ARC determines the student needs to use the device at home or outside of school, the Chairperson asks the parent to complete a Technology Loan Agreement form.

### **Review Date**

A LEA shall ensure that the ARC reviews each child's IEP periodically, but no less than annually, to determine whether annual goals are being achieved.

707 KAR 1:320 Section 2 (4) (a)  
34 CFR 300.343 (c) (1)  
34 CFR Appendix A, Q. 20

Step 14: The ARC determines the date, within twelve calendar months, to review the IEP.

### **IEP COMPLETED**

A LEA shall give the parents a copy of the child's IEP at no cost to the parent.

707 KAR 1:320 Section 4 (8)  
34 CFR 300.345 (f)  
34 CFR Part 300 Appendix A, Q. 8

When all components of the IEP are complete, the ARC Chairperson gives a copy of the IEP, Conference Summary, and any other appropriate documents to the parent. The assigned case manager files the originals of the IEP, Conference Summary, and other forms in the due process folder of the child.

If the parent does not attend the ARC meeting to develop the initial IEP, the ARC Chairperson sends a copy of the IEP, Conference Summary, and Consent for Special Education and Related Services form to the parents. Owen County School District does

not implement the IEP until the signed Consent for Special Education and Related Services is received.

If the parent does not attend a meeting to review or revise the IEP, the ARC Chairperson sends a copy of the IEP and Conference Summary to the parents, and services begin as indicated in the revised IEP.

The ARC documents attempts to encourage parent participation and attendance at the meeting according to Methods to Ensure Parent Participation in procedures for **PROCEDURAL SAFEGUARDS**.

## **EXTENDED SCHOOL YEAR**

A LEA shall ensure that extended school year services are available to each child with a disability, as necessary, to provide FAPE. The determination of the need for extended year services shall be made on an individual basis. In making this determination, the LEA shall not:

- (1) limit the provision of extended year services to a particular category(s) of disability; or
- (2) unilaterally limit the type, amount, or duration of those services.

707 KAR 1:290 Section 8  
34 CFR 300.309

Owen County School District provides an extended school year to children with disabilities, regardless of the nature or severity of the disability, if the ARC determines the services are required in order for the child to receive a free appropriate public education. An extended school year program is provided when the recoupment time for a child with a disability exceeds that of similar age peers who are not disabled and who experience the same lapse in instruction.

An extended school year program extends beyond the regular school year for the purpose of maintaining the child's current skill level, which without continued instruction, would be lost or would require an inordinate time to regain those skills. ESY services are not designed to teach new skills, prevent normal amounts of regression, or allow the child to make additional progress, but simply to maintain the student's present level of educational performance of previously learned skills and prevent excessive recoupment time.

### **Documentation of Regression and Recoupment Time**

The implementers collect progress data relative to the IEP goals/benchmarks/objectives taught to demonstrate student performance and trends. Measurement is taken at the following times:

1. the end of instruction (e.g., prior to summer break);
2. the beginning of instruction after a lapse of instructional time (e.g., return from summer break); and
3. at regular intervals until the performance level is equal to the performance when the lapse in instruction time began.



If the student did not recoup (score the same as before the break in instruction) the objectives, the implementers notify the DoSE and ARC Chairperson that ESY may need to be considered for the student.

### **When Data is not Available including Consideration of ESY Services for 3-year-olds in Transition**

If there have been no breaks in instruction or data is unavailable, the IEP implementers submit the following data to determine the need for extended year services:

1. tests and observation data collected over a period of time; and
2. the opinion of professionals.

### **ARC Analysis of ESY Data**

Step 1: The ARC reviews the progress information, data trends, tests, observations, and professional opinions as presented by the ARC members. The ARC members use the information to answer the following:

- a. Did the child experience regression and limited recoupment during the instructional break?
- b. Will the child experience significant regression in the absence of an educational program?
- c. Will the time to re-learn the lost skills be excessive?
- d. Is the child at a critical point in the program?

If the ARC answers yes to any question, the ARC considers extended year programming, and the ARC identifies the goals/benchmarks/objectives and services to be delivered on the Conference Summary and IEP.

If the ARC answers no to all the questions, the child is not eligible for extended year programming. The ARC decision and rationale is documented in the Conference Summary, and the parent receives a copy.

The ARC Chairperson, in consultation with the DoSE, makes arrangements for the child to receive extended school year services according to the ARC decision.

### **ARC Considerations**

If ESY services have been provided during the interruption in the educational program, the ARC considers if regression and excessive recoupment time would have been a pattern for the student if ESY services had not been provided.

The services and the amount of time required for ESY may vary for each student as determined by the appropriate ARC. In addition, the type and amount of service is specific to the area(s) of service required to prevent excessive recoupment time, and not necessarily the full range or amount of service that was contained in the most recent IEP.