

Substantial rewording of Rule 6A-6.03028 follows. (See Florida Administrative Code for present text.)

6A-6.03028 Development of Individual Educational Plans for ~~Exceptional~~ Students with Disabilities. An Individual Educational Plan (IEP) or Individual Family Support Plan (IFSP) must be developed, reviewed, and revised for each eligible child with a disability served by a school district, or other state agency that provides special education and related services either directly, by contract, or through other arrangements, in accordance with this rule. Parents are partners with schools and school district personnel in developing, reviewing, and revising the individual educational plan (IEP) for their child. The Florida Department of Education (FLDOE) shall carry out activities to ensure that teachers and administrators in all local school districts are informed about their responsibilities for implementing Title 34, Section 300.550 Code of Federal Regulations (CFR). If there is evidence that the local school district makes placements that are inconsistent with 34 CFR 300.550, the FLDOE shall review the school district's justification for its actions; and assist in planning and implementing any necessary corrective action. Procedures for the development of the individual educational plan, including procedures for parental involvement, and the required contents for the IEP shall be set forth in each district's Policies and Procedures for the Provision of Specially Designed Instruction

and Related Services for Exceptional Students document and shall be consistent with the following requirements:

(1) Role of parents. The role of parents in developing IEPs includes, but is not limited to:

(a) Providing critical information regarding the strengths of their child;

(b) Expressing their concerns for enhancing the education of their child so that their child can receive a free appropriate public education;

(c) Participating in discussions about the child's need for specially designed instruction and related services;

(d) Participating in the determination of how the child will be involved and progress in the general curriculum, including participation in the statewide assessment program and in district-wide assessments;

(e) Participating in the determination of what services the school district will provide to the child and in what setting;
and

(f) Participating in the determination of whether the child is pursuing a course of study leading towards a standard diploma, consistent with Section 1003.43, Florida Statutes, or a special diploma, consistent with Section 1003.438, Florida Statutes.

(2) Definitions

(a) General curriculum. The general curriculum is a curriculum or course of study that addresses the Florida Sunshine

State Standards and state and district requirements for a standard diploma.

(b) Assistive technology service. Assistive technology service means any service that directly assists a student with a disability in the selection, acquisition, or use of an assistive technology device. This term includes:

1. The evaluation of the needs of a student with a disability, including a functional evaluation of the student in the student's customary environment;

2. Purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices;

3. Selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing assistive technology devices;

4. Coordinating and using other therapies, interventions, or services with assistive devices;

5. Training or technical assistance for a student with a disability or, if appropriate, that student's parents;

6. Training or technical assistance for professionals, employers, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of the student.

(c) Assistive technology device. Assistive technology device means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized,

that is used to increase, maintain, or improve the functional capabilities of a student with a disability.

(d) Extended school year. Extended school year means specially designed instruction and related services that are provided to a student with a disability beyond the normal school year of the school district, in accordance with the student's individual educational plan (IEP), and at no cost to the parents.

(e) Accommodations. Accommodations are changes that are made in how the student accesses information and demonstrates performance.

(f) Modifications. Modifications are changes in what a student is expected to learn and may include changes to content, requirements, and expected level of mastery.

(g) Transition services. Transition services means a coordinated set of activities for a student with a disability designed within an outcome-oriented process and based upon the student's desired post-school outcomes that promotes movement from school to post-school activities which may include postsecondary education, vocational training, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation. Transition services for students with disabilities may be special education, if provided as specially designed instruction, or related services, if required to assist the student to benefit from special education.

(3) Parent participation for students with disabilities.

Each school board shall establish procedures that shall provide for parents, guardians, surrogate parents or persons acting in loco parentis to participate in decisions concerning the IEP.

Parents of each student with a disability must be members of any group that makes decisions on the educational placement of their child. Such procedures shall include the following:

(a) Each district shall take the following steps to ensure that one (1) or both of the parents of the student is present at each meeting or is afforded the opportunity to participate at each meeting, including:

1. Notifying parents of the meeting early enough to ensure that they will have an opportunity to attend; and
2. Scheduling the meeting at a mutually agreed on time and place.

(b) A written notice to the parents must indicate the purpose, time, and location of the meeting, and who, by title or position, will be attending. The notice must also include a statement informing the parents that they have the right to invite individuals with special knowledge or expertise about their child.

1. For a student with a disability beginning at age 14, or younger if determined appropriate by the IEP team, the notice must also indicate that a purpose of the meeting will be the development of a statement of the transition services needs of

the student as required in paragraph (7) (i) of this rule and the notice must indicate that the school district will invite the student.

2. For a student with a disability, beginning at age 16, or younger if determined appropriate by the IEP team, the notice must indicate that a purpose of the meeting is the consideration of needed transition services for the student as required in paragraphs (7)(i)and (j) of this rule, indicate that the school district will invite the student, and indicate any other agency that will be invited to send a representative.

(c) If neither parent can attend, the school district shall use other methods to ensure parent participation, including individual or conference telephone calls.

(d) A meeting may be conducted without a parent in attendance if the school district is unable to obtain the attendance of the parents. In this case, the district must have a record of its attempts to arrange a mutually agreed on time and place, such as:

1. Detailed records of telephone calls made or attempted and the results of those calls;

2. Copies of correspondence sent to the parents and any responses received; or

3. Detailed records of visits made to the parents' home or place of employment and the results of those visits.

(e) The district shall take whatever action is necessary to ensure that the parents and the student, beginning at age

fourteen (14), understand the proceedings at a meeting, which may include arranging for an interpreter for parents and students who are deaf or whose native language is a language other than English.

(f) The district shall give the parents a copy of the IEP at no cost to the parents.

(4) IEP team participants. The IEP team, with a reasonable number of participants, shall include:

(a) The parents of the student in accordance with subsection (3) of this rule;

(b) At least one (1) regular education teacher of the student, if the student is or may be participating in the regular education environment. The regular education teacher of a student with a disability must, to the extent appropriate, participate in the development, review, and revision of the student's IEP, including assisting in the determination of:

1. Appropriate positive behavioral interventions and strategies for the student; and

2. Supplementary aids and services, classroom accommodations, modifications or supports for school personnel that will be provided for the student consistent with paragraph (7)(c) of this rule.

(c) At least one (1) special education teacher of the student;

(d) A representative of the school district who is qualified

to provide or supervise the provision of specially designed instruction to meet the unique needs of students with disabilities, is knowledgeable about the general curriculum, and is knowledgeable about the availability of resources of the school district. At the discretion of the school district, the student's special education teacher may be designated to also serve as the representative of the school district if the teacher meets the requirements described in this paragraph;

(e) An individual who can interpret the instructional implications of evaluation results who may be a member of the team as described in paragraphs (4) (b)-(d) of this rule;

(f) At the discretion of the parent or the school district, other individuals who have knowledge or special expertise regarding the student, including related services personnel as appropriate. The determination of the knowledge or special expertise of any such individual shall be made by the party who invited the individual to be a member of the IEP team; and

(g) The student, if appropriate. If the student does not attend the IEP meeting consistent with paragraphs (4)(h)-(i) of this rule, the school district shall take other steps to ensure that the student's preferences and interests are considered.

(h) The student, beginning by the student's fourteenth birthday or younger if determined appropriate by the IEP team, when the purpose of the meeting is to consider the student's transition service needs, as described in paragraphs (7)(i)-(j)

of this rule. If the student does not attend, the school district shall take other steps to ensure that the student's preferences and interests are considered.

(i) To implement the requirements of paragraph (7)(j) of this rule, the school district shall invite a representative of any other agency that may be responsible for providing or paying for transition services, when the purpose of the IEP meeting is to consider transition services. If an agency invited to send a representative to a meeting does not do so, the school district shall take other steps to obtain the participation of the agency in the planning of any transition services.

(5) Timelines. Timelines for IEP meetings for students with disabilities shall include the following:

(a) An IEP, which has been reviewed, and if appropriate, revised within the past year, must be in effect at the beginning of each school year for each eligible student with a disability.

(b) An IEP must be developed within thirty (30) calendar days following the determination of a student's eligibility for specially designed instruction and related services and be in effect prior to the provision of these services.

(c) Meetings shall be held to develop, review and revise the IEP. A meeting shall be held at least once every twelve (12) months to review each IEP and, as appropriate, revise its provisions in accordance with all aspects of this rule.

(6) Considerations in IEP development, review, and revision

for students with disabilities. The IEP team shall consider the following in IEP development, review, and revision:

(a) The strengths of the student 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 student;

(c) As appropriate, the results of the student's performance on any general state or district assessment;

(d) In the case of a student whose behavior impedes learning or the learning of others, if appropriate, strategies, including positive behavioral interventions, strategies, and supports to address that behavior;

(e) In the case of a student with limited English proficiency, the language needs of the student as those needs relate to the student's IEP;

(f) In the case of a student who is blind or visually impaired, provision of instruction in Braille and the use of Braille unless the IEP team determines, after an evaluation of the student's reading and writing skills, needs, including future needs, and appropriate reading and writing media, that instruction in Braille or the use of Braille is not appropriate for the student;

(g) The communication needs of the student, and in the case of a student who is deaf or hard of hearing, the student's language and communication needs, opportunities for direct

communications with peers and professional personnel in the student's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the student's language and communication mode;

(h) Whether the student requires assistive technology devices and services. On a case-by-case basis, the use of school-purchased assistive technology devices in a student's home or in other settings is required if the IEP team determines that the student needs access to those devices in order to receive a free appropriate public education; and

(i) At least annually, whether extended school year services are necessary for the provision of a free appropriate public education to the student consistent with the following:

1. Extended school year services (ESY) must be provided if a student's IEP team determines, on an individual basis, that the services are necessary for the provision of a free appropriate public education to the student.

2. Criteria that can be used to determine whether a student requires ESY may include, but are not limited to:

- a. regression and recoupment;
- b. critical points of instruction;
- c. emerging skills;
- d. nature and/or severity of the disability;
- e. interfering behaviors;
- f. rate of progress; or

g. special circumstances.

3. School districts may not limit ESY to particular categories of disability or unilaterally limit the type, amount, or duration of those services.

(j) If, after consideration of the factors in paragraphs 6)(a)-(i), the IEP team determines that a student needs a particular device or service, including an intervention, accommodation or other program modification, in order for the student to receive a free appropriate public education, the IEP must include a statement to that effect.

(7) Contents of the IEP for students with disabilities. Each district, in collaboration with the student's parents, shall develop an IEP for each student with a disability. For children with disabilities ages three (3) through five (5) years, districts may develop an IEP or a family support plan in accordance with Rule 6A-6.03029, FAC. The IEP for each student with a disability must include:

(a) A statement of the student's present levels of educational performance, including how the student's disability affects the student's involvement and progress in the general curriculum. For students with disabilities who participate in the general statewide assessment program, consistent with the provisions of Rule 6A-1.0943, FAC., a statement of the remediation needed for the student to achieve a passing score on the statewide assessment, or for prekindergarten children, as

appropriate, how the disability affects the student's participation in appropriate activities;

(b) A statement of measurable annual goals, including benchmarks or short term objectives related to meeting the student's needs that result from the student's disability to enable the student to be involved in and progress in the general curriculum or for preschool children, as appropriate, to participate in appropriate activities and meeting each of the student's other educational needs that result from the student's disability;

(c) A statement of the specially designed instruction and related services and supplementary aids and services to be provided to the student, or on behalf of the student, and a statement of the classroom accommodations, modifications or supports for school personnel that will be provided for the student to advance appropriately toward attaining the annual goals; to be involved and progress in the general curriculum in accordance with paragraph (7) (a) of this rule; to participate in extracurricular and other nonacademic activities; and to be educated and participate with other students with disabilities and nondisabled students in the activities described in this paragraph;

(d) An explanation of the extent, if any, to which the student will not participate with nondisabled students in the regular class and in the activities described in paragraph

(7)(c);

(e) A statement of any individual accommodations in the administration of the state or district assessments of student achievement that are needed in order for the student to participate in state or district assessments. A parent must provide signed consent for a student to receive instructional modifications that would not be permitted on the statewide assessments and must acknowledge in writing that he or she understands the implications of such accommodations. Accommodations that negate the validity of a statewide assessment are not allowable in accordance with Section 1008.22(3)(c)6., Florida Statutes. If the IEP team determines that the student will not participate in the Florida Comprehensive Assessment Test (FCAT) or district assessment of student achievement or part of an assessment, a statement of why that assessment is not appropriate for the student and how the student will be assessed. If a student does not participate in the FCAT, the district must notify the student's parent and provide the parent with information regarding the implications of such nonparticipation in accordance with Section 1008.22(3)(c)6., Florida Statutes.

(f) The projected date for the beginning of the specially designed instruction, services, accommodations and modifications described in paragraph (7)(c) of this rule and the anticipated frequency, location, and duration of those services;

(g) A statement of how the student's progress toward the

annual goals will be measured and how the student's parents will be regularly informed (at least as often as parents are informed of their nondisabled children's progress) of the student's progress toward the annual goals and the extent to which that progress is sufficient to enable the student to achieve the goals by the end of the year;

(h) During the student's eighth grade year or during the school year of the student's fourteenth birthday, whichever comes first, a statement of whether the student is pursuing a course of study leading to a standard diploma or a special diploma.

(i) Beginning by the student's fourteenth birthday or younger, if determined appropriate by the IEP team, including the student and the student's parents, and updated annually:

1. A statement of the student's desired post-school outcome which shall be developed through a student-centered process;

2. A statement of the student's transition service needs under the applicable components of the student's IEP that focuses on the student's courses of study, such as participation in advanced-placement courses or a vocational education program;
and,

3. Consideration of instruction or the provision of information in the area of self-determination to assist the student to be able to actively and effectively participate in IEP meetings and self-advocate, if appropriate.

(j) Beginning by the student's sixteenth birthday or younger,

if determined appropriate by the IEP team, including the student and the student's parents and updated annually and thereafter, a statement of needed transition services for the student including, if appropriate, a statement of the interagency responsibilities or any needed linkages.

(k) Beginning at least one (1) year before the student's eighteenth birthday, a statement that the student has been informed of his or her rights under Part B of the Individuals with Disabilities Education Act (IDEA) that will transfer from the parent to the student on reaching the age of majority, which is eighteen years of age. The transfer of these rights is described in subsection (10) of Rule 6A-6.03311, FAC.

(8) Transition services for students beginning at age sixteen (16), or younger, if determined appropriate by the IEP team.

(a) The coordinated set of activities described in paragraphs (7)(i) and (j) of this rule must be based on the student's needs, take into account the student's preferences and interests, and focus on the student's desired post-school outcome and shall include:

1. Activities in the areas of instruction, related services, community experiences, the development of employment, and other post-school adult living objectives; and
2. Acquisition of daily living skills and functional vocational evaluation, if appropriate.

(b) If an agency responsible for transition services, other

than the school district, fails to provide the transition services described in the IEP, the school district shall reconvene the IEP team to identify alternative strategies to meet the transition objectives for the student set out in the IEP.

(c) Nothing in this part relieves any participating agency, including Vocational Rehabilitation Services, of the responsibility to provide or pay for any transition service that the agency would otherwise provide to students with disabilities who meet the eligibility criteria of that agency. When a student is provided services by Vocational Rehabilitation Services or another agency, the Individual Plan for Employment or other agency plan should be coordinated with the development of the IEP as appropriate.

(d) The district shall identify an IEP team member or designee who will follow-up with agencies, as needed, and verify the provision of services by other agencies to the student and/or the student's parents as provided for in the IEP.

(e) If the IEP team determines that transition services are not needed as described in subparagraph (8)(a)1. of this rule, the IEP shall include a statement to that effect.

(9) Transition of children with disabilities from the infants and toddlers early intervention program to pre-kindergarten programs that provide specially designed instruction and related services operated by the school district.

(a) By the third birthday of a child participating in the

early intervention program for infants and toddlers with disabilities, an IEP consistent with this rule or a family support plan consistent with Rule 6A-6.03029, FAC., must be developed and implemented.

(b) For the purpose of implementing the requirement of paragraph (9)(a) of this rule, each school district will participate in transition planning conferences arranged by the state lead agency for the infants and toddlers with disabilities early intervention programs.

(c) If the child's third birthday occurs during the summer, the child's IEP team shall determine the date when services under the IEP or family support plan will begin.

(10) Review and revision of the IEP. The school district shall ensure that the IEP team:

(a) Reviews the student's IEP periodically, but not less than annually, to determine whether the annual goals for the student are being achieved; and

(b) Revises the IEP as appropriate to address:

1. Any lack of expected progress toward the annual goals and in the general curriculum, if appropriate,

2. The results of any reevaluation conducted,

3. Information about the student provided to, or by, the parents, and

4. The student's anticipated needs or other matters.

5. Consideration of the factors described in subsection (6)

of this rule.

6. The remediation of skills needed to obtain a passing score on the statewide assessment.

(c) Responds to parent's right to ask for revision, of the student's IEP or to invoke due process procedures in accordance with Rule 6A-6.03311(11), FAC., if the parent feels that the efforts required to provide specially designed instruction related services are not being made.

(11) IEP implementation and accountability. The school district, or other state agency that provides special education and related services either directly, by contract, or through other arrangements, is responsible for providing the specially designed instruction and related services to students with disabilities in accordance with the students' IEPs. However, it is not required that the school district, teacher, or other person be held accountable if a student does not achieve the growth projected in the annual goals and benchmarks or objectives. An IEP must be in effect before specially designed instruction and related services are provided to an eligible student and is implemented as soon as possible following the IEP meeting.

(a) The student's IEP shall be accessible to each regular education teacher, special education teacher, related service provider, and other service provider who is responsible for its implementation.

(b) Each teacher and provider described in paragraph (11)(a) of this rule shall be informed of their specific responsibilities related to implementing the student's IEP and the specific accommodations, modifications, and supports that must be provided for the student in accordance with the IEP.

(c) The school board must make a good faith effort to assist the student to achieve the goals and objectives or benchmarks listed on the IEP.

(d) Nothing in this section limits a parent's right to ask for revisions of the child's IEP or to invoke due process procedures.

(12) Students with disabilities placed in private schools or community facilities through contractual arrangements by the school district, consistent with the requirements of Rule 6A-6.0361, FAC., and in consultation with the students' parents.

(a) If a student with a disability is placed in a private school by the school district, in consultation with the student's parents, the school district shall:

1. Ensure that the student has all of the rights of a child with a disability who is served by a school district.

2. Initiate and conduct meetings to develop, review, and revise an IEP for the student, in accordance with subsections (2)through (11) of this rule or for students ages three (3) through five (5), a family support plan in accordance with Rule 6A-6.03029, FAC.; and

3. Ensure the attendance of a representative of the private

school at each meeting. If the representative cannot attend, the school district shall use other methods to ensure participation by the private school, including individual or conference telephone calls.

(b) If a student with a disability is placed in a private school by the school district in consultation with the student's parents and if IEP meetings are initiated and conducted by the private school, the school district's representative and the parents shall be involved in decisions about the IEP and shall agree to proposed changes in the IEP before those changes are implemented by the private school.

(c) Children with disabilities in private schools placed or referred by school districts. As provided in 34 CFR 300.400 and 300.402 apply only to children who are or have been placed in or referred to a private school or facility by a school district as a means of providing special education and related services. Specific Authority 1001.02(1)(2)(n), 1003.01(3)(a)(b), 1003.57(5) 229.053(1)(2)(i), 230.23(4)(m) FS. Law Implemented 1001.42(4)(1), 1003.01(3)(a)(b), 1003.57(5), 1011.62(1)(c)(e), 1001.03(8) 120.53(1)(b), 228.041(18)(19), 229.053(2)(i), 230.23(4)(m), 236.081(1)(e) FS., PL 105-17 (20 USC 1401, 1412, 1413, 1414, 1415). History - New 7-13-93, Amended