New Mexico Public Education Department
Special Education Bureau

POLICIES AND PROCEDURES FOR THE PROVISION OF SPECIAL EDUCATION SERVICES FOR STUDENTS WITH DISABILITIES AND GIFTED STUDENTS

Chapter 5.1 - INDIVIDUAL EDUCATION PROGRAM (IEP)

Date Chapter 5.1 Adopted by Governing Body:_____
Date Chapter 5.1 First Revision: _____

Chapter 5.1 - INDIVIDUALIZED EDUCATION PROGRAM (IEP)
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Chapter 5.1 INDIVIDUALIZED EDUCATION PROGRAM

I. IEP REQUIRED

§300.112 Individualized education programs (IEP).

The NMPED ensures that an IEP, or an IFSP that meets the requirements of section 636(d) of the Act, is developed, reviewed, and revised for each child with a disability in accordance with §§300.320 through 300.324, except as provided in §300.300(b)(3)(ii).
§300.320 is the Definition of IEP,
§300.321 covers the IEP Team,
§300.322 covers the Parent Participation,
§300.323 covers when the IEP must be in effect,
§300.324 covers Development of IEP, and
§300.300.300(b) covers Parent Consent.
All above are included in this Chapter 5.1.

II. TIMELINE

§300.323 When IEPs must be in effect.

(a) General. At the beginning of each school year, the La Academia de Esperanza Charter School (LADE) will have in effect, for each child with a disability within its jurisdiction, an IEP, as defined in §300.320.

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

(1) In the case of a child with a disability aged three through five, the IEP Team will consider an IFSP that contains the IFSP content (including the natural environments statement) described in section 636(d) of the Act and its implementing regulations (including an educational component that promotes school readiness and incorporates pre-literacy, language, and numeracy skills for children with IFSPs under this section who are at least three years of age), and that is developed in accordance with the IEP procedures under this part. The IFSP may serve as the IEP of the child, if using the IFSP as the IEP is--

(i) Consistent with NMPED policy; and

(ii) Agreed to by LADE and the child's parents.

(2) In implementing the requirements of paragraph (b)(1) of this section, LADE will--

(i) Provide to the child's parents a detailed explanation of the differences between an IFSP and an IEP; and

(ii) If the parents choose an IFSP, obtain written informed consent from the parents.

(c) Initial IEPs; provision of services. LADE must ensure that--

(1) A meeting to develop an IEP for a child is conducted within 30 days of a determination that the child needs special education and related services; and

(2) As soon as possible following development of the IEP, special education and related services are made available to the child in accordance with the child's IEP.
"As soon as possible" is defined as a minimum of five school days, unless the parents agree otherwise.

(d) MEMBERSHIP OF THE IEP TEAM

(e) 300.321 IEP Team.

(a) General. LADE must ensure that the IEP Team for each child with a disability includes--

(1) The parents of the child;

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

(3) Not less than one special education teacher of the child, or where appropriate, not less than one special education provider of the child;

(4) A representative of LADE who -

(i) Is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children with disabilities;

(ii) Is knowledgeable about the general education curriculum; and

(iii) Is knowledgeable about the availability of resources of the [district].

*The *cm Special Education Director and LADE Administration will determine which specific staff member will serve as the agency representative in a particular IEP meeting. LADE representative will have the authority to commit LADE resources and ensure that whatever services are required in the IEP will be provided to the student.*

(5) An individual who can interpret the instructional implications of evaluation results, who may be a member of the team described in paragraphs (a)(2) through (a)(6) of this section;

(6) At the discretion of the parent or the [district], other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate; and

(7) Whenever appropriate, the child with a disability.

(b) Transition services participants.

(1) In accordance with paragraph (a)(7) of this section, LADE must invite a child with a disability to attend the child's IEP meeting if a purpose of the meeting will be the consideration of the postsecondary goals for the child and the transition services needed to assist the child in reaching those goals under §300.320(b).

(2) If the child does not attend the IEP Team meeting, LADE must take other steps to ensure that the child's preferences and interests are considered.

(3) To the extent appropriate, with the consent of the parents or a child who has reached the age of majority, in implementing the requirements of paragraph (b)(1) of this section, LADE must invite a representative of any participating agency that is likely to be responsible for providing or paying for transition services.

(c) Determination of knowledge and special expertise. The determination of the knowledge or special expertise of any individual described in paragraph (a)(6) of this section must be made by the party (parents or [district]) who invited the individual to be a member of the IEP Team.

(d) Designating a LADE representative. LADE may designate a LADE member of the IEP Team to also serve as the agency representative, if the criteria in paragraph (a)(4) of this section are satisfied.

(e) IEP Team attendance. *(Excusal)*

(1) A member of the IEP Team described in paragraphs (a)(2) through (a)(5) of §300.321, is not required to attend an IEP meeting, in whole or in part, if the parent of a child with a disability and LADE agree, in writing, that the attendance of the member is not necessary because the member's area of the curriculum or related services is not being modified or discussed in the meeting.

(2) A member of the IEP Team described in (e)(1) may be excused from attending an IEP meeting, in whole or in part, when the meeting involves a modification to or discussion of the member's area of the curriculum or related services, if--

(i) The parent, in writing, and LADE consent to the excusal; and

(ii) The member submits, in writing to the parent and the IEP Team, input into the development of the IEP prior to the meeting.

Any excusal from the IEP meeting must follow exact guidelines in §300.321(e) (1-2) and be documented in writing on the form LADE provided to you.

(f) Initial IEP meeting for child under Part C. In the case of a child who was previously served under Part C of the Act, an invitation to the initial IEP meeting must, at the request of the parent, be sent to the Part C service coordinator or other representatives of the Part C system to assist with the smooth transition of services. [Authority: 20 USC §§1414 (d)(1)(B) – (d)(1)(D)].

IV. CONTENT OF THE INDIVIDUALIZED EDUCATIONAL PROGRAM (IEP).

§300.320 Definition of individualized education program.

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

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

(i) How the child's disability affects the child's involvement and progress in the general education curriculum (i.e., the same curriculum as for nondisabled children); or

(ii) For preschool children, as appropriate, how the disability affects the child's participation in appropriate activities;

(2) (i) A statement of measurable annual goals, including academic and functional goals designed to--
(A) Meet the child's needs that result from the child's disability to enable the child to be involved in and make progress in the general education curriculum; and
(B) Meet each of the child's other educational needs that result from the child's disability;
(ii) For children with disabilities who take alternate assessments aligned to alternate achievement standards, a description of benchmarks or short-term objectives;

(3) A description of--
(i) How the child's progress toward meeting the annual goals described in paragraph (2) of this section will be measured; and
(ii) When periodic reports on the progress the child is making toward meeting the annual goals (such as through the use of quarterly or other periodic reports, concurrent with the issuance of report cards) will be provided;

(4) A statement of the special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided to enable the child--
(i) To advance appropriately toward attaining the annual goals;
(ii) To be involved in and make progress in the general education curriculum in accordance with paragraph (a)(1) of this section, and to participate in extracurricular and other nonacademic activities; and
(iii) To be educated and participate with other children with disabilities and nondisabled children in the activities described in this section;
(Related services are also addressed in Chapter 3. – Evaluation)

(5) An explanation of the extent, if any, to which the child will not participate with nondisabled children in the regular class and in the activities described in paragraph (a)(4) of this section;

(6) (i) A statement of any individual appropriate accommodations that are necessary to measure the academic achievement and functional performance of the child on State and district wide assessments consistent with section 612(a)(16) of the Act; and
(ii) If the IEP Team determines that the child must take an alternate assessment instead of a particular regular State or district wide assessment of student achievement, a statement of why--
(A) The child cannot participate in the regular assessment; and
(B) The particular alternate assessment selected is appropriate for the child; and
(For specific information see Chapter 5.1 – XI. State and District-wide Assessment)

(7) The projected date for the beginning of the services and modifications described in paragraph (a)(4) of this section, and the anticipated frequency, location, and duration of those services and modifications.

(b) Transition *See also Transition in Chapter 5.2.*

(c) Transfer of rights at age of majority. *See VI. Parent Rights on following pages.*

(d) Construction. Nothing in this section shall be construed to require--
(1) That additional information be included in a child's IEP beyond what is explicitly required in section 614 of the Act; or
(2) The IEP Team to include information under one component of a child's IEP that is already contained under another component of the child's IEP.(Authority: 20 USC §§1414(d)(1)(A) and (d)(6))

Content of IEP or IFSP for Children aged Three through Five

§300.323 When IEPs must be in effect.

(b) IEP or IFSP for children aged three through five.
(1) In the case of a child with a disability aged three through five, the IEP Team will consider an IFSP that contains the IFSP content (including the natural environments statement) described in section 636(d) of the Act and its implementing regulations (including an educational component that promotes school readiness and incorporates pre-literacy, language, and numeracy skills for children with IFSPs under this section who are at least three years of age), and that is developed in accordance with the IEP procedures under this part. The IFSP may serve as the IEP of the child, if using the IFSP as the IEP is--
(i) Consistent with NMPED policy; and
(ii) Agreed to by the agency and the child's parents.

(2) In implementing the requirements of paragraph (b)(1) of this section, the LADE will--

(i) Provide to the child's parents a detailed explanation of the differences between an IFSP and an IEP; and

(ii) If the parents choose an IFSP, obtain written informed consent from the parents.

Authority: NMAC 6.31.2.11 EDUCATIONAL SERVICES FOR CHILDREN WITH DISABILITIES:

A. Preschool programs for children aged 3 through 5

(1) LADE shall ensure that a free appropriate public education is available for each preschool child with a disability within its educational jurisdiction no later than the child's third birthday and that an individualized education program (IEP) under Part B or an individual family services plan (IFSP) under Part C of the IDEA is in effect by that date in compliance with 34 CFR §§300.101, 300.124 and 300.323(b).

(2) A child who will turn three at any time during the school year who is determined eligible may enroll in a Part B preschool program when the child turns three if the parent so chooses, whether or not the child has previously been receiving Part C services.

(3) To ensure effective transitioning from IDEA Part C programs to IDEA Part B programs, LADE must conduct a full and individual evaluation, at no cost to the parent, and in compliance with requirements of 34 CFR §§300.300, 300.301, 300.302, 300.304 and 300.305 and other department rules and standards before the initial provision of Part B special education and related services to a child with a disability.

(4) LADE shall develop and implement appropriate policies and procedures to ensure a smooth and effective transition from Part C to Part B programs for preschool children with disabilities within the agency's educational jurisdiction, in compliance with 34 CFR §300.124. Each LEA and other public agencies as appropriate shall make reasonable efforts to establish productive working relations with local Part C programs and when given reasonable notice shall participate in the ninety day transition planning conferences arranged by local Part C providers.

(5) In particular:

(a) Each LEA shall survey Part C programs within its educational jurisdiction in its child find efforts to identify children who will be eligible to enter the LEA's Part B preschool program in future years.

(b) Each LEA shall promote parent and family involvement in transition planning with Part C programs, community programs and related services providers at least six months before the child is eligible to enter the LEA's Part B preschool program.

(c) Each LEA shall establish and implement procedures to support successful transitions including parent training, professional development for special educators and general educators, and student and parent self-advocacy training and education.

(d) Each LEA shall assist parents in becoming their child's advocates as the child makes the transition through systems.

(e) Each LEA shall participate in transition planning conferences arranged by the designated Part C lead agency no less than 90 days prior to the anticipated transition or the child's third birthday, whichever occurs first, to facilitate informed choices for all families.

(f) Each LEA shall designate a team including parents and qualified professionals to review existing evaluation data for each child entering the LEA's preschool program in compliance with 34 CFR §300.305, and based on that review to identify what additional data, if any, are needed to determine the child's eligibility for Part B services or develop an appropriate program.

(g) Each LEA shall initiate a meeting to develop an eligible child's IFSP, IEP or IFSP-IEP, in accordance with 34 CFR §300.323, no later than 15 days prior to the first day of the school year of the LEA where the child is enrolled or no later than 15 days prior to the child's entry into Part B preschool services if the transition process is initiated after the start of the school year, whichever is later, to ensure uninterrupted services. This IFSP, IEP, or IFSP-IEP will be developed by a team constituted in compliance with 34 CFR §300.321 that includes parents and appropriate early intervention providers who are knowledgeable about the child.

(h) In compliance with 34 CFR §300.101(b)(2), if a child's birthday occurs during the summer, the child's IEP team shall determine the date when services under the IEP or IFSP will begin.

(i) LADE shall develop policies and procedures to ensure a successful transition from Part B preschool for children with disabilities who are eligible for continued services in pre-kindergarten and kindergarten.

B. Individualized education programs (IEPs).

(1) Except as provided in 34 CFR §§300.130-300.144 for children enrolled by their parents in private schools, LADE(1) shall develop, implement, review and revise an IEP in compliance with all applicable requirements of 34 CFR §§300.320-300.328 and these or other department rules and standards for each child with a disability (within its educational jurisdiction); and (2) shall ensure that an IEP is developed, implemented, reviewed and revised in compliance with all applicable requirements of 34 CFR §§300.320-300.328, and these or other department rules and standards for each child with a disability who is placed in or referred to a private school or facility by the [district].

(2) Each IEP or amendment shall be developed at a properly convened IEP meeting for which LADE has provided the parent and, as appropriate, the child, with proper advance notice pursuant to 34 CFR §300.322 and Paragraph (1) of Subsection D of 6.31.2.13 NMAC and at which the parent and, as appropriate, the child have been afforded the opportunity to participate as members of the IEP team pursuant to 34 CFR §§300.321, 300.322 and 300.501(b) and (c) and Subsection C of 6.31.2.13 NMAC.

(3) Except as provided in 34 CFR §300.324(a)(4), each IEP shall include the signature and position of each member of the IEP team and other participants in the IEP meeting to document their attendance. Written notice of actions proposed or refused by LADE shall also be provided in compliance with 34 CFR §300.503 and Paragraph (2) of Subsection D of 6.31.2.13 NMAC and shall be provided at the close of the IEP meeting. Informed written parental consent must also be obtained for actions for which consent is required under 34 CFR §300.300 and Subsection F of 6.31.2.13 NMAC. An amended IEP does not take the place of the annual IEP conducted pursuant to CFR §300.324(a)(4) which requires that members of a child's IEP team must be informed of any changes made to the IEP without a meeting.

(4) Agreement to modify IEP meeting requirement.

(a) In making changes to a child's IEP after the annual IEP team meeting for a school year, the parent of a child with a disability and LADE may agree not to convene an IEP team meeting for the purposes of making those changes and instead may develop a written document to amend or modify the child's current IEP.

(b) If changes are made to the child's IEP in accordance with subparagraph (4)(a) of this paragraph, LADE must ensure that the child's IEP team is informed of those changes.

(5) For students with autism spectrum disorders (ASD) eligible for special education services under 34 CFR §300.8(c)(1), the strategies described in Subparagraphs (a)-(k) of this paragraph shall be considered by the IEP team in developing the IEP for the student. The IEP team shall document consideration of the strategies. The strategies must be based on peer-reviewed, research-based educational programming practices to the extent practicable and, when needed to provide FAPE, addressed in the IEP:

(a) extended educational programming, including, for example, extended day or extended school year services that consider the duration of programs or settings based on assessment of behavior, social skills, communication, academics, and self-help skills;

(b) daily schedules reflecting minimal unstructured time and reflecting active engagement in learning activities, including, for example, lunch, snack, and recess periods that provide flexibility within routines, adapt to individual skill levels, and assist with schedule changes, such as changes involving substitute teachers and other in-school extracurricular activities;

(c) in-home and community-based training or viable alternatives to such training that assist the student with acquisition of social or behavioral skills, including, for example, strategies that facilitate maintenance and generalization of such skills from home to school, school to home, home to community, and school to community;

(d) positive behavior support strategies based on relevant information, including, for example:

(1) antecedent manipulation, replacement behaviors, reinforcement strategies, data-based decisions; and

(2) a behavioral intervention plan focusing on positive behavioral support and developed from a functional behavioral assessment that uses current data related to target behaviors and addresses behavioral programming across home, school, and community-based settings.

(e) futures planning for integrated living, work, community, and educational environments that considers skills necessary to function in current and post-secondary environments;

(f) parent or family training and support provided by qualified personnel with experience in ASD, that, for example:

(1) provides a family with skills necessary for a child to succeed in the home or community setting;

(2) includes information regarding resources such as parent support groups, workshops, videos, conferences, and materials designed to increase parent knowledge of specific teaching and management techniques related to the child's curriculum; and

(3) facilitates parental carryover of in-home training, including, for example, strategies for behavior management and developing structured home environments or communication training so that parents are active participants in promoting the continuity of interventions across all settings.
(g) provides suitable staff-to-student ratio appropriate to identified activities and as needed to achieve social or behavioral progress based on the child's developmental and learning level and that encourages work towards individual independence as determined by, for example:
(1) adaptive behavior evaluation results;
(2) behavioral accommodation needs across settings; and
(3) transitions within the school day.
(h) communication interventions, including communication modes and functions that enhance effective communication across settings such as augmentative, incidental, and naturalistic teaching;
(i) social skills supports and strategies based on social skills assessment or curriculum and provided across settings, including, for example, trained peer facilitators, video modeling, social stories, and role playing;
(j) professional educator and staff support, including, for example, training provided to personnel who work with the student to assure the correct implementation of techniques and strategies described in the IEP; and
(k) teaching strategies based on peer reviewed, research-based practices for students with ASD, including, for example, those associated with discrete-trial training, visual supports, applied behavior analysis, structured learning, augmentative communication, and social skills training.

V. CONSIDERATION OF SPECIAL FACTORS

§300.324 Development, review, and revision of IEP.
(a) Development of IEP.
(2) Consideration of special factors. The IEP Team must:
(i) In the case of a child whose behavior impedes the child's learning or that of others, consider the use of positive behavioral interventions and supports, and other strategies, to address that behavior.
(ii) 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;
(iii) In the case of a child who is blind or visually impaired, provide for instruction in Braille and the use of Braille unless the IEP Team determines, after an evaluation of the child's reading and writing skills, needs, and appropriate reading and writing media (including an evaluation of the child's future needs for instruction in Braille or the use of Braille), that instruction in Braille or the use of Braille is not appropriate for the child;
(iv) Consider whether the child needs assistive technology devices and services.
(v) Consider the communication needs of the child, and in the case of a child who is deaf or hard of hearing, consider the child's language and communication needs, opportunities for direct communications with peers and professional personnel in the child's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the child's language and communication mode;

A. Assistive Technology

§300.324 Development, review, and revision of IEP
(a) (2) Consideration of special factors. The IEP Team must--
(v) Consider whether the child needs assistive technology devices and services.
§300.5 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 child with a disability. The term does not include a medical device that is surgically implanted, or the replacement of that device.

§300.6 Assistive technology service. Assistive technology service means any service that directly assists a child with a disability in the selection, acquisition, or use of an assistive technology device. The term includes-
(a) The evaluation of the needs of a child with a disability, including a functional evaluation of the child in the child's customary environment;

(b) Purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by children with disabilities;
(c) Selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing assistive technology devices;
(d) Coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;
(e) Training or technical assistance for a child with a disability or, if appropriate, that child's family; and
(f) Training or technical assistance for professionals (including individuals providing education or rehabilitation services), employers, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of that child.

§300.105 Assistive technology; proper functioning of hearing aids.
(a) The *cm ensures that assistive technology devices or assistive technology services, or both, as those terms are defined in §§300.5 and 300.6, respectively, are made available to a child with a disability if required as a part of the child's--
(1) Special education under §300.36;
(2) Related services under §300.34; or
(3) Supplementary aids and services under §§300.38 and 300.114(a)(2)(ii).
(b) 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 child's IEP Team determines that the child needs access to those devices in order to receive FAPE.

B. Behavior (positive interventions and supports)

§300.324 Development, review, and revision of IEP.
(a) Development of IEP.
(2) Consideration of special factors. The IEP Team must:
(i) In the case of a child whose behavior impedes the child's learning or that of others, consider the use of positive behavioral interventions and supports, and other strategies, to address that behavior.

Positive behavior techniques include solid teaching practices, clear rules and expectations, being physically close to students, as well as praising and encouraging positive behaviors. Either independently or with the support of colleagues, teachers are usually able to find a successful solution to any problem behavior. However, for some students—both with and without disabilities—these tactics fail to produce the desired outcome and may actually worsen an already difficult situation. Below are some examples of positive behavioral strategies, interventions and supports:

- *Always remain calm and controlled in order to achieve a calm, orderly, and controlled environment.*
- *Use a "get ready to listen" signal to alert students that you are about to give important information. Then speak in a normal voice. Do not speak over the students even if some are not ready to listen. When they miss the direction, they will be ready to listen next time. When you give the signal, students who are ready to listen will pressure those who are not.*
- *Tell students exactly what you expect and, whenever possible, also tell students the consequences (and make sure you carry them out). Then, do not repeat the directive. Example: "If you have a question, raise your hand. I will only call on students who quietly raise their hand and wait to be called on."*
- *Students will learn respect by being respected. Avoid sarcasm, ridicule, or labels.*
- *Use students' names to praise positive behavior as well as to discipline students.*

All behavior—positive and negative—is the manifestation of some underlying need, such as to seek something pleasant or to avoid something unpleasant. These motives are the causes, and the behaviors are the results. Rather than emphasizing controlling problem behavior, use of specific methods and strategies for replacing problem behavior is far more effective and permanent than any method based on negative consequences that merely suppress behavior, not change it. For many more successful strategies, LADE staff will refer to the NMPED document Addressing Student Behavior: A Guide for Educators that can be found at the NMPED website: http://www.ped.state.nm.us/RtI/dl10/Addressing%20Student%20Behavior%20Guide%202010.pdf

FBA / BIP – *See also Chapter 3 Evaluation and Chapter 5.2 IEP*
If the student exhibits behavior that is interfering with student's learning or the learning of others, the IEP Team must consider completing a Functional Behavior Assessment (FBA) and developing a Behavioral Intervention Plan (BIP) for the student. In addition, Social/Emotional Goals/Objectives would be appropriate. For more information, see Chapter 3-Full and Individual Evaluation for development of the FBA and also Chapter 7 of this document for more information on Discipline.

C. Blindness or Visual Impairment

§300.324 Development, review, and revision of IEP.
(a) Development of IEP.
(2) Consideration of special factors. The IEP Team must:
(iii) In the case of a child who is blind or visually impaired, provide for instruction in Braille and the use of Braille unless the IEP Team determines, after an evaluation of the child's reading and writing skills, needs, and appropriate reading and writing media (including an evaluation of the child's future needs for instruction in Braille or the use of Braille), that instruction in Braille or the use of Braille is not appropriate for the child.

D. Communication

§300.324 Development, review, and revision of IEP.
(a) Development of IEP.
(2) Consideration of special factors. The IEP Team must:
(i) in the case of a child whose behavior impedes the child's learning or that of others, consider the use of positive behavior interventions and supports, and other strategies, to address that behavior.

E. Deaf or Hard of Hearing

§300.324 Development, review, and revision of IEP.
(a) Development of IEP.
(2) Consideration of special factors. The IEP Team must:
(iv) Consider the communication needs of the child, and in the case of a child who is deaf or hard of hearing, consider the child's language and communication needs, opportunities for direct communications with peers and professional personnel in the child's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the child's language and communication mode;

F. Limited English Proficient

§300.324 Development, review, and revision of IEP
(a) (2) Consideration of special factors. The IEP Team must:
(ii) 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;

Limited English Proficient (LEP) Students with Disabilities
For all LEP (Limited English Proficient) Students:

A. *LADE's LEP student status report must have been completed within the past year for each annual IEP to be reviewed.*
B. *The IEP Team will determine placement based on current assessments and needed goals and objectives.*
C. *The IEP Team will include the LEP representative; and*
D. *The IEP Team will ensure that placement in a bilingual education or English as a Second Language program, if appropriate, is not refused solely because the student has a disability.*

G. Related Services

Any request for a related service must be made through the SAT upon initial referral or through the Eligibility Determination or IEP Team. If the related service provider is not present at the evaluation planning meeting in which the review of existing evaluation data is completed, every effort must be made by the evaluator to collaborate with the related service provider. The evaluator is responsible for notifying the appropriate related service provider that an assessment has been requested by the IEP Team.

§300.34 Related services.

(a) General. Related services means transportation and such developmental, corrective, and other supportive services as are required to assist a child with a disability to benefit from special education, and includes speech-language pathology and audiology services, interpreting services, psychological services, physical and occupational therapy, recreation, including therapeutic recreation, early identification and assessment of disabilities in children, counseling services, including rehabilitation counseling, orientation and mobility services, and medical services for diagnostic or evaluation purposes. Related services also includes school health services, school nurse services designed to enable a child with a disability to receive a free appropriate public education as described in the IEP of the child, social work services in schools, and parent counseling and training.

(b) Exception; services that apply to children with surgically implanted devices, including cochlear implants.

(1) Related services do not include a medical device that is surgically implanted, the optimization of device functioning (e.g., mapping), maintenance of the device, or the replacement of that device.

(2) Nothing in paragraph (b)(1) of this section—

(i) Limits the right of a child with a surgically implanted device (e.g., cochlear implant) to receive related services (as listed in paragraph (a) of this section) that are determined by the IEP Team to be necessary for the child to receive FAPE.

(ii) Limits the responsibility of LADE to appropriately monitor and maintain medical devices that are needed to maintain the health and safety of the child, including breathing, nutrition, or operation of other bodily functions, while the child is transported to and from school or is at school; or

(iii) Prevents the routine checking of an external component of a surgically implanted device to make sure it is functioning properly, as required in §300.113(b).

(c) Individual related services terms defined. *(found in Chapter 3. Evaluations)*

H. Shortened School Day

New Mexico Standards for Excellence establish the minimum length of school days for students in New Mexico's public schools and authorize local districts to exceed (but not go below) the minimums. LADE will follow federal nondiscrimination laws that require students with disabilities have school days of the same length as other students unless a shorter day is educationally justified to meet a particular student's special needs, as determined and documented by the individualized educational program (IEP) team.

In relatively rare instances, a shortened school day may be appropriate for an individual student served through special education. Legitimate factors that may indicate the need for a shortened school day include:

- student's stamina,
- medical needs, and
- behavioral and/or emotional needs.

Any decision to shorten a student's school day must be made by the student's IEP Team and be documented in the student's IEP. IEP Team documentation will include:

- accompanying physician/psychologist recommendations,
- information from medical records,
- other evaluation reports that were considered by the team in reaching its decision,
- clearly articulate the decision to shorten the school day is educationally justifiable,
- plan/timeline to gradually increase or return to a full instructional day,
- how the resulting plan offers the student a free and appropriate public education (FAPE) –

- the full array of special education services in the student's IEP
- how the opportunity to progress in the general curriculum are provided. (Keep in mind that FAPE requires a plan of instruction likely to result in educational progress, not marginal educational advancement or regression.)

The following are NOT counted as "instructional time" for students: lunch, passing periods, recess, and/or teacher preparation periods. While certain educational goals and objectives for certain students may be addressed during these times, this time cannot be used to shorten the student's school day. Some students with disabilities may need explicit assistance during these times and this should be reflected in the student's IEP. Lunch, recess, and passing periods may provide certain students unique opportunities to attain goals and objectives and may be used, as appropriately defined through the IEP, to attain educational outcomes. However, just because a student is learning during lunch, recess, or passing periods, does not mean that there exists an allowable justification for shortening the school day.

Students with disabilities **cannot** be dismissed from school early or made to start school late (other than for individual students as outlined above) in order to accommodate teacher planning time, transportation/bus schedules or other administrative convenience.

Authority: NMSA 1978 §22-2-8-1 Length of school day; minimum.

A. Except as otherwise provided in this section, regular students shall be in school-directed programs, exclusive of lunch, for a minimum of the following:
   (1) kindergarten, for half-day programs, two and one-half hours per day or four hundred fifty hours per year or, for full-day programs, five and one-half hours per day or nine hundred ninety hours per year;
   (2) grades one through six, five and one-half hours per day or nine hundred ninety hours per year; and
   (3) grades seven through twelve, six hours per day or one thousand eighty hours per year

B. Thirty-three hours of the full-day kindergarten program may be used for home visits by the teacher or for parent-teacher conferences. Twenty-two hours of grades one through five programs may be used for home visits by the teacher or for parent-teacher conferences.

C. Nothing in this section precludes a local school board from setting length of school days in excess of the minimum requirements established by Subsection A of this section.

D. The state superintendent [secretary] may waive the minimum length of school days in those districts where such minimums would create undue hardships as defined by the state board [department].

VI. PARENT RIGHTS / PARTICIPATION *(also in Chapter 2.-Procedural Safeguards)*

A. Participation

§300.322 Parent Participation.

(a) District responsibility—general. The *cm must take steps to ensure that one or both of the parents of a child with a disability are present at each IEP Team meeting or are afforded the opportunity to participate, 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. *("early enough" is defined below)*

(b) Information provided to parents.
   (1) The notice required under paragraph (a)(1) of this section must--
      (i) Indicate the purpose, time, and location of the meeting and who will be in attendance; and
      (ii) Inform the parents of the provisions in §300.321(a)(6) and (c) (relating to the participation of other individuals on the IEP Team who have knowledge or special expertise about the child), and §300.321(f) (relating to the participation of the Part C service coordinator or other representatives of the Part C system at the initial IEP Team meeting for a child previously served under Part C of the Act).
   (2) For a child with a disability beginning not later than the first IEP to be in effect when the child turns 16, or younger if determined appropriate by the IEP Team, the notice also must--
      (i) Indicate--
         (A) That a purpose of the meeting will be the consideration of the postsecondary goals and transition services for the child, in accordance with §300.320(b); and

(B) That the agency will invite the student; and

(ii) Identifies any other agency that will be invited to send a representative.

(c) Other methods to ensure parent participation. If neither parent can attend an IEP Team meeting, LADE must use other methods to ensure parent participation, including individual or conference telephone calls, consistent with §300.328 *(related to alternative means of meeting participation on next page).*

(d) Conducting an IEP meeting without a parent in attendance. A meeting may be conducted without a parent in attendance if LADE is unable to convince the parents that they should attend. In this case, LADE must keep 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; and

(3) Detailed records of visits made to the parent's home or place of employment and the results of those visits.

Minimum of 3 Attempts - Beginning 15 school days prior to the proposed IEP meeting date

In accordance with State and Federal requirements, the [district] will notify parents early enough of the IEP meeting in order to arrange a mutually agreeable time and location. After the first written invitation to the IEP meeting is provided 15 school days prior, if the parent does not respond, the [district] will document and send a second written invitation to parent 10 school days prior to the proposed meeting. Again, if the parent still does not respond, a third invitation to the IEP meeting will be sent in an attempt to get parental participation 5 school days prior to the scheduled IEP meeting. After three attempts and no response, the [district] may go forward with the IEP Team meeting as scheduled. The first attempt MUST be in written form, the second attempt should also be in writing and the third may be a follow-up phone call. Detailed records of phone calls made, or attempted, and the results must be documented on the written Invitation form. Copies of correspondence sent and any visits to the home or place of employment, and the results, must also be documented. All dates and personnel initials must be documented in writing.

(e) Use of interpreters or other action, as appropriate. LADE must take whatever action is necessary to ensure that the parent understands the proceedings of the IEP Team meeting, including arranging for an interpreter for parents who are deaf or whose native language is other than English.

(f) Parent copy of child's IEP. LADE must give the parent a copy of the child's IEP at no cost to the parent.

§300.501 Parent Participation in Meetings.

(b) Parent participation in meetings.

(1) The parents of a child with a disability must be afforded an opportunity to participate in meetings with respect to--

(i) The identification, evaluation, and educational placement of the child; and

(ii) The provision of FAPE to the child.

(2) LADE must provide notice consistent with §§300.322(a)(1) and (b)(1) to ensure that parents of children with disabilities have the opportunity to participate in meetings described in paragraph (b)(1) of this section.

(3) A meeting does not include informal or unscheduled conversations involving LADE personnel and conversations on issues such as teaching methodology, lesson plans, or coordination of service provision. A meeting also does not include preparatory activities that LADE personnel engage in to develop a proposal or response to a parent proposal that will be discussed at a later meeting.

(c) Parent involvement in placement decisions.

(1) LADE must ensure that a parent of each child with a disability is a member of any group that makes decisions on the educational placement of the parent's child.

(2) In implementing the requirements of paragraph (c)(1) of this section, LADE must use procedures consistent with the procedures described in §§300.322(a) through (b)(1). *(found on previous pages)*

(3) If neither parent can participate in a meeting in which a decision is to be made relating to the educational placement of their child, LADE must use other methods to ensure their participation, including individual or conference telephone calls, or video conferencing.

(4) A placement decision may be made by a group without the involvement of a parent, if LADE is unable to obtain the parent's participation in the decision. In this case, LADE must have a record of its attempt to ensure their involvement.

(Authority: 20 USC §§1414(e), 1415(b)(1))

§300.327 Educational placements.

Consistent with §300.501(c), LADE must ensure that the parents of each child with a disability are members of any group that makes decisions on the educational placement of their child.

(For disagreements, see Conflict Management and Resolution in Chapter 2. Procedural Safeguards)

§300.328 Alternative means of meeting participation.

When conducting IEP Team meetings and placement meetings pursuant to this subpart, and Subpart E of this part, and carrying out administrative matters under section 615 of the Act (such as scheduling, exchange of witness lists, and status conferences), the parent of a child with a disability and LADE may agree to use alternative means of meeting participation, such as video conferences and conference calls. (Authority: 20 USC §1414(f))

B. Age of Majority – Transfer of Rights

§300.320 Definition of individualized education program

(c) Transfer of rights at age of majority. Beginning not later than one year before the child reaches the age of majority under New Mexico law, the IEP must include a statement that the child has been informed of the child's rights under Part B of the Act, if any, that will transfer to the child on reaching the age of majority under §300.520.

§300.520 Transfer of parental rights at age of majority.

(a) General. NMPED provides that, when a child with a disability reaches the age of majority under New Mexico law that applies to all children (except for a child with a disability who has been determined to be incompetent under New Mexico law)--

(1) (i) LADE must provide any notice required by this part to both the individual and the parents; and

(ii) All other rights accorded to parents under Part B of the Act transfer to the child;

(2) All rights accorded to parents under Part B of the Act transfer to children who are incarcerated in an adult or juvenile, State or local correctional institution; and

(3) Whenever a State transfers rights under this part pursuant to paragraph (a)(1) or (a)(2) of this section, LADE must notify the individual and the parents of the transfer of rights.

(b) Special rule. New Mexico PED has established procedures for appointing the parent of a child with a disability, or if the parent is not available, another appropriate individual, to represent the educational interests of the child throughout the period of the child's eligibility under Part B of the Act if, under New Mexico law, a child who has reached the age of majority, but has not been determined to be incompetent, can be determined not to have the ability to provide informed consent with respect to the child's educational program. (Authority: 20 USC 1415(m))

Authority: NMAC 6.31.2.13 ADDITIONAL RIGHTS OF PARENTS, STUDENTS AND PUBLIC AGENCIES:

K. Transfer of parental rights to students at age 18

(1) Pursuant to §§12-2A-3 and 28-6-1 NMSA 1978, a person's age of majority begins on the first instant of his or her 18th birthday and a person who has reached the age of majority is an adult for all purposes not otherwise limited by state law. A guardianship proceeding under the probate code is the only way an adult in New Mexico can legally be determined to be incompetent and have the right to make his or her own decisions taken away. Public agencies and their IEP teams are not empowered to make such determinations under New Mexico law. Accordingly, pursuant to 34 CFR §300.520, when a child with a disability reaches age 18 and does not have a court-appointed general guardian, limited guardian or other person who has been authorized by a court to make educational decisions on the student's behalf or who has not signed a power of attorney as provided under New Mexico law:

(a) LADE shall provide any notices required by 34 CFR Part 300 to the child and the parents;

(b) all other rights accorded to parents under Part B of the IDEA, New Mexico law or department rules and standards transfer to the child; and

(c) LADE shall notify the individual and the parents of the transfer of rights.

(2) Pursuant to 34 CFR §300.320(c), each annual IEP review for a child who is14 or older must include a discussion of the rights that will transfer when the child turns 18 and, as appropriate, a discussion of the parents' plans for obtaining a guardian before that time. The IEP of a child who is 14 or older must include a statement that the child and the parent have been informed of the rights that will transfer to the child at age 18.

VII. DISAGREEMENT IN THE IEP MEETING

Contact the Special Education Coordinator or Director of Special Education for consultation when an IEP meeting results in parental disagreement. Appropriate Prior Written Notice must be completed and provided to the parent or adult student. For more information, see also Chapter 2. - Procedural Safeguards, contact the ADR (Alternative Dispute Resolution) coordinator at the NMPED, and go to the website: http://www.ped.state.nm.us/SEB/community/index.html

VIII. IEP MEETING CATEGORIES

A. Initial

LADE will follow all federal and state requirements in sections 5.1 and 5.2 of this document.

B. Annual Review

§300.324 Development, review, and revision of IEP

(b) Review and revision of IEPs.

(1) General. LADE must ensure that, subject to paragraphs (b)(2) and (b)(3) of this section, the IEP Team--

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

(ii) Revises the IEP, as appropriate, to address--

(A) Any lack of expected progress toward the annual goals described in §300.320(a)(2), and in the general education curriculum, if appropriate;

(B) The results of any reevaluation conducted under §300.303;

(C) Information about the child provided to, or by, the parents, as described under §300.305(a)(2);

(D) The child's anticipated needs; or

(E) Other matters.

(2) Consideration of special factors. The IEP Team must:

(i) In the case of a child whose behavior impedes the child's learning or that of others, consider the use of positive behavioral interventions and supports, and other strategies, to address that behavior.

(ii) 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;

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

(iv) Consider whether the child needs assistive technology devices and services.

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

(3) Requirement with respect to regular education teacher. A regular education teacher of the child, as a member of the IEP Team, must, consistent with paragraph (a)(3) of this section, participate in the review and revision of the IEP of the child.

§300.116 Placements.
In determining the educational placement of a child with a disability, including a preschool child with a disability, LADE must ensure that--
(b) The child's placement--
(1) Is determined at least annually;
(2) Is based on the child's IEP; and
(3) Is as close as possible to the child's home, unless the parent agrees otherwise;
For placement in its entirety, please see Chapter 6.- LRE

(c) Reevaluation – IEP Team Meeting

§300.324 Development, review, and revision of IEP
(a) (5) Consolidation of IEP Team meetings. To the extent possible, LADE must encourage the consolidation of reevaluation meetings for the child and other IEP Team meetings for the child.

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

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

D. Amended IEP (New Provisions: Agreements, Amendments)

§300.324 Development, review, and revision of IEP
(a) (4) Agreement.
(i) In making changes to a child's IEP after the annual IEP meeting for a school year, the parent of a child with a disability and LADE may agree not to convene an IEP meeting for the purposes of making those changes and, instead, may develop a written document to amend or modify the child's current IEP.
(ii) If changes are made to the child's IEP in accordance with paragraph (a)(4)(i) of this section, LADE must ensure that the child's IEP Team is informed of those changes.
(b) Consolidation of IEP Team meetings. To the extent possible, LADE must encourage the consolidation of reevaluation meetings for the child and other IEP Team meetings for the child. *LADE special education staff will collaborate annually or monthly, as necessary, to work toward consolidating a student's evaluations to incorporate all disciplines involved with the student into one evaluation report. While this may be challenging to the staff, the benefits to the student are the ultimate goal.*
(c) Amendments. Changes to the IEP may be made either by the entire IEP Team at an IEP Team meeting or, as provided in paragraph (a)(4) of this section, by amending the IEP rather than by redrafting the entire IEP. Upon request, a parent must be provided with a revised copy of the IEP with the amendments incorporated.

Authority: NMAC 6.31.2.11 EDUCATIONAL SERVICES FOR CHILDREN WITH DISABILITIES:
B. Individualized education programs (IEPs)
(2) Each IEP or amendment shall be developed at a properly convened IEP meeting for which LADE has provided the parent and, as appropriate, the child, with proper advance notice pursuant to 34 CFR §300.322

and Paragraph (1) of Subsection D of 6.31.2.13 NMAC and at which the parent and, as appropriate, the child have been afforded the opportunity to participate as members of the IEP team pursuant to 34 CFR §§300.321, 300.322 and 300.501(b) and (c) and Subsection C of 6.31.2.13 NMAC.

(3) Except as provided in 34 CFR §300.324(a)(4), each IEP shall include the signature and position of each member of the IEP Team and other participants in the IEP meeting to document their attendance. Written notice of actions proposed or refused by LADE shall also be provided in compliance with 34 CFR §300.503 and Paragraph (2) of Subsection D of 6.31.2.13 NMAC and shall be provided at the close of the IEP meeting. Informed written parental consent must also be obtained for actions for which consent is required under 34 CFR §300.300 and Subsection F of 6.31.2.13 NMAC. An amended IEP does not take the place of the annual IEP conducted pursuant to CFR §300.324(a)(4) which requires that members of a child's IEP team must be informed of any changes made to the IEP without a meeting.

(4) Agreement to modify IEP meeting requirement.

(a) In making changes to a child's IEP after the annual IEP Team meeting for a school year, the parent of a child with a disability and LADE may agree not to convene an IEP Team meeting for the purposes of making those changes and instead may develop a written document to amend or modify the child's current IEP.

(b) If changes are made to the child's IEP in accordance with subparagraph (4)(a) of this paragraph, LADE must ensure that the child's IEP Team is informed of those changes.

Recommendations for changes in the individual educational program (IEP), including changes in the student's placement, will be made at the IEP Team meeting. The amendment procedure MAY NOT be used for certain actions that require an IEP Team meeting. ***NMPED strongly encourages*** *LADE* ***to require an IEP Team meeting for the following actions:***

- *Change in placement decision;*
- *Change student's Graduation Option;*
- *Manifestation Determination (suspension/expulsion), FBA or development of BIP;*
- *Change services, time of services, add/drop services (excluding transportation);*
- *Assigning a student to a classroom to receive instruction in a different curriculum area (e.g., reading comprehension, math calculation, etc.) than designated by the last IEP Team;*
- *Any change in schedule that would change the instructional arrangement~~,~~ or, for high school students, the graduation plan;*
- *Eligibility determination or change;*
- *Review lack of progress or when a student with disabilities receives a grade of F; and*
- *All disciplinary actions regarding student with disabilities will be in accordance with federal requirements and New Mexico regulations. The IEP Team will determine the instructional and related services to be provided during the time of expulsion. The student's IEP will include goals (and objectives, if taking an alternate state assessment) designed to assist in returning the student to school and preventing significant regression.*

Changes that DO NOT require an IEP Team meeting. The amendment procedure MAY be used for the following changes:

- *Transportation changes*
- *Accommodations or revision of existing modifications*

E. Exit / Change of Placement

§300.305 Additional requirements for evaluations and reevaluations.

For §300.305 in its entirety, see Chapter 2. FIE

(e) Evaluations before change in placement.

(1) Except as provided in paragraph (e)(2) of this section, LADE must evaluate a child with a disability in accordance with §§300.304 through 300.311 before determining that the child is no longer a child with a disability.

(2) The evaluation described in paragraph (e)(1) of this section is not required before the termination of a child's eligibility under this part due to graduation from secondary school with a regular diploma, or due to exceeding the age eligibility for FAPE under New Mexico law.

(3) For a child whose eligibility terminates under circumstances described in paragraph (e)(2) of this section, LADE must provide the child with a summary of the child's academic achievement and functional performance, which shall include recommendations on how to assist the child in meeting the child's postsecondary goals.

The Summary of Performance is separate documentation from the IEP meeting forms. For a sample form to assure required areas are addressed, please see the nationally ratified Summary of Performance sample form at this website: http://www2.gsu.edu/~wwwrld/pdf/SummaryofPerformance.pdf. *This sample template form is not required by the NMPED; however, if LADE uses a different form, NMPED will ensure that it includes all the information required by law.*

§300.102 Limitation--exception to FAPE for certain ages.

(a) General. The obligation to make FAPE available to all children with disabilities does not apply with respect to the following:

(3) (i) Children with disabilities who have graduated from high school with a regular high school diploma.

(ii) The exception in paragraph (a)(3)(i) of this section does not apply to students who have graduated but have not been awarded a regular high school diploma.

(iii) Graduation from high school with a regular high school diploma constitutes a change in placement, requiring written prior notice in accordance with §300.503.

(iv) As used in paragraphs (a)(3)(i) through (a)(3)(iii) for this section, the term regular high school diploma does not include an alternative degree that is not fully aligned with the New Mexico's academic standards, such as a certificate or a general educational development credential (GED).

NOTE: §300.102(a)(3)(iii) Graduation constitutes a change in placement and requires written prior notice in accordance with §300.503.

F. Graduation *(see also letter E – 300.305(e.)3. above)*

Authority: NMAC 6.31.2.11 EDUCATIONAL SERVICES FOR CHILDREN WITH DISABILITIES:

G. Graduation planning and post-secondary transitions

(5) For a child whose eligibility terminates due to graduation from secondary school with a regular diploma or due to reaching his/her 22nd birthday, LADE must provide the child with a summary of the child's academic achievement and functional performance, which shall include recommendations on how to assist the child in meeting the child's post-secondary goals pursuant to 34 CFR §300.305(e)(3).

(6) Students eligible for special education services are entitled to a FAPE through age 21. If a student turns 22 during the school year, that student shall be allowed to complete the school year and shall continue to receive special education and related services during that school year. If the student turns 22 prior to the first day of the school year, the student is no longer eligible to receive special education and related services.

Authority: NMAC 6.29.1.9 Standards for Excellence Procedural Requirements

J. Graduation Requirements:

(13) Graduation requirements for issuance of a conditional certificate of transition for students with an IEP. The development of a program of study and the granting of a diploma, or use of a conditional certificate of transition in the form of a continuing or transition individualized educational program (IEP) for students receiving special education services, includes the following governing principles:

(a) The IEP Team is responsible for determining whether the student has completed a planned program of study based on the student's strengths, interests, preferences, identified educational and functional needs and long-term educational or occupational goals, making the student eligible to receive either a diploma or a conditional certificate of transition. A

conditional certificate of transition allows the student to participate in graduation activities. If a student receives a conditional certificate of transition, the student shall then return to the program specified in the IEP to complete the student's secondary program and meet the requirements for a diploma. In addition, all IEPs shall provide a description of how the student's progress toward meeting annual goals and graduation requirements will be measured, and at what intervals progress will be reported to parents or guardians. A student shall be awarded a diploma upon completion of a planned program of study that meets the requirements of paragraph (b).

(b) A student may be awarded a diploma (Section 22-13-1.1 NMSA 1978) using any of the following programs of study described in (i) through (iii). All IEP team discussion points and decisions identified herein, including the identification of the student's program of study and any student or parent proposals accepted or rejected by the IEP Team (if the student has not reached the age of majority), shall be documented on the student's IEP and in the prior written notice (PWN) of proposed action.

(i) A standard program of study is based upon meeting or exceeding all requirements for graduation based on the New Mexico standards for excellence (Subsection J of 6.29.1.9 NMAC) with or without reasonable accommodations of delivery and assessment methods. In addition, a student shall pass all sections of the current state graduation examination(s) administered pursuant to Section 22-13-1.1(I) NMSA 1978 under standard administration or with state-approved accommodations, and shall meet all other standard graduation requirements of the district.

(ii) A career readiness alternative program of study is developed to provide relevance and is based on a student's career interest as it relates to one of the career clusters, with or without reasonable accommodations of delivery and assessment methods. In addition, a student shall take the current state graduation examination(s) administered pursuant to Section 22-13-1.1(K) NMSA 1978, under standard administration or with state-approved accommodations, and achieve a level of competency pre-determined by the student's IEP Team; the student shall earn at least the minimum number of credits required by the district or charter school for graduation through standard or alternative courses that address the employability and career development standards with benchmarks and performance standards, as determined by the IEP Team. Course work shall include a minimum of four units of career development opportunities and learning experiences that may include any of the following: career readiness and vocational course work, work experience, community-based instruction, student service learning, job shadowing, mentoring or entrepreneurships related to the student's occupational choices. Credits for work experience shall be related to the program of study that the school offers and specific to the district's ability to offer work experience or community-based instruction credits. The student shall achieve competency in all areas of the employability and career development standards with benchmarks and performance standards, as determined by the IEP Team and the student's interest as it relates to the career clusters. The program of study shall address the New Mexico content standards with benchmarks and performance standards in other subject areas as appropriate.

(iii) An ability program of study was developed for students who have a significant cognitive disability or severe mental health issues. The IEP goals and functional curriculum course work shall be based on the New Mexico standards with benchmarks and performance standards and employability and career development standards with benchmarks and performance standards. Students in this program of study shall earn the minimum number of credits or be provided equivalent educational opportunities required by the district or charter school, with course work individualized to meet the unique needs of the student through support of the IEP. In addition, a student shall take either the current state graduation examination(s) administered pursuant to Section 22-13-1.1(K) NMSA 1978, under standard administration or with state-approved accommodations, or the state-approved alternate assessment. The student shall achieve a level of competency pre-determined by the student's IEP Team on the current graduation examination or the

state-approved alternate assessment, and meet all other graduation requirements established by the IEP Team.

(c) The new requirements for the career readiness and ability options become effective beginning with students graduating in 2009.

(d) By the end of the eighth grade, each student's IEP shall contain a proposed individual program of study for grades nine through twelve. The program of study shall identify by name all course options the student may take and shall align with the student's long-range measurable post-secondary goals and transition services to facilitate a smooth transition to high school and beyond. This program of study shall be reviewed on an annual basis and adjusted to address the student's strengths, interests, preferences and areas of identified educational and functional needs. The IEP Team shall document on the IEP the student's progress toward earning required graduation credits and passing the current graduation examination.

(e) A district or charter school shall provide each student, who has an IEP and who graduates or reaches the maximum age for special education services, a summary of the student's academic achievement and functional performance, which shall include recommendations on how to assist the student in meeting post-secondary goals.

(f) Students graduating on the standard program of study shall meet the state's minimum requirements on all sections of the graduation examination. IEP teams shall document a plan of action on the IEP and the PWN to be carried out by both the student and the district or charter school, to ensure that the student will pass all sections of the graduation examination.

(g) To establish a level of proficiency on the current graduation examination or the state-approved alternate assessment for students on a career readiness program of study or ability program of study, IEP teams shall review the student's performance on the first attempt, and establish a targeted proficiency on all sections that are below the state's minimum requirement. For those students who meet participation criteria for the New Mexico alternate assessment, IEP teams shall set targeted levels of proficiency based upon previous performance on the test. If the student has previously been administered the New Mexico alternate assessment and has achieved an advanced level of overall performance, the IEP Team shall arrange for the student to participate in the general graduation examination, and shall identify appropriate accommodations that the student may require. IEP teams shall document the targeted levels of proficiency on the IEP and the PWN, outlining the plan of action to be taken by both the student and the district or charter school to ensure that the student will meet the targeted levels of proficiency. Districts or charter schools may submit a written request for a waiver to the secretary in cases where a student has medical or mental health issues that may result in regression or that negatively influence the student's ability to achieve targeted levels of proficiency. The written request shall be signed by the superintendent or charter school administrator and shall include documentation of the medical or mental health issues.

(h) Changes in programs of study.

(i) Departures from the standard program of study for students receiving special education services and supports shall be considered in the order of the options listed in Subparagraph (b) of Paragraph (13) of Subsection J of 6.29.1.9 NMAC. Any modified program of study may depart from a standard program of study only so far as is necessary to meet an individual student's educational needs as determined by the IEP Team. Districts and charter schools are obligated to meet the requirements IDEA to provide students with IEPs on any one of the three programs of study, and access to the general curriculum in the least restrictive environment. When an alternative program of study is developed, a building administrator or designee who has knowledge about the student shall be a member of the IEP team

(ii) Districts and charter schools shall document changes from the standard program of study on the PWN. IEP teams shall identify the reasons for changing the students' program of study, shall provide parents with clear concise explanations of the career readiness or ability programs of study, shall notify parents and students of the potential consequences that may limit the student's post-secondary options, and shall

make required changes to the IEP and course of study, to ensure that the student meets the requirements of that program of study.

(iii) The IEP team shall not change the program of study for a student entering the final year of high school from the standard program of study to the career readiness program of study, nor from the career readiness program of study to the ability program of study, after the 20th school day of the final year of high school. IEP teams may change a student's program of study from the ability program of study to the career readiness program of study, or from the career readiness program of study to the standard program of study, if the student meets the graduation requirements of that program of study and if the change is made and documented appropriately in a revised IEP and PWN by a properly constituted IEP team in a properly convened meeting.

(iv) Beginning with students entering the 10th grade, districts and charter schools shall maintain an accurate accounting of graduation programs of study for students with IEPs. Districts and charter schools shall ensure that 80% or more of students with IEPs are in the standard program of study, no more than 10-15% of students with IEPs shall graduate in the career readiness program of study, and no more than 1-3% of students with IEPs shall graduate in the ability program of study. Districts or charter schools exceeding the above maximum percentages shall submit a request for a waiver regarding each student affected. The request for waiver shall include the district name, the high school name, a list of all students on the alternate program of study exceeding the maximum percentage (including student demographics, unique student identifiers and the justification for changing each student's program of study). The waiver request shall be signed and submitted by the superintendent or charter school administrator to the secretary.

(i) A student who receives special education services may be granted a conditional certificate of transition in the form of a continuing or transition IEP when:

(i) the IEP Team provides sufficient documentation and justification that the issuance of a conditional certificate of transition for an individual student is warranted;

(ii) prior to the student's projected graduation date, the IEP Team provides a PWN stating that the student will receive a conditional certificate of transition;

(iii) the district or charter school ensures that a conditional certificate of transition is not a program of study and does not end the student's right to a FAPE;

(iv) the district or charter school ensures that a conditional certificate of transition entitles a student who has attended four years or more of high school to participate in graduation activities, and requires that the student continue receiving special education supports and services needed to obtain the high school diploma;

(v) the district or charter school ensures that, prior to receiving a conditional certificate of transition, the student has a continuing or transition IEP;

(vi) the student's continuing or transition IEP outlines measures, resources and specific responsibilities for both the student and the district or charter school to ensure that the student receives a diploma.

(j) A student who does not return to complete the program of study as outlined in the continuing or transition IEP will be considered as a dropout.

(k) A student who receives a conditional certificate of transition is eligible to continue receiving special education services until receipt of a diploma or until the end of the academic year in which the student turns 22 years of age.

(l) Graduation plans shall be a part of all IEPs:

(i) by the end of eighth grade, or by the time the student turns 14 years of age, and concurrent with the development of the student's transition plan in accordance with federal regulations at 34 CFR §300.320;

(ii) when a student returns to a school after an extended absence, and if an IEP program of study may have been developed but needs to be reviewed; or

(iii) when evaluations warrant the need for a modified program of study at any time after development of an initial graduation plan.

(m) Graduation plans shall be a part of all of all IEPs and annual reviews, and shall follow the student in all educational settings. Receiving institutions that fall under the department's jurisdiction will recognize these graduation plans, subject to revision by new IEP teams, if appropriate to meet a student's changing needs.

(n) At the exit IEP meeting, the team shall review the student's transition plan, and shall confirm and document that all state and district requirements for graduation under the final IEP have been satisfied. A building administrator who has knowledge about the student shall be a member of this team, and shall sign specifically to verify and accept completed graduation plans, goals and objectives pursuant to (i) - (iii) of Subparagraph (b) of Paragraph (13) of Subsection J of 6.29.1.9 NMAC, or plans for a conditional certificate of transition with a continuing or transition IEP, pursuant to Subparagraph (i) of Paragraph (13) of Subsection J of 6.29.1.9 NMAC. The IEP team shall ensure that the student has current and relevant evaluations, reports or other documentation necessary to support a smooth and effective transition to post-secondary services for a student who will graduate on one of the three programs of study. The school shall arrange for any necessary information to be provided at no cost to the students or parents. The school shall submit a list of students who will receive the diploma through a career readiness or ability program of study to the local superintendent or charter school administrator, using the students' numbers. This list shall be totaled and submitted to the local school board or governing body of a charter school. This information shall be treated as confidential in accordance with the FERPA.

(o) Students eligible for special education services are entitled to a FAPE through age 21. If a student turns 22 during the school year, the student shall be allowed to complete the school year. If a student turns 22 prior to the first day of the school year, the student is no longer eligible to receive special education services.

(p) The receipt of a diploma terminates the service eligibility of students with special education needs.

(q) All diplomas awarded by a school district or charter school shall be identical in appearance, content and effect, except that symbols or notations may be added to individual students' diplomas to reflect official school honors or awards earned by students.

(14) Future changes in graduation requirements. Refer to 6.29.1.13 NMAC.

G. Transfers / New to the District

§300.304 Evaluation procedures.

(c) Other evaluation procedures.

(5) Assessments of children with disabilities who transfer from one district to another district in the same academic year are coordinated with those children's prior and subsequent schools, as necessary and as expeditiously as possible, consistent with §300.301 (d)(2) and (e), to ensure prompt completion of full evaluations. *See §300.301 (d)(2) and (e) found in Chapter 3. – Evaluation.*

(ci) 300.323 When IEPs must be in effect.

(e) IEPs for children who transfer public agencies in the same state.

If a child with a disability (who had an IEP that was in effect in a previous district in the same State) transfers to a new district in the same State, and enrolls in a new school within the same school year, the new district (in consultation with the parents) must provide FAPE to the child (including services comparable to those described in the child's IEP from the previous district), until the new district either---

(1) Adopts the child's IEP from the previous [district]; or

(2) Develops, adopts, and implements a new IEP that meets the applicable requirements in §§300.320 through 300.324.

(f) IEPs for children who transfer from another State. If a child with a disability (who had an IEP that was in effect in a previous district in another State) transfers to a district in a new State, and enrolls in a new school within the same school year, the new district (in consultation with the parents) must provide the child with FAPE (including services comparable to those described in the child's IEP from the previous district), until the new district--

(1) Conducts an evaluation pursuant to §§300.304 through 300.306 (if determined to be necessary by the new district); and

(2) Develops, adopts, and implements a new IEP, if appropriate, that meets the applicable requirements in §§300.320 through 300.324.

(g) Transmittal of records. To facilitate the transition for a child described in paragraphs (d) and (f) of this section –

(1) The new district in which the child enrolls must take reasonable steps to promptly obtain the child's records, including the IEP and supporting documents and any other records relating to the provision of special education or related services to the child, from the previous district in which the child was enrolled, pursuant to 34 CFR 99.31(a)(2); and

(2) The previous district in which the child was enrolled must take reasonable steps to promptly respond to the request from the new district.

If the conditions of subsection (f)(1-2) are met, LADE will conduct an IEP Team meeting in order to document in writing the services to be implemented by LADE during the interim placement until the evaluation is completed.

Authority: NMAC 6.31.2.11 EDUCATIONAL SERVICES FOR CHILDREN WITH DISABILITIES:

H. Transfers and transmittals. When IEPs must be in effect.

(1) IEPs for children who transfer public agencies in the same state. If a child with a disability (who had an IEP that was in effect in a previous district in New Mexico) transfers to a new district in New Mexico, and enrolls in a new school within the same school year the new district must provide FAPE to the child. The IEP must include services comparable to those described in the child's IEP from the previous district, until the new district either:

(a) adopts and implements the child's IEP from the previous district; or

(b) develops and implements a new IEP that meets the applicable requirements in 34 CFR §§300.320 through 300.324.

(2) IEPs for children who transfer from another state. If a child with a disability (who had an IEP that was in effect in a previous district in another state) transfers to a district in New Mexico, and enrolls in a new school within the same school year, the new district must provide the child with FAPE. The IEP must include services comparable to those described in the child's IEP from the previous agency, until the new [district]:

(a) conducts an evaluation pursuant to 34 CFR §§300.304 through 300.306 (if determined to be necessary by the new district); and

(b) develops and implements a new IEP, if appropriate, that meets the applicable requirements in 34 CFR § §300.320 through 300.324.

(3) Transmittal records. To facilitate the transition for a child described in Paragraphs (1) and (2) of this section:

(a) the new district in which the child enrolls must take reasonable steps to promptly obtain the child's records, including the IEP and supporting documents and any other records relating to the provision of special education or related services to the child, from the previous district in which the child was enrolled; and

(b) the previous [district] in which the child was enrolled must take reasonable steps to promptly respond to the request from the new district.

The Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. §1232g, does not require the student's current and previous school districts to obtain parental consent before requesting or sending the student's special education records if the disclosure is conducted in accordance with 34 CFR §§99.31(a)(2) and 99.34. *[FERPA regulations]*

IX. TRANSITION PLANNING

§300.320 Definition of individualized education program

(b) Transition services. Beginning not later than the first IEP to be in effect when the child turns 16, or younger if determined appropriate by the IEP Team, and updated annually, thereafter, the IEP must

include--

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

(2) The transition services (including courses of study) needed to assist the child in reaching those goals.

§300.43 Transition services.

(a) Transition services means a coordinated set of activities for a child with a disability that--

(1) Is designed to be within a results-oriented process, that is focused on improving the academic and functional achievement of the child with a disability to facilitate the child's movement from school to post-school activities, including postsecondary education, vocational education, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation;

(2) Is based on the individual child's needs, taking into account the child's strengths, preferences and interests; and includes--

(i) Instruction;

(ii) Related services;

(iii) Community experiences;

(iv) The development of employment and other post-school adult living objectives; and

(v) If appropriate, acquisition of daily living skills and functional vocational evaluation.

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

(c) 300.321 IEP Team

(b) Transition services participants.

(1) In accordance with paragraph (a)(7) of this section, LADE must invite a child with a disability to attend the child's IEP meeting if a purpose of the meeting will be the consideration of the postsecondary goals for the child and the transition services needed to assist the child in reaching those goals under §300.320(b).

(2) If the child does not attend the IEP meeting, LADE must take other steps to ensure that the child's preferences and interests are considered.

(3) To the extent appropriate, with the consent of the parents or a child who has reached the age of majority, in implementing the requirements of paragraph (b)(1) of this section, LADE must invite a representative of any participating agency that is likely to be responsible for providing or paying for transition services.

(c) 300.322 Parent Participation

(b) Information provided to parents.

(1) The notice required for the IEP meeting must--

(i) Indicate the purpose, time, and location of the meeting and who will be in attendance; and

(ii) Inform the parents of the provisions in §300.321(a)(6) and (c) (relating to the participation of other individuals on the IEP Team who have knowledge or special expertise about the child).

(2) For a child with a disability beginning not later than the first IEP to be in effect when the child turns 16, or younger if determined appropriate by the IEP Team, the notice also must--

(i) Indicate--

(A) That a purpose of the meeting will be the consideration of the postsecondary goals and transition services for the child, in accordance with §300.320(b); and

(B) That LADE will invite the student; and

(ii) Identifies any other agency that will be invited to send a representative.

(c) 300.324 (c) Failure to meet transition objectives.

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

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

Authority: NMAC 6.31.2.11 EDUCATIONAL SERVICES FOR CHILDREN WITH DISABILITIES:

G. Graduation planning and post-secondary transitions

(1) The IEP for each child with a disability in grades 8 through 12 is developed, implemented and monitored in compliance with all applicable requirements of the department's Standards for Excellence (Chapter 29 of Title 6 of the NMAC), and these or other department rules and standards. The graduation plan shall be integrated into the transition planning and services provided in compliance with 34 CFR §§300.320(b), 300.324(c).

(a) Graduation plans must include the course of study, projected date of graduation and if the child is not on target for the graduation plan, the strategies and responsibilities of the [district], child and family must be identified in the IEP.

(b) Graduation options for children with disabilities at Paragraph (13) of Subsection J of 6.29.1.9 NMAC must align with state standards with benchmarks when appropriate.

(c) An alternative degree that does not fully align with the state's academic standards, such as a certificate or general educational development credential (GED), does not end a child's right to FAPE pursuant to 34 CFR §300.102(a)(3).

(2) Appropriate post-secondary transition planning for children with disabilities is essential. Public agencies shall integrate transition planning into the IEP process pursuant to 34 CFR §§300.320(b), 300.324(c) and shall establish and implement appropriate policies, procedures, programs and services to promote successful post-secondary transitions for children with disabilities. Transition services for students 14 to 21 include the following.

(a) Transition services are a coordinated set of activities for a child with a disability that emphasizes special education and related services designed to meet unique needs and prepare them for future education, employment and independent living.

(b) Transition services are designed to be within a results oriented process that is focused on improving the academic and functional achievement of the child with a disability to facilitate the child's movement from school to post-school activities, including post-secondary education, vocational education, integrated employment (including supported employment), continuing and adult education, adult services, independent living or community participation.

(c) Transition services must be based on the individual child's needs, taking into account the child's strengths, preferences and interests and includes:

(i) instruction;

(ii) related services;

(iii) community experiences;

(iv) the development of employment and other post-school adult living objectives; and

(v) when appropriate, acquisition of daily living skills and the provision of a functional vocational evaluation.

(d) Transition services for children with disabilities may be considered special education, if provided as individually designed instruction, aligned with the state standards with benchmarks, or related service, if required to assist a child with a disability to benefit from special education as provided in 34 CFR §300.43.

(3) State rules require the development of measurable post-school goals beginning not later than the first IEP to be in effect when the child turns 14, or younger, if determined appropriate by the IEP team, and updated annually thereafter. Pursuant to 34 CFR §300.320(b), the IEP must include:

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

(b) the transition services (including courses of study) needed to assist the child in reaching those goals; and

(c) a statement that the child has been informed of the child's rights under this title, if any, that will transfer to the child on reaching the age of majority.

(4) Measurable post school goals refer to goals the child seeks to achieve after high school graduation. The goals themselves must be measurable while the child is still in high school. In addition, the nature of these goals will be different depending on the needs, abilities and wishes of each individual child.

X. GRADUATION OPTIONS

A. Guidelines for Graduation Options

The IEP is the overriding document of planning for a student receiving special education and related services to progress through the educational process. In accordance with 6.31.2.11 (G) NMAC, the IEP for each student receiving special education support and services in grades eight through twelve shall include graduation planning that is integrated into transition planning and services. The IEP should be coordinated and developed with a graduation/transition plan, which includes the multi-year program of study for each student who progresses through a high school program. By the end of the eighth grade, each student's IEP must contain a proposed individual program of study for the grades remaining until high school graduation. These multi-year plans are based on the student's post-school goals, thus personalizing learning and providing relevance. These programs of study must be reviewed and revised on an annual basis.

1) The multi-year plan must:
   - be a part of all IEPs for students receiving special education support and services in grades 8 through 12 or to age 22;
   - identify by name all course options the student may take in the remaining years of the students secondary program;
   - reflect the student's long-range measurable post-school goals; and
   - be reviewed on an annual basis and adjusted to address the student's strengths, interests, preferences, and needs.
2) The IEP Team is responsible for developing a multi-year plan that is most conducive to preparing a student to achieve his or her post-school goals.
   - The composition of the IEP Team must meet federal and state requirements.
   - When a graduation program of study is proposed, an individual knowledgeable about high school curriculum should be included on the team.
   - The parent(s) and student should be members of this team, and sign to verify and accept graduation/transition plans. (Parent participation is not mandatory if the student is 18 years of age unless the parent has legally retained guardianship.)
   - A building administrator or designee who has knowledge about the student should be a member of the team when an alternative program of study is developed and be able to verify and accept completed plans for students receiving special education services on the career and ability graduation options.
3) Program of study selection is an IEP Team decision. Parents and students must be a part of the decision-making process. The student's graduation needs and personal goals are the primary considerations for identifying and developing an alternative graduation plan. The IEP team must:
   - base all decisions on the student's strengths, needs, measurable post-school, transition service needs, goals, interest, and preferences; and
   - begin discussion on graduation/transition plans at the eighth grade IEP, including plans leading to earning a regular diploma.
   - Consider the graduation option in the order listed in regulation. If the IEP team chooses an alternative graduation option, the team must:
     - justify and document the reasons for doing so in the IEP;
     - provide sufficient documentation as a basis for its initial decision to place a student on an alternative graduation option other than the standard;
     - notify parents and students of potential consequences of this decision; and
     - base all decisions on the needs of the student and **not** on the student's ability to earn required credits or pass the current exit exam.
4) Assessing and documenting student progress toward graduation is crucial to the overall process. IEP teams must document the following information on the student's IEP:
   - Review and document progress toward graduation on an annual basis for all students in grades 8-12.

- Document skill attainment and progress toward achieving competencies.
- Document each student's progress toward earning required graduation credits and passing the current graduation examination(s).
- Ensure and document that requirements of the student's program of study are met.
- Revise the IEP to reflect any changes in the student's graduation needs and/or plans.
- Identify supports and services that will help students achieve IEP goals and meet graduation requirements.

5) Transition planning is an important part of the IEP process beginning no later than the first IEP to be in effect when a student is in the eighth grade. The IEP team should address the following components of transition planning:
   - Coach every student to think about goals for life after high school and develop a long range plan.
   - Ensure the IEP contains appropriate measurable post-school goals based upon age-appropriate transition assessments, and that these are updated annually.
   - Develop a plan to ensure the high school experience relate to each student's post-school goals.
   - Ensure that each student gains the skills and competencies needed to achieve his or her desired post-school goals.
   - Identify and link students and families to needed post-school services, supports, or programs before the student exits the school system.
   - Ensure that the student has necessary evaluations, documents, or reports to facilitate a smooth transition to adult services and/or postsecondary institutions.
   - Ensure that all domain areas of transition (instruction, related services, community experiences, the development of employment and other post-school living objectives, and, when appropriate, acquisition of daily living skills and functional vocational evaluation) are considered and documented in the IEP, pursuant to federal regulations and state special education rules.
6) Students receiving special education services must participate in the Statewide College and Workplace Readiness Assessment System and take the current state graduation and/or exit exam or the state approved New Mexico Alternate Assessment. The IEP must specify:
   - which assessment will be administered,
   - are accommodations necessary, if so
   - what State approved accommodations are needed.
7) IEP teams must determine if the student is eligible for participation in an alternate assessment according to the following criteria:
   - The student's past and present levels of academic achievement and functional performance in multiple settings indicates that a significant cognitive disability is present;
   - The student needs intensive, pervasive, or extensive levels of support in school, home, and community settings; and
   - The student's current cognitive and adaptive skills and performance levels require direct instruction to accomplish acquisition, maintenance, and generalization of skills in multiple settings.
8) As a best practice, IEP teams should identify strategies that will help the student master skills required to pass the assessment for students on the Standard graduation option or to achieve the level of proficiency determined by the IEP Team for students graduating on the Career Readiness or Ability program of study. The team should also consider identifying who will be responsible for ensuring the completion of the above items.

Note: The NMPED strongly encourages IEP teams to review the most current New Mexico Statewide Assessment Program Procedures Manual for guidance on selecting appropriate accommodations. This guidance is updated annually. http://www.ped.state.nm.us/AssessmentAccountability/AssessmentEvaluation/index.html

9) Additional responsibilities for IEP teams include the following:
   - Monitor and report student progress toward meeting IEP goals to parents with at least the same frequency as the reporting schedule for non-disabled students.
   - Verify that each student achieved program goals and objectives leading to graduation and receipt of a high school diploma.
   - Protect the integrity of the diploma for all students by complying fully with the requirements of the graduation options for students receiving special education services.
   - Ensure that the IEP and Prior Written Notice of Actions Proposed (PWN), given to the parents at the end of each IEP meeting, reflects the students progress toward his or her graduation plans as he or she transitions into high school, and at all points in the process.

Note: See the Public Education Department's *Technical Assistance Manual*: *Developing Quality IEP's* for assistance and forms.
http://www.ped.state.nm.us/SEB/technical/Developing%20Quality%20IEP%20Manual%20March%202011.pdf

10) Pursuant to the IDEA 2004 and state rules, IEP teams must provide each eligible student with a summary of the student's academic achievement, functional performance, and additional recommendations on how to assist the student in meeting his or her post-school goals.
11) The Department strongly recommends that building administrators monitor progress of each student with a disability toward graduation plan requirements throughout high school.
12) When the exit IEP Team meets to review the student's program of study and progress to determine if the student has fulfilled graduation plan requirements, the building administrator must be included on the team. The building administrator is responsible for ensuring the integrity of the graduation process. The LEA's Special Education Director is responsible for monitoring graduation data.
13) A student graduating under any option or receiving a certificate with a follow-up plan of transition must participate equitably in all graduation ceremonies.
14) The least restrictive environment (LRE) principles apply to all graduation options, and IEP teams must ensure that the student has appropriate access to the general education curriculum.

B. Standard Graduation Option

A Standard Graduation Option is a program of study based upon meeting or exceeding all requirements for graduation as identified in the New Mexico Standards for Excellence, with or without reasonable accommodations of delivery and assessment methods. In addition, a student must participate in the Statewide college and workplace readiness assessment system and pass all sections of the current state graduation examination(s) administered under standard administration or with state approved accommodations and meet all other standard graduation requirements established by the district. The IEP Team selects required courses and electives based on the student's post-school goals, strengths, interests, and needs. If the IEP Team chooses a graduation option other than the standard, the team must provide documentation for selecting an alternative graduation option.

Additional Guidelines for Standard Graduation Option

1) The student must:
   - meet or exceed the requirements for graduation based on the Standards for Excellence Section J of 6.29.1.9 NMAC and Section 22-13-1.1 NMSA 1978;
   - participate in the Statewide College and Workplace Readiness Assessment System
   - meet all other standard graduation requirements of the district; and
   - pass the current New Mexico graduation and/or exit exam-with or without accommodations by obtaining the minimum level of proficiency and/or performance established by the Public Education Department.
2) Credits may include courses in which curriculum or instructional accommodations are applied as long as the student achieves the same competencies listed on the graduation requirements.
3) The IEP Team should look closely at the student's results from grades nine and ten short-cycle diagnostic assessment and scores on the first attempt on the high school exit exam. The IEP Team should treat those

scores as baseline of performance from which the IEP Team identifies strategies to improve a student's skills and enable him or her to pass the current state graduation and/or exit exam.

The steps for teams to follow are:

- Ensure progress in the general education curriculum so that a student can meet the same educational standards that apply to all students.
- Align goals to the state standards with benchmarks and assessment and focus on helping the student attain the skills needed to achieve standards reflected in assessment.
- Be sure the student takes practice assessments. A student may know the material but if not familiar with the test format, he or she may have difficulty passing the test.

The SEB strongly encourages the use of the *New Mexico High School Competency Examination Domain Specifications* to help prepare students for the exam question format. The Domain Specification document can be accessed on the NMPED website.
http://www.ped.state.nm.us/AssessmentAccountability/AssessmentEvaluation/NMHSCE/index.html

4) If the student passes the graduation exit exam on the first attempt, the IEP Team should work to ensure that the student meets all other requirements for graduation on the standard option.

5) If the student's transition plan includes accessing services such as special services at the post-secondary level or Division of Vocational Rehabilitation (DVR) Services, the IEP Team should determine whether the student requires updated evaluations, reports, or documents to support a smooth and effective transition to the post-secondary setting.

C. Career Readiness Graduation Option

The Career Readiness Graduation Option provides the opportunity to pursue career interests within the career clusters. The student's program of study must address the New Mexico Public Education Department's (NMPED) content standards with benchmarks and performance standards. The student must achieve competency in all areas of the NMPED employability and career development standards with benchmarks and performance standards as defined in the IEP, with or without reasonable accommodations of delivery and assessment methods. In addition, a student must participate in the statewide college and workplace readiness assessment system and take the current state graduation examination(s) under standard administration or with state-approved accommodations and achieve a level proficiency determined by the IEP Team. The student must earn at least the minimum number of credits required by the district for graduation through standard or alternative courses. The IEP Team determines the course of study the student will complete. The course of study and the student's IEP goals must be designed to assist the student in achieving competency in all areas of the NMPED employability and career development standards with benchmarks and performance standards. The course work shall include a minimum of four units of career development opportunities and learning experiences. The experiences may include career readiness and vocational course work, work experience, community-based instruction, student service learning, job shadowing, mentoring or entrepreneurships related to the student's occupational choices. The career readiness graduation option takes into account the individual student's strengths, interest, career preference, and needs and allows for the substitution of classes as appropriate. The IEP Team uses the IEP to document mastery of those standards and benchmarks.

Additional Guidelines for Career Readiness Graduation Option

1) Completion of the career readiness program of study requires that a student **achieve** his or her IEP goals and objectives based on the Employability and Career Development Standards with Benchmarks and Performance Standards. These Standards, Benchmarks, and Performance Standards are included in the CONTENT STANDARDS WITH BENCHMARKS AND PERFORMANCE STANDARDS FOR CAREER AND TECHNICAL EDUCATION, GRADES 7-12 in Subsection 2.29.3.8 NMAC:
   - Students will know and understand the importance of employability skills:
     - BENCHMARK 1: Identify and demonstrate the use of positive work behaviors and personal qualities needed to be employable.

- BENCHMARK 2: Develop a personal career plan to meet career goals and objectives.
- BENCHMARK 3: Demonstrate skills related to seeking and applying for employment to find and obtain a desired job.

- Students will explore, plan and effectively manage careers:
  - BENCHMARK 1: Maintain a career portfolio to document knowledge, skills and experience in a career field.
  - BENCHMARK 2: Demonstrate skills in evaluating and comparing employment opportunities in order to accept employment positions that match career goals.
  - BENCHMARK 3: Identify and exhibit traits for retaining employment to maintain employment once secured.
  - BENCHMARK 4: Identify and explore career opportunities in one or more career options to build an understanding of the opportunities available in the cluster.
  - BENCHMARK 5: Recognize and act upon requirements for career advancement to plan for continuing education and training.
  - BENCHMARK 6: Continue professional development to keep current on relevant trends and information within the industry.
  - BENCHMARK 7: Examine licensing, certification and credentialing requirements at the national, state and local levels to maintain compliance with industry requirements.
  - BENCHMARK 8: Examine employment opportunities in entrepreneurship to consider entrepreneurship as an option for career planning.

2) The IEP Team must consider the standard graduation option first. If the IEP Team changes the student's program of study from the standard to the career readiness, the team must:
   - justify and document the reasons for rejecting the standard program of study on the IEP and PWN;
   - provide parents and students with a clear, concise definition of the career readiness program of study;
   - notify parents and students of potential consequences of the choice that may limit the student's post-school options;
   - demonstrate that sufficient documentation and evidence exists to support its decision to place the student on the career readiness program of study; and
   - base all decisions on the needs of the student and **not** solely on the student's ability to earn required credits or pass the current exit exam.
3) To earn a diploma on the career readiness graduation option a student must:
   - earn at least the district's required number of credits (the IEP Team determines the standard and alternate courses that will make up the student's program of study and ensure the student meets requirements identified in the Standards for Excellence);
   - participate in the Statewide College and Workplace Readiness Assessment System;
   - achieve competency in all areas of the Employability and Career Development Standards with Benchmarks and Performance Standards; and
   - take the current graduation exit exam and achieve a level of proficiency determined by the student's IEP Team.
4) The IEP Team should document the classes, courses, and/or experiences which will be used to assure that the student achieves standards as identified in the Employability and Career Development Standards with Benchmarks and Performance Standards in the student's IEP.
5) Districts are encouraged to devise ways to document on the transcript, or other permanent document, the fact that the student has achieved benchmarks and other requirements identified on his or her graduation plan.
6) In the best interest of the student, a high school counselor should be included in the IEP meeting to assist students and other team members in developing the program of study

D. Ability Graduation Option

The Ability Graduation Option means a program of study based upon meeting or surpassing IEP goals and objectives, with or without reasonable modification of delivery and assessment methods, referencing skill attainment at a student's ability level, which may lead to meaningful employment. The IEP Team designs the ability program of study to meet the student's needs with IEP goals, objectives, and benchmarks developed to provide the most appropriate program

for the student. The IEP goals and functional curriculum course work must be based on the State Standards with Benchmarks and Performance Standard or the State Expanded Grade Band Expectations. Typically, IEP teams develop the ability program of study for students with severe cognitive and/or physical disabilities or students with severe mental health challenges. The ability program of study varies from the standard high school graduation requirements. Students on the ability program of study must participate in the statewide college and workplace readiness assessment system and take the current state graduation examination(s) or the State's Alternate Assessment and must achieve a level of proficiency determined by the IEP Team. The IEP Team must individualize the ability program of study for each student's needs.

Once the IEP Team has identified a graduation option and developed an appropriate IEP, the team is required to assess and document student progress and to update goals, objectives, and benchmarks annually or as needed. The alternative graduation options may depart from the standard program of study only as far as necessary to meet the student's needs as determined by the IEP Team. IEP teams cannot change a senior's option after the 20th school day of the final year of high school, except in situations where seniors experience unusual medical emergencies. Waivers for special exceptions after the 20th school day must be sent to the NMPED for approval.

Additional Guidelines for Ability Graduation Option

1) Under the Ability graduation program of study, the majority of the goals and objectives relate to functional life and community skills. The ability program of study was developed for students who have a significant cognitive disability or severe mental health issues.
2) To graduate on this option, it must be the case that
   - a student has been consistently working toward identified goals, objectives, and benchmarks, developed by the IEP Team; and,
   - has achieved a level of success that the IEP team agrees is commensurate with the student's abilities
3) The IEP Team must consider the standard option first. If the IEP team rejects the standard and career readiness options the team must:
   - justify and document the reasons for rejecting the standard and career readiness option on the PWN;
   - provide parents and students with a clear, concise definition of the ability graduation option;
   - notify parents and students of potential consequences of the choice that may limit the student's post-school options;
   - demonstrate that sufficient documentation and evidence exists to support its decision to place the student on the ability program of study; and
   - base all decisions on the needs of the student and **not** on the student's ability to earn required credits or pass the current exit exam.
4) The student must successfully complete the requirements of the ability graduation option and his or her IEP by participating in specially designed programs that meet his or her educational and transition service needs through community-based instruction, transportation, work experience, community participation, recreation and leisure, accessing adult services, independent living skills, etc.
5) The IEP Team must document student progress toward goals and objectives, referencing skill attainment.
6) The student must take either the current state graduation examination(s) administered pursuant to NMSA 1978, §22-13-1.1(k) or (l) or the state-approved alternate assessment, achieving a level of proficiency to be determined by the student's IEP Team, and meet all other graduation requirements established by the IEP Team.
   http://www.ped.state.nm.us/div/acc.assess/assess/Expanded_Grade_Band_Expectations/egbe.html

E. Establishing a Level of Proficiency - Career Readiness and Ability Option

1) "Target level of proficiency" is a score on the current graduation exam, determined by the IEP Team as the proficiency level the student must reach to graduate.
2) To establish the target level of proficiency, the IEP Team must review the student's results from grades nine and ten short-cycle diagnostic assessment and performance on the **first** attempt on the graduation exam, which currently occurs during the 2nd semester of the 10th grade.

3) The IEP Team must establish a targeted proficiency level on all sections of the graduation exam where the student's score falls below the state's minimum requirement.
4) For the purposes of accountability and reporting, if the score determined by the IEP Team falls short of the state's minimum requirement, the district must report the student as a **no pass** on the graduation examination.
5) If the student meets the IEP Team's determined level of proficiency and the determined level is less than the state's minimum requirement, the student will **not** have the option to move to the standard option.
6) The IEP must document the target levels of proficiency on the IEP and PWN and outline a plan of action to be taken by both the student and the district to assist the student in meeting the target level of proficiency.
7) The IEP Team should look closely at the results from grades nine and ten short-cycle diagnostic assessment and scores from the student's first attempt on the exit exam. and identify strategies to improve student's skills to achieve the level of competency determine by the team.

Steps for IEP teams to follow include:

- The level of competency must be reasonable and based on the student's present level of academic achievement and functional performance in a variety of settings.
- Ensure progress in the general education curriculum so that a student can meet the educational standards that apply to all students.
- Align goals and objectives to the state standards with benchmarks.
- Focus on helping the student attain the skills needed to achieve standards reflected in assessment.
- Be sure the student takes practice assessments. A student may know the material, but if he/she is not familiar with the test format, he/she may have difficulty passing the test.
- Ensure that the targeted proficiency score is higher than the score achieved by the student on the first attempt, in order to promote progress.

F. Guidelines for Issuing a Conditional Certificate of Transition

1) The IEP Team must:
    - review graduation plans on an annual basis for students in grades 8-12;
    - provide documentation and justification that the issuance of a conditional certificate of transition is warranted (See Case Studies on pages 39-42 and Frequently Ask Questions, pages 94-97);
    - evaluate and document on the PWN the student's progress toward meeting diploma requirements for his or her identified program of study; and
    - provide PWN that a student will receive a conditional certificate of transition in the form of a continuing or transition IEP.
2) The conditional certificate of transition in the form of a continuing or transition IEP:
    - indicates the student has attended four years (or more) of high school;
    - does not terminate the student's right to FAPE;
    - is not reported as an "exit" in the Student Teacher Accountability Reporting System (STARS);
    - allows the student to participate equally in all graduation activities;
    - does not end the students right to FAPE; and
    - allows the student to return to school for additional educational and transition needs.
3) Before awarding a conditional certificate of transition in the form of a continuing or transition IEP, the IEP team must agree to the following:
    - The student's program and instruction have been appropriate and implemented as written.
    - The student has attended four or more years of high school.
    - The student may participate equally in all graduation activities.
    - The student has a follow-up plan of action in the form of a continuing or transition IEP.
4) Districts must ensure that the student has a continuing or transition IEP that outlines measures, resources, and specific responsibilities for the district, the student, and the family to ensure the student receives a high school diploma.
5) Upon satisfactory completion of a standard, career readiness, or ability program of study, the student will receive his or her diploma, and be reported as an exited student in STARS.

6) A student who does not return to complete the follow-up plan of action will be considered a dropout unless they are enrolled in another school district, private school, or State or district-approved education program (including a GED program), or temporary absence due to suspension or school-approved illness.

XI. STATE OR DISTRICT-WIDE ASSESSMENTS

§300.160 Participation in assessments.

(a) General. The NMPED must ensure that all children with disabilities are included in all general State and district-wide assessment programs, including assessments described under section 1111 of the ESEA, 20 U.S.C. 6311, with appropriate accommodations and alternate assessments, if necessary, as indicated in their respective IEPs.

(b) Accommodation guidelines.

(1) The NMPED (or, in the case of a district-wide assessment, LADE) must develop guidelines for the provision of appropriate accommodations.

(2) The NMPED's (or, in the case of a district-wide assessment, LADE's) guidelines must—

(i) Identify only those accommodations for each assessment that do not invalidate the score; and

(ii) Instruct IEP Teams to select, for each assessment, only those accommodations that do not invalidate the score.

(c) Alternate assessments.

(1) The NMPED (or, in the case of a district-wide assessment, LADE) must develop and implement alternate assessments and guidelines for the participation of children with disabilities in alternate assessments for those children who cannot participate in regular assessments, even with accommodations, as indicated in their respective IEPs, as provided in paragraph (a) of this section.

(2) For assessing the academic progress of students with disabilities under Title I of the ESEA, the alternate assessments and guidelines in paragraph (c)(1) of this section must provide for alternate assessments that—

(i) Are aligned with the State's challenging academic content standards and challenging student academic achievement standards;

(ii) If the State has adopted modified academic achievement standards permitted in 34 CFR §200.1(e), measure the achievement of children with disabilities meeting the State's criteria under §200.1(e)(2) against those standards; and

(iii) If the State has adopted alternate academic achievement standards permitted in 34 CFR §200.1(d), measure the achievement of children with the most significant cognitive disabilities against those standards.

(d) Explanation to IEP teams. The NMPED (or in the case of a district-wide assessment, LADE) must provide IEP Teams with a clear explanation of the differences between assessments based on grade-level academic achievement standards and those based on modified or alternate academic achievement standards, including any effects of State or local policies on the student's education resulting from taking an alternate assessment based on alternate or modified academic achievement standards (such as whether only satisfactory performance on a regular assessment would qualify a student for a regular high school diploma).

(e) Inform parents. The NMPED (or in the case of a district-wide assessment, LADE) must ensure that parents of students selected to be assessed based on alternate or modified academic achievement standards are informed that their child's achievement will be measured based on alternate or modified academic achievement standards.

(f) Reports. The NMPED (or, in the case of a district-wide assessment, LADE) must make available to the public, and report to the public with the same frequency and in the same detail as it reports on the assessment of nondisabled children, the following:

(1) The number of children with disabilities participating in regular assessments, and the number of those children who were provided accommodations (that did not result in an invalid score) in order to participate in those assessments.

(2) The number of children with disabilities, if any, participating in alternate assessments based on grade level academic achievement standards.

(3) The number of children with disabilities, if any, participating in alternate assessments based on modified academic achievement standards.

(4) The number of children with disabilities, if any, participating in alternate assessments based on alternate academic achievement standards.

(5) Compared with the achievement of all children, including children with disabilities, the performance results of children with disabilities on regular assessments, alternate assessments based on grade-level academic achievement standards, alternate assessments based on modified academic achievement standards, and alternate assessments based on alternate academic achievement standards if—

(i) The number of children participating in those assessments is sufficient to yield statistically reliable information; and

(ii) Reporting that information will not reveal personally identifiable information about an individual student on those assessments.

(g) Universal design. The NMPED (or, in the case of a district-wide assessment, LADE) must, to the extent possible, use universal design principles in developing and administering any assessments under this section.

§300.320 Definition of individualized education program.

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

(6) (i) A statement of any individual appropriate accommodations that are necessary to measure the academic achievement and functional performance of the child on State and district wide assessments consistent with section 612(a)(16) of the Act; and

(ii) If the IEP Team determines that the child must take an alternate assessment instead of a particular regular State or district wide assessment of student achievement, a statement of why--

(A) The child cannot participate in the regular assessment; and

(B) The particular alternate assessment selected is appropriate for the child; and

(7) The projected date for the beginning of the services and modifications described in paragraph (a(4) of this section, and the anticipated frequency, location, and duration of those services and modifications.

Authority: NMAC 6.31.2.11 EDUCATIONAL SERVICES FOR CHILDREN WITH DISABILITIES:

E. Participation in statewide and district-wide assessments. The *cm and other public agencies when applicable shall include all children with disabilities in all statewide and district-wide assessment programs. LADE shall collect and report performance results in compliance with the requirements of 34 CFR §§300.157 and 300.160(f) and §1111(h) of the Elementary and Secondary Education Act, and any additional requirements established by the department. Students with disabilities may participate:

(1) in the appropriate general assessment in the same manner as their nondisabled peers; this may include the use of adaptations that are deemed appropriate for all students by the department; or

(2) in the appropriate general assessment with appropriate accommodations in administration if necessary; the LADE shall use the current guidance from the department about accommodations as specified in the student's IEP; or

(3) in alternate assessments for the small number of students for whom alternate assessments are appropriate under the department's established participation criteria; the IEP team must agree and document that the student is eligible for participation in an alternate assessment based on alternate achievement standards according to 34 CFR §300.320(a)(6).

To view manuals, sample test items and activities and tips that have proven to be successful in New Mexico in helping students prepare for the tests and for schools to reach AYP, go to the NMPED website at: www.ped.state.nm.us (look for the New Mexico Standards Based Assessment logo on the main page).

Students will be tested to determine how well they have mastered New Mexico Standards in reading, writing, mathematics and science. The IEP Team has the responsibility to determine not **if** they will participate, but **how** they will participate. If a student is not reasonably able to participate in the standard test administration with students without exceptionalities, the team selects the most appropriate alternate testing method. In making this decision, the IEP Team should begin by considering what accommodations the student receives for instruction. In most cases, accommodations regularly used for instruction will correlate with those needed for assessment. However, when determining testing accommodations for a student, the team should consider that the testing environment may differ

from the instructional environment, and plan accordingly. The IEP Team must indicate which testing method will be used to allow the student to participate in district and state testing, as required by law.

LADE IEP team will reference the New Mexico Technical and Evaluation Assessment Manual. The Manual is updated to reflect the most current guidance available. This version is available on the SEB website at: http://www.ped.state.nm.us/SEB/technical/NMTeamManual.pdf

LADE will follow the NMPED manual for allowable accommodations on state testing, and the IEP Team will specifically detail accommodations that the student needs throughout the school year to implement the IEP.

New Mexico Alternate Assessment (NMAA) Guide

For more information: http://www.ped.state.nm.us/seo/assessment/Making.Asmnt.Decisions.0607.NMAPA.doc

Both federal and state laws require that *all* students with disabilities are to be administered assessments intended to hold schools accountable for the academic performance of students. IEP Team members must actively engage in a planning process that addresses these issues:

* assurance of the provision of accommodations to help facilitate student access to grade level instruction and state assessments. Accommodations Guide: http://www.ped.state.nm.us/seo/assessment/200506.NM.Accomm.doc
* the use of alternate assessments to assess the achievement of students with the most significant cognitive disabilities. The New Mexico Online Alternate Assessment Course can be downloaded from: http://www.ped.state.nm.us/ayp2007/press/Alternative%20Assessment-AYPMediaTraining7-25-07.pdf. This training takes test administrators through the administration of the New Mexico alternate assessments that are currently in place. It is updated every year to reflect any changes in the alternate assessment system. The participation criteria, located at the following link: http://www.ped.state.nm.us/seo/guide/Making.Assessment.Decisions.NMALT.pdf., for the New Mexico Alternate Assessments have become rule in the State of New Mexico. Sections 6.31.2.11(E)(3)(a)-(c) of the New Mexico Administrative Code now require that IEP teams "agree and document" that the student is eligible for participation in an alternate assessment according to the criteria listed above.

REQUIRED EXPLANATION OF STATE / DISTRICT-WIDE TESTING FOR THE IEP TEAM

§300.160 Participation in assessments. *(new – effective May 7, 2007)*

In order to meet all requirements listed above regarding state and district-wide testing, the following questions must be addressed in the IEP meeting. If the IEP Team determines, based on analysis of current data, that the student cannot take the State or district-wide assessments, the IEP Team must provide the following information:

A. Specify why the child cannot participate in the regular assessment: _____
B. List the particular alternate assessment that is appropriate for the child: NMAA area
C. Sufficient documentation must be provided (multiple records and multiple sources of information) to answer ALL of the following questions in the affirmative.
    1. Does the student's past and present performance in multiple settings (i.e., home, school, and community) indicate that a significant disability is present? Explain.
    2. Does the student need intensive, pervasive, or extensive levels of support in school, home, and community settings? Explain.
    3. Do the student's current cognitive and adaptive skills and performance levels require direct instruction to accomplish the acquisition, maintenance, and generalization of skills in multiple settings (home, school, and community)? Explain.
    4. Has one of the following been ruled out as the primary reason why the student cannot be included in the state-mandated assessments?
        - excessive or extended absences
        - visual or auditory disabilities
        - specific learning disabilities
D. Explain clearly the differences between assessments based on grade-level academic achievement standards and

those based on modified or alternate academic achievement standards.

E. Explain clearly the effects on the student's education resulting from taking an alternate assessment based on alternate or modified academic achievement standards (such as whether only satisfactory performance on a regular assessment would qualify a student for a regular high school diploma).

Definitions Below:

Accountability: *refers to an individual or group of individuals taking responsibility for the performance of students on achievement measures or other types of educational outcomes (e.g., dropout rates.)*

Alternate Assessment: *an assessment that is different from the one administered to most students. It is best viewed as the "process" for collecting information about what a student knows and can do. The majority of students participate in statewide assessments, some by using accommodations. Some students, however, are unable to take the test even with accommodations. For these students, the state must design an alternate method of determining their learning /learning progress. (Massanari, Carol B.,1999)*

Alternate or modified academic achievement standards: *a tailored/personalized measurement of a child's attainment or accomplishment of the standards for academic areas of reading, writing and math. This alternate or modified measurement is not the same as the measurement used for the majority of regular education students, which is called the New Mexico Standards Based Assessment.*

Differences: While the majority of regular education students will be administered an assessment based on New Mexico grade-level academic achievement standards, the alternate or modified academic achievement standards will be based on the student's functional performance data gathered by the IEP Team and will be individualized at the student's functioning level and not at the assigned grade level.

Effects on the student's education resulting from taking an alternate assessment based on alternate or modified academic achievement standards:

- *Satisfactory performance on a regular assessment New Mexico Standards Based Assessment will qualify the student for a regular high school diploma.*
- *Student will not graduate through the New Mexico Standard Option but through one of the following Options: Career Readiness or Ability.*

Accommodation that does not invalidate the test: *an adjustment, change, or adaptation made to an assessment or the process of administering an assessment to students with special needs. This term generally refers to changes that do not significantly alter what the test measures. Such changes result from a student's needs and are not intended to give the student an unfair advantage. All accommodations must be identified in the student's IEP (CEC and the Learning Network 2000-2001).*

Benchmarks: *are statements of what all students should know and be able to do in a content area by the end of grade levels 4,8, and 12.*

Content Standards: *are broad descriptions of knowledge and skills students should acquire in a particular subject area.*

Criterion-Referenced Test: *a test that is designed to provide information on the specific knowledge or skills possessed by a student. Such tests are designed to measure the objectives of instruction, skill levels, or areas of knowledge. Their scores have meaning in terms of what the student knows and can do, rather than in their relation to the scores made by some comparison to a norm group (Tuckman, B, 1986).*

Functional Tasks: *skills used in everyday life or that prepare students for life after graduation. These skills include those required for personal maintenance and development, homemaking, and community life, work and career, recreational activities and travel within the community (Smith, D.D., 1998).*

High Stakes Assessment: *state and or district-wide tests that have important consequences for students, staff, or schools (CEC and the Learning Network 2000-2001).*

Large Scale Assessments: *these assessments show how students are performing against state standards or national*

norms, and hold school districts accountable for student performance (CEC and the Learning Network 2000-2001).

Norm-referenced Test: *a test designed to provide information on the performance of test takers relative to one another. It measures basic concepts and skills commonly taught in schools throughout the country. These tests are not designed as precise measures of any given curriculum or single instructional program. Test results provide information that compares a student's achievement with that of a representative national sample. (Tuckman, B. 1986).*

Performance-based Assessment: *a task that enables a student to demonstrate abilities to meet objectives or standards (Campbell, Melenyzer, Nettles, and Wyman, 2000).*

Rubric: *a set of criteria and a scoring scale that is used to assess and evaluate students' work (Campbell, Melenyzer, Nettles, and Wyman, 2000).*

Standardized Test*: a type of test that is always administered and scored in the same way. These tests have norms reflecting a larger population (usually these are age or grade-based norms reflecting the performance of children throughout the country on the same tests.*