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 5.2 - ADDITIONAL IEP REQUIREMENTS

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Chapter 5.2 - ADDITIONAL IEP REQUIREMENTS
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Chapter 5.2 ADDITIONAL IEP REQUIREMENTS

I. GIFTED STUDENTS

Authority: NMAC 6.31.2.12 EDUCATIONAL SERVICES FOR GIFTED CHILDREN:

A. Gifted child defined. As used in 6.31.2.12 NMAC, "gifted child" means a school-age person, as defined in §22-13-6(D) NMSA 1978, whose intellectual ability paired with subject matter aptitude/achievement, creativity/divergent thinking, or problem-solving/critical thinking, meets the eligibility criteria in 6.31.2.12 NMAC, and for whom a properly constituted IEP Team determines that special education services are required to meet the child's educational needs.

B. Qualifying areas defined.
   (1) "Intellectual ability" means a score two standard deviations above the mean as defined by the test author on a properly administered intelligence measure. The test administrator must also consider the standard error of measure (SEM) in the determination of whether or not criteria have been met in this area.
   (2) "Subject matter aptitude/achievement" means superior academic performance on a total subject area score on a standardized measure, or as documented by information from other sources as specified in Paragraph (2) of Subsection C of 6.31.2.12 NMAC.
   (3) "Creativity/divergent thinking" means outstanding performance on a test of creativity/ divergent thinking, or in creativity/divergent thinking as documented by information from other sources as specified in Paragraph (2) of Subsection C of 6.31.2.12 NMAC.
   (4) "Problem-solving/critical thinking" means outstanding performance on a test of problem solving/ critical thinking, or in problem-solving/critical thinking as documented by information from other sources as specified in Paragraph (2) of Subsection B of 6.31.2.12 NMAC.
   (5) For students with "factors" as specified in Paragraph (2) of Subsection E of 6.31.2.12 NMAC, the impact of these factors shall be documented and alternative methods will be used to determine the student's eligibility.

C. Evaluation procedures for gifted children.
   (1) Child find (*located in Chapter 1. – Child Find/Interventions of the Policies and Procedures)*
   (2) Analysis of data. The identification of a student as gifted shall include documentation and analysis of data from multiple sources for subject matter aptitude/achievement, creativity/divergent thinking, and problem solving/critical thinking including:
      (a) standardized measures, as specified in Subsection B of 6.31.2.12 NMAC, and
      (b) information regarding the child's abilities from other sources, such as collections of work, audio/visual tapes, judgment of work by qualified individuals knowledgeable about the child's performance (e.g., artists, musicians, poets and historians, etc.), interviews, or observations.
   (3) The child's ability shall be assessed in all four areas specified in Subsection B of 6.31.2.12 NMAC.

D. Standard method for identification. *(See Chapter 3. Evaluation)*

E. Alternative method for identification. *(See Chapter 3. Evaluation)*

F. Applicability of rules to gifted children.
   (1) All definitions, policies, procedures, assurances, procedural safeguards and services identified in 6.31.2 NMAC for school-aged children with disabilities apply to school-aged gifted children within the educational jurisdiction of each local school district, including children in charter schools within the district, **except:**
      (a) the requirements of 6.31.2.8 NMAC through 6.31.2.10 NMAC;
      (b) Subsections J, K and L of 6.31.2.11 NMAC regarding child find, evaluations and services for private school children with disabilities, children with disabilities in state-supported educational programs, children with disabilities in detention and correctional facilities and children with disabilities who are schooled at home;
      (c) the requirements of 34 CFR §§300.530-300.536, Subsection I of 6.31.2.13 NMAC and 6.11.2.11 NMAC regarding disciplinary changes of placement for children with disabilities; and
      (d) the requirements of 34 CFR §§300.43, 300.320(b) and 6.31.2.11(G)(2) regarding transition planning. Students identified as gifted must meet the requirements at Subsection B of 22-13-1.1 NMSA 1978, which is the next step plan for students without disabilities.

(2) Assuming appropriate evaluations, a child may properly be determined to be both gifted and a child with a disability and be entitled to a free appropriate public education for both reasons. The rules in this section 6.31.2.12 NMAC apply only to gifted children.
(3) Nothing in these rules shall preclude a school district or a charter school within a district from offering additional gifted programs for children who fail to meet the eligibility criteria. However, the state shall only provide funds under Section 22-8-21 NMSA 1978 for department-approved gifted programs for those students who meet the established criteria.
*LADE **does not** offer additional gifted programs for children who fail to meet the eligibility criteria.*

G. Advisory committees (*See* Chapter 8).

Authority: NMAC 6.31.2.7 DEFINITIONS:
D. The definitions in Subsection D apply only to NMAC 6.31.2.12 (*educational services for gifted children*).
(1) Gifted child defined. As used in 6.31.2.12 NMAC, "gifted child" means a school-age person as defined in §22-13-6(D) NMSA 1978 whose intellectual ability paired with subject matter aptitude/achievement, creativity/divergent thinking, or problem-solving/critical thinking meets the eligibility criteria in 6.31.2.12 NMAC and for whom a properly constituted IEP team determines that special education services are required to meet the child's educational needs.
(2) Qualifying areas defined.
(a) "Intellectual ability" means a score two standard deviations above the mean as defined by the test author on a properly administered intelligence measure. The test administrator must also consider the standard error of measure (SEM) in the determination of whether or not criteria have been met in this area.
(b) "Subject matter aptitude/achievement" means superior academic performance on a total subject area score on a standardized measure, or as documented by information from other sources, as specified in Paragraph (2) of Subsection C of 6.31.2.12 NMAC.
(c) "Creativity/divergent thinking" means outstanding performance on a test of creativity/ divergent thinking, or in creativity/divergent thinking as documented by information from other sources as specified in Paragraph (2) of Subsection C of 6.31.2.12 NMAC.
(d) "Problem-solving/critical thinking" means outstanding performance on a test of problem-solving/ critical thinking, or in problem-solving/critical thinking, as documented by information from other sources, as specified in Subparagraph (b) of Paragraph (2) of Subsection B of 6.31.2.12 NMAC.

Authority: NMSA 1978 §22-13-6.1. Gifted children; determination.
A. The NMPED adopted standards pertaining to the determination of who is a gifted child and published those standards as part of the educational standards for New Mexico schools.
B. In adopting standards to determine who is a gifted child, the department shall provide for the evaluation of selected school-age children by multidisciplinary teams from each child's school district. That team shall be vested with the authority to designate a child as gifted. The team shall consider information regarding a child's cultural and linguistic background and socioeconomic background in the identification, referral and evaluation process. The team also shall consider any disabling condition in the identification, referral and evaluation process.
C. Each school district offering a gifted education program shall create one or more advisory committees of parents, community members, students and school staff members. The school district may create as many advisory committees as there are high schools in the district or may create a single district wide advisory committee. The membership of each advisory committee shall reflect the cultural diversity of the enrollment of the school district or the schools the committee advises. The advisory committee shall regularly review the goals and priorities of the gifted program, including the operational plans for student identification, evaluation, placement and service delivery and shall demonstrate support for the gifted program.
D. In determining whether a child is gifted, the multidisciplinary team shall consider diagnostic or other evidence of the child's:
(1) creativity or divergent-thinking ability;
(2) critical-thinking or problem-solving ability;
(3) intelligence; and
(4) achievement

For more information on Gifted Students, see the Technical Assistance and Training Document for Gifted Education at the NMPED website: http://www.ped.state.nm.us/seo/gifted/gifted.pdf
(See also Chapter 6. Least Restrictive Environment)

II. IEP Team Meeting– Step by Step (Before, During, After)

§300.320 Definition of individualized education program (IEP).
(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--
(for all specific federal and state requirements, see previous Chapter 5.1 IEP)

A. Before the IEP Meeting

Setting Up the Meeting
Use the Invitation to Individualized Educational Program Meeting form to provide the essential written notification and purpose of an IEP meeting to parents (and students, when appropriate).

Minimum of 3 Attempts - Beginning 15 school days prior to the Proposed IEP Meeting Date
In accordance with State and Federal requirements, LADE 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 IEP meeting is provided 15 school days prior, if the parent does not respond, LADE will document and send a second written invitation to the IEP meeting 10 school days prior. Again, if the parent still does not respond, a third invitation to 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, LADE may go forward with the IEP Team meeting as scheduled. The first attempt MUST be in written form, the second 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, along with copies of correspondence sent and any visits to the home or place of employment, and results. All dates and personnel initials must be documented in writing.

Help Parents Prepare
For parents to be able to participate comfortably as members of the IEP Team, they must first understand the IEP and its purpose. The Parents' Guide to an IEP is an optional letter designed specifically to familiarize parents with the IEP and what to expect. *The letter can be found at the NMPED website:* http://www.ped.state.nm.us/seo/iep/i9.appendix.a.doc

Help Students Prepare
Below is a list of activities that can be done by educators and/or parents to help a student prepare for his/her IEP meeting, followed by some resources that may be useful in helping students learn self-advocacy and to just being comfortable expressing themselves around others.
- Spend time allowing the student to think about what he/she wants from education.
- Fully explain the purpose of the IEP meeting and who will be present.
- Review the parts of the IEP and what each one means.
- Share information that others will have, such as the past IEP, and be sure the student understands what it says.

Inviting All Participants
In addition to the parents and student (when applicable), other participants at an IEP meeting need to be invited and informed about their role in the meeting.
Participants to be invited to an IEP meeting:
- School system representative who meets federal requirements to represent the school
- Parents
- At least one regular education teacher (if the child is, or may be, participating in the general education environment)
- The child's special education teacher
- A professional who can interpret evaluation results
- Student, as appropriate

At an IEP meeting where transition is a component, include :

- The student (*must* be invited)
- Appropriate service agency and/or post-secondary representative(s)

  ***Note**: When a graduation program of study is proposed, an individual knowledgeable about high school curriculum must be included on the team. When the IEP Team meets to review the program of study and/or student progress to determine if he or she has fulfilled graduation plan requirements, a building administrator must be included on the team.*

Other participants the school or the parents may want to invite, or at least inform about the meeting

- Related service providers
- All teachers who work with the student
- The principal, if other than the school representative
- Other individuals who have knowledge or pertinent information to contribute
- Parent advocate

  Note: Related service providers have critical information about the student and should be invited to all annual IEP meetings as needed to support the written goals. When related service providers or others with information to share are unable to attend the full IEP meeting, alternate ways to include their input should be available. Some suggestions are to have the person:

  - provide a written report
  - send a representative (such as a paraprofessional) who works under his or her direction
  - attend the meeting only for a short period during which time his or her input and information are discussed and documented
  - participate by telephone for the entire meeting or the part of the meeting that is directly related to the related service.

Determine the IEP Meeting Facilitator

The facilitator or IEP chairperson holds the key to the success of the meeting. He or she must conduct the meeting so that everyone stays on task, yet has opportunities to contribute. Below are some tips on how to achieve this.

1. Have a prepared agenda. Either post it or give a copy to each participant.
2. Thank everyone for their time and interest.
3. Open with something light and upbeat that helps relax the participants (but not a joke!).
4. Remind participants that they are members of a team who all want the best for the student.
5. Set the tone by defining the objectives for the meeting and what is hoped to be accomplished.
6. Encourage participants to introduce themselves and share their perceived role in the meeting.
7. Pay attention to the time and keep the meeting moving.
8. If the discussion gets off-track, summarize what has been said, then redirect the topic.
9. If a topic or issue is brought up that is not relevant to the IEP, place it on a "sidebar" as something that needs to be revisited. (**Tip!** List it on the board or a posted sheet of chart paper for all to see. At the end of the meeting, indicate how the topic or issue will be dealt with.)
10. Use good listening skills to validate others' input and effective questioning techniques to encourage participation and stay on topic.

B. During the IEP Meeting

The NMPED has developed a recommended set of forms to assist you in ensuring that all of the IEP elements required by the regulations are covered. These forms and step-by-step guidelines may also be found on the website: http://www.ped.state.nm.us/seo/iep/index.htm *and* http://www.ped.state.nm.us/SEB/index.html

The [district] will use the set of forms developed by NMPED to document all of the requirements are met. OR The district will use forms developed by the local district staff and assure all of the requirements are covered.

During the meeting, an IEP must be developed and must contain or address, in writing, all of the required elements in Chapter 5.1 – IEP, which includes the following areas:

1. Student Profile & Student/Family Vision
2. Transition Services
3. Present Levels of Academic Achievement and Functional Performance
4. Annual Goals

5. Consideration of Special Factors
6. Least Restrictive Environment
7. Extended School Year
8. Participation in Mandated Testing
9. Schedules & Levels of Services
10. Accommodations & Modifications
11. IEP Progress Documentation
12. Prior Written Notice of Proposed Actions

1. Student Profile & Student/Family Vision

The NMPED recommends beginning with general information about the student. Demographic information is very important in establishing a baseline about the student and is needed to track the student from year to year or from place to place. Include the:

- The strengths of the child;
- The concerns of the parents for enhancing the education of their child;
- The results of the initial or most recent evaluation of the child; and
- The academic, developmental, and functional needs of the child.

Though the New Mexico Content Standards and Benchmarks are the basis for developing educational goals, the views and feelings of the parents and student must be considered. One way to do this is to work with the parents (and family members, as appropriate) to develop a vision statement tailored to the student's preferences and interests. A family vision provides a common foundation for dialogue and allows the team to focus on developing a plan that will help the student be able to set and reach realistic goals and realize his or her aspirations.
A vision statement:

- Summarizes what the student and family want for the student
- Describes the student's expectations and hopes for the future
- Addresses the student's/family's situation and/or concerns
- Is developed through dialogue with the family and/or student
- Can, and should, be revised as circumstances or aspirations change

2. Transition Services – (*See also* Life Span and Transition - Chapter - IEP 5.1.)

One of the primary purposes of the IDEA is to ensure that children with exceptionalities are prepared for employment and independent living. Transition services must be a coordinated set of activities and/or strategies based on the student's needs, interests, and goals that includes instruction, related services, community experiences, the development of employment and other post-school objectives, and when appropriate, the acquisition of daily living skills and functional vocational evaluation.

Age 14: Beginning by age 14, the student's IEP must include a planned course of study designed to select high school courses based on the student's post-school goals and graduation requirements. Students in New Mexico may graduate using one of three graduation options. The IEP Team determines the most appropriate option based on the student's needs and impact of the exceptionality.

Age 16: In addition to planning a course of study, beginning at age 16 (or sooner, if appropriate), the student's IEP must address post-school plans and goals. The six areas of possible student needs must be addressed: instruction, related services, community experiences, employment or post-school options, independent living, and functional vocational assessment. The IEP Team then lists the activities and/or strategies to be implemented and who is responsible for providing those activities. The foundation of transition planning is to provide activities and experiences that will enable students to reach their post-school goals.

The IEP should address the student's course of study and the graduation option or certificate. Specific requirements and sample program plans can be found in the NMPED Technical Assistance and Training Resource Document "Graduation Options for Students with Disabilities". The document can be accessed from the NMPED's website at: http://www.ped.state.nm.us/SEB/technical/GraduationOptionsStudentsWithDisabilities.pdf

There are three graduation options for students receiving special education services:

Standard Graduation Option—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 LADE. 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.

Career Readiness Alternative Graduation Option—a program of study developed to provide 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 LADE 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, interests, 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.

Ability Alternative 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 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.

3. Present Levels of Academic Achievement and Functional Performance *(formerly PLEP)*

Under the IDEA and New Mexico regulations, the IEP of a student with a disability must contain a statement of the student's present levels of academic achievement and functional performance, including how the exceptionality affects the student's involvement and progress in the general curriculum; or for preschool children, as appropriate, how the child's disability affects his or her participation in appropriate activities. This part of the IEP, addressing the student's present levels of performance, is the blueprint for the whole IEP document. The present levels of

academic achievement and functional performance were formerly referred to as PLEP (Present Levels of Educational Performance). This term is no longer appropriate, based on IDEA 2004 and the final regulations of August 2006.

The information on the present levels of academic achievement and functional performance should be:

- Current—based on recent data, observation, and evaluation
- Relevant—related to how the student's disability affects his or her education
- Specific—described as precisely as possible
- Objective—unbiased and from a variety of sources, such as formal observations, work samples, input from teachers, parents, service providers, formal and informal assessments and tests
- Measurable—conclusions from assessments, test scores, and other quantifiable data

The following is a summary of a few key points to keep in mind when writing present levels of academic achievement and functional performance statements.

- Consider the needs of the student identified by the evaluation. Write the statements for those areas only.
- Ensure that there is a direct relationship between the identified needs and the present levels of performance.
- Use information that is current, relevant, specific, objective, measurable, and obtained from a variety of sources.
- Use details about evaluation and test results, grade levels, and assessments—particularly data that can be quantified by degrees or comparison to standards.
- Consider the observations by teachers (regular and special education), parents, and input from the student (either directly or in the form of work samples or other evidence of performance levels).
- Take into account the effectiveness of any interventions, modifications, or supports that have previously been implemented.
- Write a separate present levels of academic achievement and functional performance statement for each specific problem and/or need for which an annual goal and objectives or benchmarks will be established. (Keep the number of goals to an amount that is attainable in 12 month.

4. <u>Annual Goals (Benchmarks or short-term objectives)</u>

<u>Authority: 34 CFR §300.320 Definition of individualized education program (IEP)</u>.

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

(2) (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;

The next step in developing the IEP is to write one or more annual goals for the student, (supported by short-term objectives and/or benchmarks for those students who take an alternate assessment). These goals provide the purpose and direction for a student's IEP. They must address a direction of change, be measurable, and be directly related to the needs identified on the present levels of academic achievement and functional performance. Each goal must also be attainable within one year. Using the present levels of academic achievement and functional performance statements written, the IEP Team must first prioritize the student's needs. Then, it must decide which and how many goals the student can reasonably be expected to attain within one year. For students who are taking an alternate state assessment, for each goal, the team needs to construct short-term objectives (logical breakdown of the skill into distinct components) and/or benchmarks (progressive steps toward the goal).

<u>Selecting and Writing Goals</u>: Each goal must address a need identified on the student's present levels of academic achievement and functional performance statement, must be measurable, and be attainable within one year. In addition to the criteria above, when selecting goals, consider both formal and informal assessments. Also, keep in mind the student's interests and vision for the future. Write goals directed toward enabling the student to be involved in, and progress in the general curriculum and select goals based on New Mexico's Standards for Excellence Regulations: Content Standards and Benchmarks. When writing a goal, state what the student will do as a result of

the special education services being provided. The goal should be written in such a way that even someone unfamiliar with the student could implement it and assess its mastery. Include these components in each goal:
Conditions: under what conditions progress will be measured
Behavior: identifies measurable performance, actions by student
Criterion: quantifies how much, how often, to what extent
Timeframe: exactly when mastery is expected
Method of Measurement: how progress and/or mastery will be measured

For Students Taking an Alternate State Assessment: Writing Short-term Objectives and/or Benchmarks:
For those students taking an alternate assessment, once the goal is written, the IEP Team must determine how progress toward the goal will be measured. This is done by breaking down the goal into parts, then writing short-term objectives and/or benchmarks. The team may decide to use either or both, based on its judgment of how the student may be best able to tackle and realize the goal.

Short-term objectives are a logical breakdown of a task (or goal) into smaller, often progressive steps—each of which may be a prerequisite for the next. Each of these steps could be a short-term objective toward reaching the goal. There may be several intermediary steps but, obviously, there will be at least two or more short-term objectives needed for each annual goal. A related service provider would be helpful in developing objectives for a student whose evaluation results indicate deficits that may need to be addressed in order to achieve the student's goals.

Benchmarks, in contrast, describe the amount of progress a student is expected to make within a certain segment of time during the year in order to achieve the goal by the end of the year. Benchmarks are most appropriate for goals that involve increasing skill levels, rather than learning new ones. For example, benchmarks may be set in three-month intervals— by October 15, he/she will read orally at 2.2 grade level, by January 15 at 3.0 grade level, and so on. Since benchmarks represent skill levels along a time line, the year could be broken into two or more time segments with defined levels of increased skill along the way.

The IEP team may choose to use short-term objectives, benchmarks, or both, but must base them on the specific needs identified in the present levels of academic achievement and functional performance. Both objectives and benchmarks must be measurable and represent progress toward the goal.

To write goals, objectives, and benchmarks means having to focus on measurable data and observable behaviors, rather than on thoughts, feelings, or bias. This "objective" method of describing circumstances and expressing desired results is a learned skill. It takes practice and requires vigilance in word choice. In addition to identifying the student's annual goal, objectives, and/or benchmarks, pages 8-9 of the IEP form ask for additional information critical to the success of the student's IEP.

1) Mark the area of need (as identified on the present levels of academic achievement and functional performance statement).
2) Identify the reference from New Mexico's Standards for Excellence Regulations: Content Standards and Benchmarks*
3) Select and write one measurable goal that relates to the student's present level of educational performance.
4) Write the date it will be initiated.
5) Decide what objectives or benchmarks will be used.
6) Use one box for each objective or benchmark and check which it is. If the objective or benchmark is related to the student's transition plan or services, check the Transition Activity Box.
7) Write the objective or benchmark. Make sure it is specific, and measurable.
8) Fill in each category below the objective or benchmark:
   - *Criteria for Mastery* (Example: 90% accuracy on weekly spelling test)
   - *Anticipated Date of Mastery*
   - *Position/Agency Responsible* (Note: This line should not be filled in until after the LRE and Schedule of Services sections of the IEP are completed. At that point in the IEP meeting, the team will determine which service provider or combination of service providers will implement each goal.)
   - *Method of Measurement*
   - *Progress Documentation* (Each service provider, as specified in the IEP, must document progress on the objective or benchmark at least as often as progress is reported for the general student population **or** as spelled out in the IEP.)

- Use this five-point list to check the validity of a written objective or benchmark:

- Is it written in terms of what the student will do? (not what someone will do for the student)
- Does it state the condition under which the student will demonstrate the behavior? (in what setting? under what circumstances?)
- Does it define specific measurable behavior to be displayed by the student? (not general and subjective, such as "learn" or "understand")
- Does it specify what criteria will be used to measure progress or mastery? (described by degree, such as 9 out of 10 times, not "accurately" or "successfully")
- Is an evaluation procedure included with an expected time for the desired level of attainment to be reached? (Within 8 weeks, when orally given a pair of words with different short vowel sounds, the student will be able to correctly identify the vowel sounds with 80% or greater accuracy as measured/recorded by the service provider.)

5. Consideration of Special Factors

Federal regulations require that the IEP team consider the following six special factors when developing an IEP for a student with a disability:

1. visual impairment/blindness
2. hearing impairment/deafness - The IEP Team must consider how the communication needs of students who are deaf or hearing impaired will be addressed.
3. special oral/written communication needs
4. limited English proficiency
5. assistive technology needs
6. behavior that impedes learning

To complete this portion of the IEP, consider each question carefully. If a need is identified, the IEP Team must describe how the need is to be addressed. Because of their broad nature, the two areas of assistive technology and behavior can be particularly challenging for the IEP Team. They are discussed in more detail on the following pages.

Assistive Technology: Assistive Technology (AT) is a device or service provided to students who need specialized equipment to have access to the general curriculum and to improve the functional capabilities of the child. Any device or tool that helps the student learn— ranging from a simple pencil grip to a specially-designed desk—is considered assistive technology.

AT services may include both the provision of the technological devices and the consultant services for assessment, application, fabrication, or training in the use or maintenance of the devices. It is important to note that AT is not limited to students with severe disabilities. The IEP Team needs to consider assistive technology and services for all students with disabilities, regardless of the type or severity of the disability. If the IEP team does not feel it has enough information about AT to determine what may or may not be appropriate for the student, the team should determine if an AT assessment is needed. It is the IEP Team's responsibility to craft an educational plan that will provide a FAPE (free appropriate public education) for the student; to do that the team must base decisions on the student's needs and goals, and must consider all strategies and accommodations necessary to allow the student to make reasonable education progress, including assistive technology. The team may consider the following questions:

1. What task do we want this student to perform that he or she is unable to do at a level reflecting his or her skills and/or abilities (writing, reading, communicating, seeing, hearing…)?
2. Is the student currently able to complete tasks with the special strategies or accommodations already in place? If yes, then document.
3. Is there available assistive technology (either devices, tools, hardware, or software) that could be used to address this task? If so, then describe?
4. Is the use of an AT device, AT service, or both, necessary for the student to perform this skill more easily or efficiently, in the least restrictive environment? If yes, then document.

Assistive technology is just one type of related service or supplementary aid possible in designing an individualized education program for a student with a disability. To comply with state and federal regulations regarding consideration of special factors, the IEP Team must consider assistive technology for every student with an disability and, upon making an informed decision, provide the necessary devices, services, or both.

Behavior and Discipline: One of the special factors the IEP Team must consider is behavior— specifically, whether or not the student's behavior impedes his or her learning **or** that of others. With regard to behavior that interferes with the student's own learning or that of others, the IEP Team has the responsibility to address the behavior in a manner consistent with the severity of the problem. The three avenues for managing problematic behavior include the following:

1. Address the behavior concerns in the IEP through goals/objectives/benchmarks
2. Conduct a Functional Behavioral Assessment (FBA)
3. Develop and implement a Behavioral Intervention Plan (BIP)

Goals with objectives and/or benchmarks regarding behavior are developed the same way as those for academics, except instead of basing them on the present levels of academic achievement and functional performance, they are based on behavioral performance. It is strongly suggested that a Functional Behavior Assessment (FBA) be conducted to provide that baseline, or starting point, from which to set goals with objectives and/or benchmarks or to develop a Behavioral Intervention Plan (BIP).

An FBA is an assessment that examines the student's behavior and addresses the relationship between a behavior and the relevant factors that may be interfering with the student's or others' learning. The purpose of an FBA is to identify problematic behaviors and the circumstances under which they occur, so an effective intervention plan can be designed. From the baseline information gathered in an FBA, the IEP Team develops and implements a Behavioral Intervention Plan, which describes positive interventions and/or accommodations designed to address the reasons the target behavior is happening and strategies for redirecting it.
***Note**: When behavior is identified as a special factor that needs to be addressed, the BIP becomes a component of the student's IEP.*

A Recommended "BEST PRACTICE"
Though not required until a student has been suspended for 10 school days, conducting an FBA for any persistent or problematic behavior is strongly recommended. LADE will implement this best practice procedure.

Functional Behavior Assessment (FBA)— Conducting an Functional Behavior Assessment is required after a student has been suspended for 10 school days in a school year. It is highly recommended that a FBA be conducted when behavior interferes with the student's learning or that of others. This assessment is done to gather data, analyze behavior, and hypothesize why it is occurring. The form requires that information is collected from a variety of sources, using both prior and new data. Information about behavior may be gathered from school records, parents, interviews, classroom observations, and other sources. The FBA attempts to determine if there are specific circumstances or triggers that occur just prior to the problematic behavior and what reinforcement typically follows it. From this information, the IEP Team determines what strategies, positive supports, or interventions are needed —from setting annual goals with supporting short term objectives or benchmarks within the IEP, to developing a separate Behavior Intervention Plan (BIP). In reviewing existing data, the team may determine that more information is needed before an effective plan can be designed. If the team decides to gather more information than already exists in the records, prior parental consent is needed (as for any initial evaluation or reevaluation).

Behavior Intervention Plan (BIP)—Minor behavior modification may be addressed within the IEP through annual goals with supporting short-term objectives or benchmarks, but when problematic behavior is frequent, persistent, or severe, a Behavior Intervention Plan is formulated. The BIP specifies what interventions are needed to positively redirect the targeted behavior that is seriously interfering with the student's learning or the learning of others. There are many ways to design a BIP and the IDEA purposely left this open for the IEP Team to tailor to the unique circumstances and needs of the individual student. No matter what form the final BIP takes, the IDEA requires documentation of the student's BIP in the IEP, and it should be integrated into the IEP or attached to it. *See the NMPED for sample BIP form.*

Discipline
In order to function as a community, all schools have a general school-wide discipline plan or code of student conduct, including specific policies and procedures regarding expected and acceptable behavior. As part of the IEP for a student with exceptionalities, the IEP Team must decide if the student can follow the school- wide plan as is. If

modifications and/or instructional accommodations are needed, they must be described as goals/objectives in the student's IEP. If a BIP was developed to address the student's behavior, the BIP must be included in the IEP.

Note: *Though the IDEA does not require that a FBA and/or BIP be incorporated into a student's IEP, unless and until the student has been first removed from his or her current placement for more than 10 school days in a year, the New Mexico Special Education regulations strongly encourage incorporation of these measures well before behaviors result in drastic disciplinary actions. (See Subsection F of 6.31.2.11 of NMAC.)*

For a student with behavioral concerns, keeping accurate discipline records is important for the evaluation of the student's behavior and progress toward goals. The team should agree on what consequences are appropriate for certain behaviors, and make certain that the parents and the student are aware of the expectations and consequences. Each person who interacts with the student in circumstances in which the targeted behaviors occur should record his or her observations, what measures were taken to redirect the behavior, and their results. Consistency is a vital factor in the ability to reshape behavior, so all those who work with the student should coordinate their efforts and share their information.

Medical/Significant Health Information
On this section of the IEP form, note what medications (if any) the student takes, plus any significant medical/health information and/or the need for an individualized health plan or other school health services as a related service. Also note any related services such as catheterization or tube feeding that may be needed to enable the student to attend school. Identify what type of physical education program is appropriate for the student. If the student requires assistance to move around the school, note and describe his or her needs. Also carefully consider if accommodations or supports are required for the student to be transported with peers without exceptionalities in the Least Restrictive Environment (LRE). If he or she has special transportation needs, identify them on the IEP form. IDEA states that all persons who are providing services needed to implement a student's IEP, must be informed of their responsibility.

6. Least Restrictive Environment

The IDEA provides that, to the maximum extent possible, students with exceptionalities should be educated with age-appropriate peers who do not have exceptionalities. It also mandates that a student be given the opportunity to learn in the Least Restrictive Environment (LRE). The key concept is that placement within the home school among peers is desirable; but the IDEA recognizes that an "inclusive" environment is not always appropriate, nor does it always provide the LRE.
The extent to which an individual student with exceptionalities participates in the regular education setting must be decided on a case-by-case basis. A wide range of placement options, known as the **continuum of alternative placements,** must be available to insure that each student is educated in the LRE for that individual. To determine the placement that offers the LRE, an inquiry into the unique educational needs of the student is required. The IEP Team must determine what, if any, aids and supports could enable the student to be educated in his or her home school with age- and grade-level peers, or if an alternative placement would offer the student the least restrictive environment. These issues are to be addressed by the team and the team's determinations must be documented on the IEP.

Extended School Year

§300.106 Extended school year services.
(a) General.

- **(1) LADE must ensure that extended school year services are available as necessary to provide FAPE, consistent with paragraph (a)(2) of this section.**
- **(2) Extended school year services must be provided only if a child's IEP team determines, on an individual basis, in accordance with §§300.320 through 300.324, that the services are necessary for the provision of FAPE to the child.**
- **(3) In implementing the requirements of this section, LADE may not--**
  - **(i) Limit extended school year services to particular categories of disability; or**
  - **(ii) Unilaterally limit the type, amount, or duration of those services.**

(b) Definition. As used in this section, the term extended school year services means special education and related services that--

(1) Are provided to a child with a disability--

(i) Beyond the normal school year of LADE;

(ii) In accordance with the child's IEP; and

(iii) At no cost to the parents of the child; and

(2) Meet the standards of the NMPED.

Factors in Considering the Need for ESY

The purpose of ESY is not to enhance or maximize the present levels of academic achievement and functional performance exhibited by students with disabilities at the end of the regular school year. Instead, the IEP Team bases the need for ESY services on skill **regression** (loss) and a student's limited capacity for **recoupment** (regain) of existing IEP goals and objectives. ESY services may be provided when the IEP team determines that a student might regress to such an extent in a skill and/or behavior area that recoupment of such skill loss would require an unusually long period of time, or make it unlikely or impossible to recoup the present levels. A significant regression/recoupment factor is the first line of inquiry for establishing criteria and eligibility standards for ESY services. The regression/recoupment factor is relative to the student's current IEP goals and objectives and his or her present levels. It is not necessary to continue instruction on all of the previous year's IEP goals and objectives during the ESY period. The purpose of ESY instruction is to focus on those specific goals and objectives severely impacted by extended breaks in instruction. Regression/recoupment problems triggering the need for ESY services occur when:

- a student suffers an inordinate or disproportionate degree of regression during that portion of the year in which the customary 180-day school year is not in session; and
- it takes an inordinate or unacceptable length of time for the student to recoup lost skills. There is no precise measure of the amount of regression and limited recoupment that would indicate a student's need for ESY programming.

Regression/recoupment **is just one of many factors** that IEP teams need to consider when discussing the need for ESY services. In considering a recommendation for ESY services the IEP Team should also consider the following factors that might indicate a need for ESY:

- severity of the disability
- behavioral skills
- critical learning period
- learned material
- potential for generalization and maintenance
- emerging skills that are at risk for loss
- medical conditions
- family circumstances

In addition, in 1990, the 10th Circuit Court of Appeals *Johnson v. Independent School District No. 4*, 17 IDLER 170, whose decisions are binding on public education agencies in New Mexico, identified the following criteria for determining the need for ESY services:

- degree of regression suffered in the past
- ability of the parents to provide educational structure at home
- student's rate of progress
- student's behavioral and physical problems
- availability of alternative resources
- ability of the student to interact with non-disabled students
- areas of the student's curriculum that need continuous attention
- student's vocational needs
- whether the requested services are extraordinary for the student's disabling condition as opposed to an integral part of a program for populations of students with the same disability

It is important to note that the impact of previous ESY services on overall student performance is not the sole basis for determining a current need for ESY.

Moreover, the IEP Team needs to keep in mind that the length of interruption in instructional programming and/or related services, which causes a detrimental effect, may vary because the regression/recoupment cycle is an individual process. Thus, it is imperative that IEP teams consider each student's functioning level on an individual basis.

- IEP teams should consider additional standards identified from the court case mentioned above.
- IEP teams must not look solely at a student's previous experiences in making their ESY eligibility determination.
- IEP teams should consider if the student is at a critical point in his or her program and the impact of the interruption on possible future regression and/or recoupment problems.

Collecting ESY Data

An IEP team may consider a student's need for ESY services at any meeting called to discuss the IEP. A discussion on the need for ESY services should occur early in the school year so that the team can begin collecting supporting data to allow for planning on the part of the IEP Team, and if appropriate, any outside agencies providing special education and/or related services. Determination of the need for ESY services requires a thorough analysis of formal and informal assessment data collected by the IEP Team. In determining the need for ESY, the IEP Team should review the following sources of information:

- The current IEP, especially the present levels of academic achievement and functional performance and annual goals
- Pre-and post-testing using criterion-referenced assessment procedures
- Results of efforts on the part of educators and/or parents which specifically addressed the maintenance of learned skills while programming was interrupted
- Areas of learning which are identified as an integral part of a skill area required to reach the student's assessed potential, such as social, motor, behavioral, academic, self-help, and communicative abilities
- Pertinent medical, psychological, and educational data
- Data that reflects the regression/recoupment cycle experienced by the student following interruptions of instruction services must be documented periodically throughout the regular school year

Schedule to Collect ESY Data

A schedule for collecting data regarding a student's possible regression may be one or more of the following:

- At the beginning of the school year
- After extended breaks (winter, spring) and/or illness
- After regular shorter breaks such as weekends and/or extended weekends due to holidays or illness
- At the end of the regular school year
- At the end of the ESY program

Documenting the Need for ESY

The student's IEP team must use the prior written notice (PWN) to document its proposal and decision that a delay or break in the provision of special education and related services may result in a significant delay in the recoupment of academic and/or behavior skills. The need for ESY services should be based on documented evidence showing that substantial regression caused by interruption in educational programming, together with the student's limited recoupment capacity, may result in a significant delay in recoupment of critical skills. In order to provide a FAPE to a student who demonstrates a disability in one or more areas, answers to the following questions should alert the IEP Team to the possible need for ESY:

- Does the review of data show that the student experiences significant regression in adaptive behaviors or learned skills (social, motor, behavioral, academic, self-help, and communication) over regularly scheduled school breaks during the year?
- Does the review of data show that the student requires a significant amount of time and effort to recoup previously learned behaviors and skills?
- Does the review of data indicate that the student benefited from previous ESY services? It is important to note that the impact of previous ESY services on overall student performance is not the sole basis for determining a current need for ESY.
- Does the review of data indicate that the benefits to be derived from an extended educational program outweigh the positive benefits of a summer vacation?
- Did the IEP Team consider other program options that would meet the needs of the student? Identify the programs considered by the IEP Team.

- Did the IEP Team determine that ESY would best meet the needs of the student? Why or why not?

7. Participation in Mandated State and District Testing *(See also Chapter 5.1 IEP – XI. New State District wide Testing, effective May 7, 2007.)*

Authority: 34 CFR §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 §300.160; 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.

Authority: 34 CFR §300.160 Participation in assessments. *(See Chapter 5.1 IEP)*

All students with IEPs must participate in the New Mexico Standards Based Assessment in one of three ways:

- A student with an IEP who does not require instructional and/or testing accommodations may participate in the standard administration of the general assessment (with or without adaptations).
- A student with an IEP who requires both instructional and testing accommodations may participate in the standard administration of the general assessment with allowable accommodations.
- A student with a significant cognitive disability who is unable to participate in the standard administration of the general assessment, even with allowable accommodations, may participate in the state's alternate assessments based on alternate achievement standards, provided that s/he meets the participation criteria established by the NMPED.

The Individualized Education Plan (IEP) Team is responsible for determining which option is most appropriate for each student. Keep in mind that the IEP Team determines **how** the student will participate; it does not determine whether the student will participate. This decision should be made after both careful consideration of the student's unique needs and of the specific test or tests that the student is required to take at his or her grade level. There must be a clear understanding among all IEP members of how the student will participate in the assessment program. The team members must also discuss potential consequences that may arise as a result of their decision(s), and ensure that parents are aware of these potential consequences. This team is also responsible for identifying specific accommodations that are required in the classroom for at least three months prior to test administration, if relevant.

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) or go to http://www.ped.state.nm.us/AssessmentAccountability/AssessmentEvaluation/index.html. Students will be tested to determine how well they have mastered New Mexico Standards in reading, writing, mathematics and science.

New Mexico Alternate Assessment 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/seo/training/nmalt.htm. 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 for the alternate assessment is 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)(1)-(3) 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 following criteria:
  (a) the student's past and present levels of performance in multiple settings (i.e., home, school, community) indicate that a significant cognitive disability is present;
  (b) the student needs intensive, pervasive, or extensive levels of support in school, home, and community settings; and,
  (c) 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, community). Official NMPED guidance regarding accommodations and modifications in the New Mexico Statewide Assessment Program (NMSAP) can be found in the *2005-06 Procedures Manual*.

8. Schedules & Levels of Services

This is the point where the IEP Team considers which service providers are necessary to deliver the regular and special education instruction and, related services for achieving stated goals. It is also the point where the LRE setting decisions made previously are summarized. Keep in mind that related services are the supporting services the student must have in order to benefit from special education. If the IEP bridges parts of two school years, the Schedule of Services must be completed twice, separating the services to be delivered in each school year. The schedule of services is the directive for implementing the student's IEP. All service providers are accountable for fulfilling their responsibilities under the schedule. It is vital that it is completed carefully, accurately, and specifically:

- Identify the activities the student will participate in with the general student population.
- Define the subjects within the general education program and note if the student does or does not need accommodations or modifications to participate in each area.
- Provide the specific schedule of special education and related services needed based on the goals and objectives or benchmarks previously identified.
- The types, amounts and frequency of services, (example: 30 min/day, 5 days/wk). Note: This must be based on the student's need, not on what is convenient or available.
- The start and ending dates must be indicated.
- Identify the service provider or team of providers by title (such as physical therapist and regular education teacher) rather than by name.
- Indicate the setting (regular or segregated) in which the service will be provided. Repeat for supplementary aids and services such as special transportation, school nurse, or non-school based provider. Note: At this point, go back and record decisions about service providers on the Annual Goals pages of the IEP.
- Indicate what supports for school personnel may be needed to carry out their responsibilities in implementing the IEP. For example, the regular education teacher may need training with an unfamiliar device or information about the student's exceptionality. A monitored observation of students or a demonstration of the required accommodations or modifications may be necessary.
- If there is a service that is delivered other than weekly, identify the service and its frequency. It is suggested you have parents initial the information.
- Consider any possible adverse effects and/or safety issues related to the student's placement. For example, a student may be physically much larger or smaller than the other students; he or she may have a medical condition that may impact the student, the teacher, the class, or the environment; there may be a behavioral pattern that service providers should be made aware of; the student may have a known reaction to something that would not normally be expected. If any issue exists, explain it briefly and how it should be treated.
- Examine the student's placement and location of services with regard to safety concerns in the event of an emergency and/or evacuation**.** If for any reason the student would have difficulty with, or be unable to follow the emergency and/or evacuation procedures with the general school population without assistance, an individualized emergency and/or evacuation plan must be prepared for the student.

Note: *The emergency plan should identify where the student will be at any time and how the student is to be evacuated from each location. A copy of the plan should be posted in each work area the student attends, as well as kept in the appropriate administrative office. NO PERSONALLY IDENTIFIABLE INFORMATION can be displayed based on FERPA and confidentiality of student records. The plan should be detailed enough to show emergency response, assisting personnel, routes of evacuation, and method of evacuation. Parents and guardians should be encouraged to discuss the plan with the child's doctor. There may be complications of which the staff is unaware. It may be necessary to administer medicine, respond to a medical emergency, or move the student to a second, safer location. If the student has any special needs regarding emergency and/or evacuation procedures, all staff who interact with the student should be informed and trained, if needed, to carry out the responsibility of ensuring the child's safety in the event of an emergency. The plan should be followed during drills, reviewed at least once a year, and modified as needed.*

Level of Service/Setting

A very important section of the IEP form is recording the level of service (hours the student is receiving special education services) and the setting (hours the student is not in the regular class). These numbers determine the funding of special education services. The IEP form should calculate the student's level of service and setting.

To get the most accurate result, follow this guideline:

- when calculating level of service, count hours the student receives special education and related services that are being implemented within the regular education setting, as well as those in a special education setting.
- Example: in a 6-hour day, the student receives a total of 3 hours of special education—2 hours delivered in a special education setting and 1 hour in the regular education setting; the other 3 hours he is in regular education setting and not receiving special education services.
- Reference the STARS – Student/Teacher Accountability Reporting System found at the NMPED website: http://www.ped.state.nm.us/stars/index.html

9. Accommodations & Modifications

If a student requires testing accommodations, they must be documented in the IEP. The NMPED expects accommodations to have been implemented for at least three months in the classroom. This enables the student, his or her teachers, and other staff, if necessary, time to adequately prepare for the test's administration and provide necessary accommodations in instructional settings. Students benefit not just from receiving necessary accommodations, but also by acclimating to the use of the accommodation so that the testing situation is not novel.

Determining Appropriate Accommodations—Some Important Considerations for IEP Teams

As mentioned previously, the student's IEP Team makes the decision as to the specific accommodations, if any; a student will receive during the administration of state-mandated assessments. It is not a unilateral decision made by one individual. It is important that those involved in the decision-making process during the IEP meeting have a clear understanding of the student's needs as well as the specific assessments that the student is required to take. Accommodations selected for assessment must have instructional relevance and be connected to a specific skill deficit.

The IEP Team should also be able to explain how the skill deficit impacts a student's ability to demonstrate his or her level of mastery of the content areas measured by the particular assessment. This prior knowledge of the student and the test will enable the IEP Team to make sound decisions as to what accommodations, if any, the student requires for participation in state and district wide assessments. This decision must be accurately documented in the student's IEP. The SEB recommends that the team address and document answers to the following questions when developing the IEP:

1. What is the student's grade?
2. What assessments are administered at that grade (school, district, state)?
3. What content areas are assessed on the respective assessments?
4. What skill deficit does the student exhibit that would require accommodation in each content area assessed?
5. What accommodations are necessary?
6. Do the accommodations have instructional relevance?
7. Will the student have at least three months to use the accommodation in the classroom prior to testing?

8. Is the accommodation selected allowable for the NMSAP (*See* the accommodations section of this manual)?
9. If the change is not allowable in the NMSAP and is considered a modification, has the team discussed the potential consequences?
10. Do the parents understand the potential consequences of the assessment option selected? IEP teams should be aware of the guidance provided by the NMPED on our website in order to assist them in making decisions regarding the selection and implementation of accommodations for students with IEPs. The [district's] IEP teams will reference the New Mexico technical assistance manual *How to Choose and Use Accommodations for Students with Disabilities*. 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/seo/assessment/200506.NM.Accomm.doc

The [district] 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.

Accommodations and modifications are provided to the student to assist him or her in participating and learning in the least restrictive environment. For many students, supplying supplementary aids or services in the regular education classroom will allow the student to be educated with his or her peers without exceptionalities. In other instances, modifying the educational program or setting enables the student to progress in the general education curriculum. Accommodations and modifications must be determined on an individual basis and reflect the true needs of the student without regard for ease of delivery or availability.

Based on the identified needs of the student and annual goals, the IEP Team determines what kind of adjustments would give this student better access to the general education program and help him or her achieve the goals in the Least Restrictive Environment (LRE). First, all areas of the program must be considered, such as physical environment, instructional presentation, in-class and mandated testing, specific subject areas, grading, homework and assignments, social and behavioral management, technology and media, transportation, in-school non-academic time, and extracurricular activities. Keep in mind that accommodations and modifications may be provided for any area that is directly affected by the student's disability. Though accommodations may be useful in other areas, the team must adhere to only those situations directly affected by the disability. A good gauge is to verbalize exactly how the accommodation will offset the disability, not just that it would be generally helpful.

Description of Accommodations Categories

Accommodations are commonly categorized in four ways: (1) *Presentation*, (2) *Response*, (3) *Timing/Scheduling*, and (4) *Setting*. Refer to NMPED website for assistance in choosing appropriate accommodations to assist the student to make progress in the general curriculum.
http://www.ped.state.nm.us/seo/assessment/200506.NM.Accomm.doc

Presentation Accommodations—Allow students to access information in ways that do not require them to visually read standard print. These alternate modes of access are auditory, multi-sensory, tactile, and visual.
Response Accommodations—Allow students to complete activities, assignments, and tests in different ways or to solve or organize problems using some type of assistive device or organizer.
Timing/Scheduling Accommodations—Increase the allowable length of time to complete a test or assignment and may also change the way the time is organized. (Note: considered adaptations in the NMSAP)
Setting Accommodations—Change the location in which a test or assignment is given or the conditions of the assessment setting. (Note: considered adaptations in the NMSAP)

Modifications or Alterations

Accommodations do not reduce learning expectations; they provide access. Changing, lowering, or reducing learning expectations is usually referred to as a modification or alteration. Modifications can increase the gap between the achievement of students with disabilities and expectations for proficiency at a particular grade level. Using modifications may result in implications that could adversely affect students throughout their educational career. These modifications include:

- requiring a student to learn less material (e.g., fewer objectives, shorter units or lessons, fewer pages or problems)
- reducing assignments and tests so that a student only needs to complete the easiest problems or items

- revising assignments or tests to make them easier (e.g., crossing out half of the response choices on a multiple choice test so that a student only has to pick from 2 options instead of 4)
- giving a student hints or clues to correct responses on assignments and tests

10. IEP Progress Documentation

§300.320 Definition of individualized education program.

(a) (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;

Federal law and New Mexico regulations state that the progress of students with exceptionalities must be reported to parents at least as often as their peers without exceptionalities (more often, if needed). Also, the IEP will list how the progress will be reported to parents and when. The following should be kept in mind regarding content and scope of progress reporting:

1. A progress report for a student with exceptionality must be based on the annual goal(s) as set forth in the student's IEP.
2. If the student has more than one annual goal, a separate progress report is required for each annual goal. If more than one service provider is implementing a single goal, those sharing the responsibility for the goal and service may combine their evaluation on a single report.
3. For each student taking an alternate state assessment, each objective or benchmark within the annual goal must be individually addressed. The objective or benchmark should be stated with the criteria being used to evaluate the progress.
4. For each reporting period, the service provider(s) must record the report date and give his or her assessment of the student's progress on the objective or benchmark and by what method(s) the student's progress was evaluated. The service provider(s) should elaborate on this with a narrative comment.

Note: Include in the progress report suggestions of what the student could do to accelerate or improve his or her progress. These "Next Steps for Success" build a bridge from the present to the future, and give the student and parents something concrete to focus on as they look ahead. Some examples of teacher comments for next steps might be:

- Increase class participation
- Organize materials
- Have better attendance
- Participate more with peers
- Show more effort
- Practice and memorize
- Opportunity to mentor or lead
- Ask for help more often
- Work more independently
- Maintain concentration
- Follow class rules
- Make up missed work
- Complete homework
- Practice skill in the everyday world

Assessing Progress for Early Childhood – Pilot Project:
http://www.ped.state.nm.us/seo/preschool/pilot.assmt.memo.doc

The [district] will implement the NMPED pilot project. ***OR*** *The [district] is currently implementing the NMPED pilot project.* ***OR*** *The [district] will begin implementation of the [district] pilot project beginning: _____.*

The NMPED has established a pilot project to collect information on a random sample of children. The form being used in the pilot schools is available for the person who knows the child best to rate the student's achievement in three areas on the current IEP. The form is available on the NMPED Special Education website at http://www.ped.state.nm.us/seo/preschool/pilot.assmt.form.doc .

As part of the NMPED work of establishing a state system for assessing the progress of young children, the NMPED will be collecting information on how LEA's currently determine the progress each child is making and how you determine eligibility. Are the early language/communication, pre-reading and social-emotional skills of

preschool children with disabilities receiving special education and related services, improving?" Examples from each area follow.

- Early language/communication: Child will use gestures, sounds, words, or sentences to convey wants and needs or to express meaning to others; child will respond to others' communication with appropriate actions or communicative reply.
- Pre-reading: Child will give and receive nonverbal and verbal messages to attach meaning to experiences, events, and interactions; child will experience written language functions by listening to nursery rhymes, songs and stories or selecting books they would like to have an adult read to them.
- Social-emotional: Child will interact with peers and adults and show increasing ability to maintain social relationships and demonstrate social participation in play; child will demonstrate appropriate assertion, affect/emotion and problem-solving skills in interactions with others.

Signatures of Agreement
First, each member of the IEP team documents his or her participation by signing and dating the IEP Meeting Participants section. Second, parents acknowledge that they were given the opportunity to participate in the IEP development and the recommended placement and services, parents acknowledge the information was presented in an understandable manner, and that they have received a copy of their procedural safeguards. Parents initial the Parent Rights section.

Finally, it is suggested the IEP list the Case Manager/IEP Team Coordinator designated by signature the person who assumes responsibility for ensuring that everyone involved in the implementation of the IEP has access to it and is given the information necessary to carry out his/her responsibilities.
For any disagreements, see the procedures in Chapter 2. – Procedural Safeguards.

11. Prior Written Notice of Proposed Actions

Federal and state regulations require that parents of a child with an exceptionality be informed of, and consent to, any actions that would initiate or change the identification, evaluation, educational placement, or the provision of a free appropriate public education for their child ***before*** implementing the proposed action.

First, a summary of the IEP meeting is documented. The date of the meeting is recorded, followed by a brief, but specific, indication of what data was reviewed during the discussion of possible special education and related services for the student. Next, ***all*** items that were proposed, or options that were considered, are noted, regardless of the source. Each is marked accepted or rejected, and why. (If additional room is needed to list or explain proposed actions, a separate sheet can be attached.) It is important to keep in mind that the items marked "accepted" are intended to become the actions implemented for the student under the IEP. Once accepted and consent given, if appropriate, the directives of the IEP become a legal obligation.

The final steps of the IEP fulfill the requirements under the law regarding parents:
- Secure written parent consent, if appropriate, before implementing the proposed actions.
- Ensure that parents have been informed of and understand their rights.
- Give parents the opportunity to ask for clarification, disagree with the proposed actions, or request another IEP meeting.
- Offer parents assistance in understanding procedural safeguards and due process rights by listing specific contacts at the local and state level and informing them of parent advocacy support.
- Document that the content of the notice was translated if needed in the parents'/student's primary language, and if so, by what method and by whom.

C. After the IEP Meeting

Persons responsible for follow up after the IEP meeting should be designated at the end of the IEP meeting so the roles are clear. Typically, the special education teacher or evaluation specialist is appointed the tasks. Commitments made will be honored, communication continued, and new issues or topics that arose will be

addressed. After the meeting, there are several preparation activities that must be performed in addition to the delivery of services:

- If the parents did not participate in the IEP meeting, complete the appropriate copies and mail to the parents.
- Provide the student's general education teachers appropriate copies of the IEP, including accommodations.
- Provide appropriate teachers and administrators copies of the FBA/BIP if developed.
- If additional assessments are recommended, be sure appropriate staff is notified.
- Follow up on any other commitments discussed in the IEP meeting.
- Prior to the next IEP meeting the teacher will obtain input from the student's general education teachers in order to make appropriate recommendations in the IEP meeting.

D. Special Education Teacher/Service Provider Responsibilities

Typically, the special education teacher or evaluation specialist is appointed several follow up tasks after an IEP meeting is completed. For necessary students, share the emergency evacuation plan with all appropriate staff. There are other responsibilities as well and a few are described in this section.

The IEP team must notify any person expected to provide service, accommodations, or modifications of their specific responsibilities in implementing the IEP. It is the expectation that regular education teachers will be included among those who will provide special services to a child. However, regular education teachers may be either uncomfortable or unprepared to do so without help. ***LADE*** *will use the NMPE's two-part form designed to assist the IEP Team in ensuring that a regular education teacher is notified of his/her responsibilities and is given the opportunity to ask for support in carrying them out. Page 1 of the form,* ***Teacher Modification Notice****, lets the teacher know what is expected of him or her. At the bottom is a sign-and-return portion that will serve as documentation that the teacher was notified. The second page of the form,* ***Teacher Request for Assistance****, gives the teacher the opportunity to ask for help in carrying out his or her responsibilities under the IEP. The sign and return portion of the form also serves to documents the teacher's response.*

Process for Submitting Requests for Further Consideration of Student's IEP
If the special education staff has a concern that was not resolved during the IEP meeting, an appointment should be scheduled with the campus administrator to resolve the issue. The following steps should be followed::

- *The special education staff should inform the administrator of the considerations regarding the IEP.*
- *The administrator will determine any further resources to involve in resolving the situation. The diagnostician, coordinator, or special education director may be included in problem solving.*
- *The administrator may call a meeting with the parties involved or may offer suggestions to the special education staff, or may determine an IEP meeting is necessary to address the issues.*

Training: Request training support suggestions from the campus or special education administration in areas where improvements in instructional skills or other assigned duties are needed. Conduct a self analysis and begin improvement strategies for professional growth.

Lessons, Grading, and Reporting
Each student receiving special education instruction has an individual education program (IEP), which addresses the student's educational needs, educational goals and objectives.

1. *The special education teacher will utilize a lesson plan which reflects the goals as stated on the IEP and follows the NMPED Standards of Excellence. Grades should evolve from the goals with supporting documentation of how the grade was determined.*
2. *Numerical grades will be recorded for each subject area in a grade book. Recommended minimum mastery level on an IEP objective should be 70%, as a grade of 70 is required for passing for nondisabled students. If 70% is too high for mastery, the appropriateness of the goal should be reconsidered.*
3. *Care should be taken to ensure that goals are written at a level which continues to challenge the student's abilities. This may necessitate accommodations in curriculum, methods, pacing, materials, criteria, etc.*
4. *If the student with disabilities fails to meet the expectations addressed in the IEP, the responsible teacher will review the IEP for appropriateness of goals/objectives, instructional levels, materials, and methods. The teacher must document on the IEP the efforts made to try to help the student achieve success.*

5. *If a student with disabilities should not be progressing toward mastery of the goal by the annual IEP meeting, the IEP Team will convene to discuss the student's needs and make recommendations to help the student achieve success.*
6. *An IEP Team will meet if the student is not attending school to discuss the appropriateness of the IEP, need for additional testing, and pursuit of compulsory attendance, if appropriate.*
7. *The grading of a special education student in a general education classroom is based upon the IEP Team recommendations for, if any, accommodations of NMPED Standards of Excellence and other accommodations of pacing, methods, and materials needed. When accommodations have been recommended by IEP Team, the special education teacher is responsible for:*
   a. *informing the general education teacher of the recommended accommodations;*
   b. *providing information concerning the student's achievement levels, learning style, and behavioral needs;*
   c. *offering assistance to the general education teacher on a scheduled basis, as recommended by the IEP Team; and*
   d. *documenting contacts with the general education teacher.*
8. *On occasion, the IEP Team will recommend that a specific subject be taught in a combination general education/special education instructional arrangement. The special education student's grade, in this situation, may be determined proportionately by the general and special education teachers who provide the instruction, as determined by the IEP Team.*
9. *Unless the IEP Team designates otherwise,*
   a. *when a student is enrolled in the homebound program, the general classroom teacher will be responsible for grading all assignments and recording grades on the report card and permanent record for all subject areas.*
   b. *the progress of children enrolled in PPCD will be based upon advancement toward mastery of IEP goals and objectives. The NMPED is currently piloting progress reporting criteria. LADE will follow the NMPED recommendations. Report cards will be issued to PPCD children on the same schedule as non-disabled students on their campus.*

10. **Initial IEP Team Meeting:**

The special education teacher responsibilities in the IEP process are to:

1. *complete the draft IEP measurable annual goals, based on appropriate evaluation, selecting a minimum of one goal and two objectives for each subject or developmental area anticipated; (remember the general education teacher(s) to the extent appropriate, should participate in the development, review, and revision of the student's IEP), (objectives are required only if student is taking an off grade level state assessment)*
2. *complete the IEP by writing in any individualized items needed:*
   a. *complete header information marking DRAFT IEP,*
   b. *complete proposed evaluation procedures, and criteria.*
3. *send draft IEP goals (and objectives, if appropriate) to the parent at least one week prior to IEP meeting;*
4. *write the date the IEP is accepted by the IEP Team on the actual IEP during the meeting.*
5. *make copies of the accepted IEP goals and objectives and other relevant pages,*
   a. *One copy is to be filed in the student eligibility folder with the completed IEP forms, and*
   b. *additional copies of the approved IEP will be distributed to the parent and as needed (i.e., general education teacher copy, etc.).*
      (1) *ensure that each teacher who provides instruction to a student with disabilities receives relevant sections of the student's current IEP and that each teacher be informed of specific responsibilities related to implementing the IEP, such as goals and benchmarks, and of needed accommodations, modifications, and supports for the child;*

      (2) *obtain signed documentation from the general education teachers that they have received relevant sections of the student's IEP, such as goals and benchmarks, and needed accommodations, and supports for the child for the list of special education students they instruct, and*

   c. *assist general education teachers who are involved in the student's instruction to maintain documentation that they are modifying and/or accommodating educational programs of students as specified in the IEP.*
6. *The special education teacher's copy is used to document progress in the same timely manner as students on your campus who are nondisabled (e.g., every 6 weeks).*

2. Annual IEP Team Meeting

Each student's individual educational program (IEP) will be reviewed within 12 months to determine the student's progress, the student's continued need for special education and related services, and the need for modifying the plan. The IEP Team may schedule an earlier review date if needed for review, modification, failure, etc.

a. in addition to presenting the new draft IEP goals and objectives,
b. submit the original IEP with progress documentation marked on the IEP, and
c. follow No. 1 through No. 6 in A., above.

1. *At the annual review, the current IEP objectives will be reviewed and documented on the IEP prior to the development and acceptance of a new IEP.*
   a. There should be some objectives that have been added, deleted or revised in the new IEP.
   b. If there are no changes in the IEP, the team should have written justifications for the lack of revisions and the lack of a new IEP.
2. *IEPs will also be reviewed and documented at the beginning of the year and after breaks in the program for regression/recoupment information necessary to discuss the need for ESY.*
3. *Also, progress on the IEP is documented in the same timely manner as other non-disabled students and reported to parents.*

3. Amendment to the IEP

The special education staff at LADE must be certain that all requirements are followed and documentation is completed for any amendment to the IEP. It is important to read the Policies and Procedures in Chapter 5.1 IEP for Amendments to the IEP.

4. Temporary / Transfer IEP Meeting

The special education teacher will be responsible for attending any temporary IEP meetings, as necessary, and working with the campus diagnostician/appraisal staff to plan the draft IEP for the temporary transfer student. The special education teacher will also assist in obtaining records from the previous district and conducting any benchmark testing, as appropriate.

E. General Education Teacher Responsibilities

§300.323 When IEPs must be in effect.
(d) Accessibility of child's IEP to teachers and others. LADE ensures that-
(1) The child's IEP is accessible to each regular education teacher, special education teacher, related services provider, and other service provider who is responsible for its implementation; and
(2) Each teacher and provider described in paragraph (d)(1) of this section is informed of –
(i) His or her specific responsibilities related to implementing the child's IEP; and
(ii) The specific accommodations, modifications, and supports that must be provided for the child in accordance with the IEP.

(di) 300.324 Development, review, and revision of IEP
(a) (3) Requirement with respect to regular education teacher. A regular education teacher of a child with a disability, as a member of the IEP Team, must, to the extent appropriate, participate in the development of the IEP of the child, including the determination of--
(i) Appropriate positive behavioral interventions and supports and other strategies for the child; and
(ii) Supplementary aids and services, program modifications, and support for school personnel consistent with §300.320(a)(4).

(b) Review and revision of IEPs.
(2) 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 §300.324(a)(3) of this section, participate in the review and revision of the child's IEP.

Opportunity for General Education Teachers to Provide Input or Request Assistance:

The immediate person for support to the general education teacher is the campus special education teacher. Special educators are in a collaborative role to problem solve any difficulties the special education student may be having in the general class. The IEP Team designates a person responsible for coordination of monitoring the student and this is typically assigned to the special education teacher. The special education teacher's responsibilities to ensure participation of the general education teacher may include:

- *sending a memo/form to inform the teachers of your planning period and request some time to discuss the special education students in their room,*
- *providing relevant sections of the student's current IEP, such as goals and objectives, accommodations, and adaptations to all teachers who provide instruction to a student with disabilities,*
- *offering conferences before or after school to discuss the current or proposed IEP of specific students-- conferences may be used to discuss grading, homework, etc., clarify student abilities and needs based on evaluation, discuss test accommodations for the teacher to use, suggest a behavioral strategy that may work for the student, or review the behavioral intervention plan, if appropriate.*

Opportunity to Provide Input to the IEP Team:

The general education teacher will have information regarding the special education teacher's conference time and should use this time or after school conferences as one means to provide input regarding the student's IEP. General education and special education teachers may collaborate , however, the special education teacher ***MUST*** *send out the IEP Team teacher input form to all the student's teachers prior to:*

- *an initial IEP Team meeting,*
- *an IEP meeting to consider existing evaluation data/reevaluation,*
- *annual review IEP meeting, or*
- *an IEP meeting considering other areas such as behavior, failures, etc..*

Process for Submitting Requests for Further Consideration of Student's IEP

A. *There may be instances when the general educator does not agree with the decision of the IEP Team. There could be several reasons why this might occur, however, it is the responsibility of special educators first and foremost to support and assist the general education teacher in understanding the student's disability and IEP. When a general education teacher does not agree, the special education teacher should:*
   1. *make an appointment with the general education teacher to discuss the general education teacher's concern;*
   2. *listen carefully to each issue raised by the general education teacher, be sure he/she has a clear understanding of the student's educational competencies and needs. Often the general education teacher with a concern is not present in the IEP Team meeting and has not seen the evaluation information and may not understand the student's strengths and weaknesses.*
   3. *collaboratively brainstorm possible solutions and alternatives which could be used, being careful to pay close attention to the IEP Team decisions on placement, accommodations, etc. Areas for support include pacing, methods, materials, etc.*
   4. *keep notes of the issues and solutions to be tried and the person responsible for trying each solution, and the timeline;*
   5. *set the next date and time to meet and discuss any progress toward the general education teacher's concerns after he/she has implemented the solutions from the meeting. The special education teacher should always follow-up. The possible ways in which special education could support the general education teacher are listed above. Don't hesitate to offer specific suggestions as ways to help the teacher.* ***Progress should be noted and concerns resolved no more than two weeks from your first meeting date.***

B. *Involvement of the Principal: If the steps above do not improve the situation, the Principal and/or Assistant Principal should be notified (if they have not already been involved).*

III. ADDITIONAL AREAS CONSIDERED BY THE IEP TEAM

A. Adapted Physical Education

§300.108 Physical education (PE).
The NMPED must ensure that public agencies in the State comply with the following:

(a) General. Physical education services, specially-designed if necessary, must be made available to every child with a disability receiving FAPE, unless LADE enrolls children without disabilities and does not provide PE to children without disabilities in the same grade.

(b) Regular physical education. Each child with a disability must be afforded the opportunity to participate in the regular physical education program available to nondisabled children unless—
- **(1) The child is enrolled full time in a separate facility; or**
- **(2) The child needs specially-designed physical education, as prescribed in the child's IEP.**

(c) Special physical education. If specially-designed physical education is prescribed in a child's IEP, the public agency responsible for the education of that child must provide the services directly or make arrangements for those services to be provided through other public or private programs.

(d) Education in separate facilities. The public agency responsible for the education of a child with a disability who is enrolled in a separate facility must ensure that the child receives appropriate physical education services in compliance with this section.

(Authority: 20 U.S.C. §1412(a)(5)(A))

1. *Any student referred for specially-designed physical education evaluation must have an identified disability.*
   - A. *The request for specially-designed physical education first requires an evaluation be conducted. The evaluation request may have come from the SAT upon initial referral or by the student's IEP Team.*
   - B. *Specially-designed physical education is provided upon consideration of a current evaluation and written report.*
2. *If specially-designed PE is provided, the goals and objectives will be approved by the IEP Team.*
3. *Parents will receive progress reports toward the specially-designed PE goals/objectives in the same timeframe as students who do not have a disability.*

(e) Extracurricular Activities

§300.107 Nonacademic services.
The State must ensure the following:

(a) Each public agency must take steps, including the provision of supplementary aids and services determined appropriate and necessary by the child's IEP Team, to provide nonacademic and extracurricular services and activities in the manner necessary to afford children with disabilities an equal opportunity for participation in those services and activities.

(b) Nonacademic and extracurricular services and activities may include counseling services, athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by the public agency, referrals to agencies that provide assistance to individuals with disabilities, and employment of students, including both employment by the public agency and assistance in making outside employment available.

(Authority: 20 USC §1412(a)(1))

§300.117 Nonacademic settings.
In providing or arranging for the provision of nonacademic and extracurricular services and activities, including meals, recess periods, and the services and activities set forth in §300.107, each public agency must ensure that each child with a disability participates with nondisabled children in those services and activities to the maximum extent appropriate to the needs of that child. LADE must ensure that each child with a disability has the supplementary aids and services determined by the child's IEP Team to be appropriate and necessary for the child to participate in nonacademic settings.
(Authority: 20 USC §1412(a)(5))

§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—

(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;

C. Preschool Program for Children with Disabilities

§300.112 Individualized education programs (IEP).

The State must ensure 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). (Authority: 20 USC §1412(a)(4)).

(§§300.320 Definition of IEP, .321 IEP Team, .322 Parent Participation, .323 when IEPs must be in effect, .324 Development of IEP)(300.300 b. Parental Consent)

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

(i) Consistent with State policy; and

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

(2) In implementing the requirements of paragraph (b)(1) of this section, the public agency must--

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

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

For specific performance standards and benchmarks for three and four year old children, see the NMPED website at: http://www.ped.state.nm.us/seo/preschool/perf.standards.benchmarks_final.pdf

D. Prison: Juvenile or Adult Detention or Correctional Facilities

§300.324 Development, review, and revision of IEP

(d) Children with disabilities in adult prisons.

(1) Requirements that do not apply. The following requirements do not apply to children with disabilities who are convicted as adults under State law and incarcerated in adult prisons:

(i) The requirements contained in §§300.160 and 300.320(a)(6) (relating to participation of children with disabilities in general assessments).

(ii) The requirements in §300.320(b) (relating to transition planning and transition services), do not apply with respect to the children whose eligibility under Part B of the Act will end, because of their age, before they will be eligible to be released from prison based on consideration of their sentence and eligibility for early release.

(2) Modifications of IEP or placement.

(i) Subject to paragraph (c)(2)(ii) of this section, the IEP Team of a child with a disability who is convicted as an adult under State law and incarcerated in an adult prison may modify the child's IEP or placement if the State has demonstrated a bona fide security or compelling penological interest that cannot otherwise be accommodated.

(ii) The requirements of §§300.320 (relating to IEPs), and 300.112 (relating to LRE), do not apply with respect to the modifications described in paragraph (d)(2)(i) of this section.

(Authority: 20 USC §§1412(a)(1), 1412(a)(12)(A)(i), 1414(d)(3),(4)(B), and(7); and 1414(e))

Juvenile or Adult Detention or Correctional Facilities see Chapter 7 – Discipline/Behavior

E. Related Services – Roles

For more information on various roles for related service personnel, please see the NMPED website link: http://www.ped.state.nm.us/seo/library/guidance.memor.pdf

Related Service Providers as Contributors in the Development of IEP Goals and Objectives:
Traditionally, if a student received a certain score on one of a variety of related service assessments, the student was assumed to be in need of direct service from that related service provider. Then, under that traditional model, related service providers supplied draft annual goals and objectives to IEP teams that would be aimed at progress on therapy-related activities. In order to increase educational outcomes for students with disabilities, we are recommending a change in this traditional practice. After the IEP Team has discussed a student's present levels of performance, the family's (and student's, if appropriate) vision for the student, the team needs to develop goals. It is important to recognize that goals must (1) be tied to the New Mexico Content Standards and Benchmarks; (2) be individualized and appropriate for each student; and, (3) address each student's educational needs such that the student is provided access to, and progresses in, the general curriculum. We are recommending that once the present levels of academic achievement and functional performance have been determined, the vision for the student articulated and the goals established, related service providers, as relevant, contribute to the development of appropriate objectives that lead to the attainment of the IEP goals. This would be true for all students receiving special education services and for whom an IEP is being developed. Even in the case of a student who is eligible under the definition of speech or language impairment, the goals need to be related to the NM Content Standards. Objectives under these goals may address certain articulation or fluency skills, but the goals must still be tied to Standards. Our intent in recommending this change in practice is to focus attention on improving outcomes for students in relation to the general curriculum, while recognizing that building skills that lead to improved outcomes may very well involve the specialized contributions from related service providers.

Related Service Providers as Experts on Access. Traditionally, related service providers have contributed information that assists the IEP Team to develop the health plan section and/or transportation plan of the IEP for students whose ability to access the general curriculum depends on services such as tube feeding or specialized transport. These types of services do not require goals since no instruction is taking place. However, these services do get included on the IEP service schedule and are considered part of a student's special education service.

F. Standards for Excellence

Authority: NMAC 6.29.1.8 IMPLEMENTATION**:**
This regulation shall assist in the implementation of standards for excellence through the use of the *educational plan for student success (EPSS)*, content standards with benchmarks and performance standards, and additional program and procedural requirements specified in this regulation. The primary mechanism for planning and implementation is the *educational plan for student success (EPSS).*

Authority: NMAC 6.31.2.11 EDUCATIONAL SERVICES FOR CHILDREN WITH DISABILITIES

D. Performance goals and indicators. Pursuant to the requirements of 34 CFR §300.157(a), the content standards and benchmarks from the department's Standards for Excellence (Chapter 29 of Title 6 of the NMAC) for all children attending public schools and state-supported educational programs in New Mexico shall provide the basic performance goals and indicators for children with disabilities in the general education curriculum. The IEP academic goals must align with the New Mexico content standards and benchmarks, including the

expanded performance standards for students with significant cognitive disabilities, however, functional goals do not have to align with the standards and benchmarks. Unless waivers or modifications covering individual public agencies' programs have been allowed by the department or the secretary of education, the general education curriculum and the content standards and benchmarks shall only be adapted to the extent necessary to meet the needs of individual children with disabilities, as determined by IEP teams in individual cases.

New Mexico requires students to meet grade level academic content standards in mathematics, language arts, science, social studies, modern, classical, and native languages, arts, career readiness, health, and physical education. All content standards can be downloaded from: http://www.ped.state.nm.us/standards. In addition, the New Mexico expanded performance standards may be used to develop IEP goals and objectives for students with significant cognitive disabilities. The standards can be downloaded from: http://www.ped.state.nm.us/seo/guide/nm.expanded.performance.standards.pdf.

G. Supplementary Aids and Services - Accommodations

§300.42 Supplementary aids and services. Supplementary aids and services means aids, services, and other supports that are provided in regular education classes, other education-related settings, and in extracurricular and nonacademic settings, to enable children with disabilities to be educated with nondisabled children to the maximum extent appropriate in accordance with §§300.114 through 300.116. (Authority: 20 USC §1401(33))

§300.320 Definition of individualized education program.

(a) (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;

H. Tape Recording

LADE, the parent, or the adult student may audio-record the IEP Team meeting. All participants in the meeting must be informed that such a recording is being made. If a parent or adult student notifies the IEP Team that they will record the meeting, LADE should also record the meeting and put a reference to the audio-tape in the student's special education eligibility folder. The audio tape will be kept confidential and located with the eligibility folder.

LADE may NOT record without parent's knowledge.

IV. PRIVATE NONPUBLIC SCHOOL PROVISIONS *(See Chapter 6. - LRE)*

§300.2 Applicability of this part to State and local agencies.

(c) Private schools and facilities. Each public agency in the State is responsible for ensuring that the rights and protections under Part B of the Act are given to children with disabilities--

(1) Referred to or placed in private schools and facilities by LADE; or

(2) Placed in private schools by their parents under the provisions of §300.148

(ci) 300.118 Children in public or private institutions.

Except as provided in §300.149(d) (regarding agency responsibility for general supervision for some individuals in adult prisons), the NMPED must ensure that §300.114 is effectively implemented, including, if

necessary, making arrangements with public and private institutions (such as a memorandum of agreement or special implementation procedures). *(§300.114 is definition of LRE)*

A. Placed by the *cm

§300.325 Private school placements by public agencies.

(a) Developing IEPs.

(1) Before LADE places a child with a disability in, or refers a child to, a private school or facility, LADE must initiate and conduct a meeting to develop an IEP for the child in accordance with § §300.320 and 300.324. *(§300.320 is Definition of IEP and §300.324 is Development of IEP)*

(2) LADE must ensure that a representative of the private school or facility attends the meeting. If the representative cannot attend, LADE must use other methods to ensure participation by the private school or facility, including individual or conference telephone calls.

(b) Reviewing and revising IEPs.

(1) After a child with a disability enters a private school or facility, any meetings to review and revise the child's IEP may be initiated and conducted by the private school or facility at the discretion of LADE.

(2) If the private school or facility initiates and conducts these meetings, LADE must ensure that the parents and an agency representative--

(i) Are involved in any decision about the child's IEP; and

(ii) Agree to any proposed changes in the IEP before those changes are implemented.

(c) Responsibility. Even if a private school or facility implements a child's IEP, responsibility for compliance with this part remains with LADE and the NMPED.

B. Placed by the Parent

§300.132 Provision of services for parentally-placed private school children with disabilities--basic requirement.

(a) General. To the extent consistent with the number and location of children with disabilities who are enrolled by their parents in private, including religious, elementary schools and secondary schools located in the school district served by LADE, provision is made for the participation of those children in the program assisted or carried out under Part B of the Act by providing them with special education and related services, including direct services determined in accordance with §300.137, unless the Secretary has arranged for services to those children under the by-pass provisions in §§300.190 through 300.198.

(b) Services plan for parentally-placed private school children with disabilities. In accordance with paragraph (a) of this section and §§300.137 through 300.139, a services plan must be developed and implemented for each private school child with a disability who has been designated by LADE in which the private school is located to receive special education and related services under this part.

§300.37 Services plan. Services plan means a written statement that describes the special education and related services LADE will provide to a parentally-placed child with a disability enrolled in a private school who has been designated to receive services, including the location of the services and any transportation necessary, consistent with §300.132, and is developed and implemented in accordance with §§300.137 through 300.139.

For a sample services plan see the NMPED website: http://www.ped.state.nm.us/seo/library/services.plan.pdf

§300.137 Equitable services determined.

(a) No individual right to special education and related services. No private school child with a disability has an individual right to receive some or all of the special education and related services that the child would receive if enrolled in a public school.

(b) Decisions.

(1) Decisions about the services that will be provided to parentally-placed private school children with disabilities under §§300.130 through 300.144 must be made in accordance with paragraph (c) of this section and §300.134(c).

(2) LADE must make the final decisions with respect to the services provided to eligible parentally-placed private school children with disabilities.

As described in detail in Chapter 6. – LRE, through the consultation process and proportionate share decisions for service expenditures made by LADE, *LADE will provide the following services to parentally-placed private school students: _____.*

§300.137 Equitable services determined.

(c) Services plan for each child served under §§300.130 through 300.144. If a child with a disability is enrolled in a religious or other private school by the child's parents and will receive special education or related services from LADE, LADE must--

(1) Initiate and conduct meetings to develop, review, and revise a services plan for the child, in accordance with §300.138(b); and

(2) Ensure that a representative of the religious or other private school attends each meeting. If the representative cannot attend, LADE shall use other methods to ensure participation by the religious or other private school, including individual or conference telephone calls.

(ci) 300.138 Equitable services provided.

(a) General.

(1) The services provided to parentally-placed private school children with disabilities must be provided by personnel meeting the same standards as personnel providing services in the public schools, except that private elementary school and secondary school teachers who are providing equitable services to parentally-placed private school children with disabilities do not have to meet the highly qualified special education teacher requirement of §300.18.

(2) Parentally-placed private school children with disabilities may receive a different amount of services than children with disabilities in public schools.

(b) Services provided in accordance with a services plan.

(1) Each parentally-placed private school child with a disability who has been designated to receive services under §300.132 must have a services plan that describes the specific special education and related services that LADE will provide to the child in light of the services that LADE has determined, through the process described in §§300.134 and 300.137, it will make available to parentally-placed private school children with disabilities.

(2) The services plan must, to the extent appropriate--

(i) Meet the requirements of §300.320, or for a child ages three through five, meet the requirements of §300.323(b) with respect to the services provided; and *(found in Chapter 5.1-IEP)*

(ii) Be developed, reviewed, and revised consistent with §§300.321 through 300.324.

(c) Provision of equitable services.

(1) The provision of services pursuant to this section and §§300.139 through 300.143 must be provided:

(i) By employees of LADE; or

(ii) Through contract by LADE with an individual, association, agency, organization, or other entity.

(2) Special education and related services provided to parentally-placed private school children with disabilities, including materials and equipment, must be secular, neutral, and nonideological.

(d) 300.139 Location of services and transportation.

(a) Services on private school premises. Services to parentally-placed private school children with disabilities may be provided on the premises of private, including religious, schools, to the extent consistent with law.

(b) Transportation.

(1) General.

(i) If necessary for the child to benefit from or participate in the services provided under this part, a parentally-placed private school child with a disability must be provided transportation--

(A) From the child's school or the child's home to a site other than the private school; and

(B) From the service site to the private school, or to the child's home, depending on the timing of the services.

(ii) LEAs are not required to provide transportation from the child's home to the private school.

(2) Cost of transportation. The cost of the transportation described in paragraph (b)(1)(i) of this section may be included in calculating whether LADE has met the requirement of §300.133.

V. HOSPITAL OR RESIDENTIAL TREATMENT CENTERS *(See Chapter 6. - LRE)*

Authority: §300.104 Residential placement.
If placement in a public or private residential program is necessary to provide special education and related services to a child with a disability, the program, including non-medical care and room and board, must be at no cost to the parents of the child. (Authority: 20 USC §§1412(a)(1), 1412(a)(10)(B))
Any student with a disability meeting eligibility criteria and residing in a residential facility within LADE's boundaries will be offered a free appropriate public education (FAPE).

In order that students in hospitals or residential treatment facilities are served appropriately, it is important that IEP records be transmitted immediately. When the district in which the hospital or residential treatment facility is located receives the IEP, LADE will hold an IEP meeting to consider how the current services may be met at the hospital or residential treatment setting.