

West Virginia Department of Education Policy 2419 **(<http://wvde.state.wv.us/policies/>)**

The first section covers the specific policy requirements directly associated with the completion of the IEP. Following the Chapter 5, Section 2.G reference, further related requirements in Policy 2419 with regard to services for students with exceptionalities will be cited.

Chapter 5, Section 2.G Statement of Special Education and Related Services

Each student's IEP must describe the special education and related services, supplementary aids and services, based on peer-reviewed research to the extent practicable, and program modifications or supports for school personnel that will be provided to or on behalf of the student to enable the student to:

- Advance appropriately toward attaining the annual goals;
- Be involved in and make progress in the general education curriculum;
- Have an equitable opportunity to participate in extracurricular and other nonacademic activities; and
- Be educated and participate with other students with and without disabilities.

The description of services in the IEP must identify:

1. Supplementary aids and services and program modifications and supports for school personnel. Supplementary aids and services means aids, services, and other supports that are provided in general education classes or other education-related settings to enable students in need of special education services to be educated with students without exceptionalities to the maximum extent appropriate in accordance with LRE requirements. These services must be considered prior to removing a student from the general education classroom.

The determination of which supplementary aids and services are appropriate for a particular student must be made on an individual basis. Supplementary aids and services are any material/curricular/human resource or assistance, beyond what is normally afforded students without exceptionalities, provided to support a student with an exceptionality's placement.

Supplementary aids may include, but are not limited to, large print books, positive behavioral interventions, assistive technology devices, auditory trainers, curriculum accommodations, services and other supports that are provided in general education classes or other education related settings to enable students in need of special education services to be educated with students without exceptionalities to the maximum extent appropriate. Supplementary services may include, but are not limited to direct instruction, peer tutoring, interpreting and note taking.

Modifications are changes in educational expectations for the student. These include actual changes in the general education curriculum and instruction or the use of an alternative or

supplemental curriculum. Examples include mastery of essential concepts, acceleration, different test questions and material at a different reading level.

Supports for school personnel may include, but are not limited to, additional training in the use of assistive technology, specific instructional strategies or the use of technology; other professional development activities such as mentoring or coaching; and assistance in planning lessons using differentiated instruction.

2. Special Education Services

Special education services include specially designed instruction to meet the unique needs of the student. Special education services are those necessary to enable the student to achieve the annual goals, make progress in the general education curriculum and participate in extracurricular and other non-academic activities. Special education services document the goal area requiring specially designed instruction, e.g., Reading/Language Arts, Math, Behavior or Fine Motor Skills. Special education services are either direct or indirect. Direct services are instruction, therapies or interventions provided one-on-one or in groups to an eligible student in the general education classroom or in a special education school environment, home or community. Indirect services are services provided by a special education teacher or provider to the student's teacher(s) to directly benefit the student. Examples of indirect instruction are designing instructional materials or monitoring behavior management plans.

3. Related Services

The term "related services" refers to transportation and such developmental, corrective and other supportive services required to assist an eligible student to benefit from special education as described in the IEP. These services include, but are not limited to:

- Assistive technology
- Audiology
- Speech therapy
- Language therapy
- Interpreting services
- Psychological services
- Physical therapy
- Occupational therapy
- Therapeutic recreation
- Counseling services
- Early identification and assessment of students' exceptionalities
- Rehabilitation counseling services
- Orientation and mobility services
- Medical services for diagnostic or evaluative purposes
- School nurse services
- Social work services in school
- Supports for school staff
- Parent counseling and training. Parent counseling and training includes helping a parent:

- Understand child development and the special needs of his or her child; and
- Acquire skills to support the implementation of his or her child's IEP.
- Transportation
- Travel training

This list of related services is not exhaustive and may include other developmental, corrective, supportive services or transition services. EXCEPTION: The term does not include a medical device that is surgically implanted, the optimization of that device's functioning (e.g., mapping), maintenance of that device or the replacement of such device.

Although services may be of benefit to a student with an exceptionality, all of the services listed above may not be required for each individual student. Related services are the responsibility of the district only if the IEP Team determines they are required to assist the student to benefit from special education. Further, the student is not entitled to related services if:

- a. He or she does not need special education, or
- b. The parent or adult student does not consent to special education services.

Location, Extent/Frequency and Duration

For each service identified, the IEP must:

State the projected starting date and expected duration of the services and modifications.

1. List the anticipated extent/frequency. A specific quantitative amount of time (e.g., minutes per week or month) or a specific description of the instructional/environmental circumstances (e.g., accelerated learning or pre-teaching provided prior to the introduction of new content) is required. Specifying a range is only acceptable if the IEP Team determines that it is necessary to meet the unique needs of the student. A range may not be used because of personnel shortages or uncertainty regarding the availability of staff or services.
2. State the location where services and modifications will be provided. For supplementary aids, services or modifications, state the specific location, i.e., math classroom or community. For special education and related services, indicate the location as special education environment (SEE) or general education environment (GEE).

Chapter 1 Free Appropriate Public Education

FAPE is individually determined for each student. FAPE must include special education services in the least restrictive environment (LRE) and may include related services, transition services, supplementary aids and services, and/or assistive technology devices and services.

Chapter 1, Section 2.A District Obligation

The district is required to ensure that FAPE is available to students residing in the district who are eligible for special education services, including students with disabilities who have been suspended or expelled from school as provided for in Chapter 7.

Special education programs and services may be provided by any one or more of the following:

1. A single local educational agency;

2. Two or more local educational agencies cooperatively;
3. A regional educational service agency (RESA); or
4. Contract(s) for services from other public or private agencies or individuals.

Chapter 1, Section 2.B Applicability to Detained Youth

Eligible students with disabilities who are in state correctional institutions are afforded special education and related services that are in accordance with applicable state and federal laws and regulations. This includes students who had received services in accordance with an IEP, but who had left school prior to their incarceration, as well as students who did not have an IEP in their last educational setting, but who had actually been identified as a student with a disability for Part B services.

Chapter 1, Section 2.E Nonacademic Services

The district must ensure that students with exceptionalities are afforded an equal opportunity to participate in nonacademic and extracurricular services and activities by providing the supplementary aids and services determined appropriate and necessary by the student's IEP Team. In addition, physical education services, specially designed if necessary, must be made available to every student receiving FAPE in accordance with West Virginia Board of Education policies.

Chapter 5 Individualized Education Program

The definition of special education also includes instruction in physical education, speech/language therapy, transition services, travel training, assistive technology services and vocational education.

The IEP is a product of collaboration between a parent or adult student and educators who, through full and equal participation, identify the unique needs of a student with a disability or giftedness and plan the special education and related services to meet those needs.

Chapter 5, Section 1.A Purpose of Meeting

The primary purpose of an IEP Team meeting is to design an IEP that will meet the unique needs of an eligible student. The IEP Team plans the special education and related services designed to provide access to and progress in the general curriculum... Placement decisions must be considered after the special education services are determined.

Chapter 5, Section 1.B Team Decision Making

The IEP meeting serves as a communication vehicle between the parent or adult student and district personnel that enables them, as equal participants, to make joint, informed decisions regarding the student's special education services.

Chapter 5, Section 1.C Scheduling IEP Meetings

An IEP meeting must be convened:

1. To develop an IEP within thirty days of eligibility determination and prior to the initiation of services.

Chapter 5, Section 1.E The General Educator's Role in IEP Development

The general education teacher's role in the development, review and revision of the IEP includes:

- Discussion of the student's involvement and progress in the general education curriculum;
- Determination of appropriate positive behavioral interventions and strategies for the student; and
- Determination of supplementary aids and **services**, program modifications and supports for school personnel.

Chapter 5, Section 2.D Present Levels of Academic Achievement and Functional Performance

Using the information considered in Part C., the IEP Team identifies and develops statements of present levels of academic achievement and functional performance and measurable annual goals that enable school personnel to track the effectiveness of services and to accurately report progress toward goals.

Although the content of present levels of academic achievement and functional performance statements are different for each student, each statement must:

2. Establish a basis for the other components of the IEP, including annual goals, and, if applicable, benchmarks/objectives and special education **services** for students who participate in the West Virginia Alternate Performance Task Assessment (APTA);

Chapter 5, Section 2.J Least Restrictive Environment (LRE)

Participation in Nonacademic and Extracurricular Services and Activities: The IEP Team determines the supplementary aids and services appropriate and necessary for the student to participate with students without disabilities in nonacademic and extracurricular services and activities to the maximum extent appropriate. These services and activities may include, but are not limited to, meals, recess, field trips, counseling services, athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by the district, referrals to community agencies, career development and assistance in making outside employment available.

2. Basis of Placement: Placement decisions are made individually for each student. The services and placement needed by each student must be based on the student's unique needs that result from his or her disability or giftedness, not on the student's category of exceptionality or the availability of placement options, services, staff or space.

6. Harmful Effects of Placement: Consideration must be given to any potentially harmful effects of the placement on the student or on the quality of services.

7. Array of Services and a Continuum of Placement Options: The IEP Team must consider an array of services and a continuum of placement options to meet the individual needs of each

student. The continuum of placement options includes those options listed in this section for students ages six through twenty-one and students ages 3 through 5.

Chapter 5, Section 2.K Consent for Initial Placement and Revoking Consent

A parent/adult student may revoke consent for continued provision of special education and related services at any time.

Chapter 5, Section 2.L Parent or Adult Student Objection to a Subsequent IEP

The revocation of consent rule applies to revocation of all special education and related services. Consent cannot be revoked for a particular service.

Chapter 5, Section 3.C Other IEP Reviews

If any other member of the IEP Team feels that the student’s placement or IEP services are not appropriate, that team member may request an IEP Team meeting.

Chapter 5, Section 4.A Transfer from a West Virginia School District

When a student with a current WV IEP transfers school districts within the same school year, and enrolls in a new school, the district must make reasonable efforts to consult with the parent within two school days of initial enrollment and to initiate FAPE for the student within one school day of the parent consultation. FAPE includes **services** comparable to those described in the previously held IEP. Within ten school days of the parent or adult student consultation, the district must adopt the previously held IEP or develop and implement a new IEP.

Chapter 5, Section 4.B Transfer from an Out-of-State District

When a student with a disability transfers from out of state to a West Virginia school district within the same school year, and enrolls in a new school, and had an IEP that was in effect in that other state, the district shall make reasonable efforts to consult with the parent within two school days of initial enrollment and to initiate FAPE for the student within one school day of the parent consultation. FAPE includes services comparable to those described in the previously held IEP, in consultation with the parent or adult student, until such time as the district conducts an evaluation, if necessary, determines eligibility, develops and implements a new IEP, if appropriate.

Chapter 5, Section 5.B IEP or Individual Family Service Plan (IFSP) Required

A child three through five years old who is eligible as a student with developmental delays must have an IEP implemented by his or her third birthday. If a child’s third birthday occurs during the summer, the IEP Team must determine the date when services under the IEP will occur.

Chapter 5, Section 5.D Child’s Status During Due Process Hearing Proceedings

Following the development of an IEP or an IFSP, if an educational placement dispute arises involving a child transitioning from Part C to Part B, the child cannot “stay put” in Part C when he or she is over the age of three. With written consent of the parent, the child must be placed in the public school until completion of all the hearing proceedings. If the parent does not give

written consent, the student will not receive services until completion of the hearing proceedings.

Chapter 6 Administration of Services

Each district shall provide the special education and related services necessary to implement each student's IEP.

Chapter 6, Section 1 Initiation of Services

A complete IEP must be in effect prior to the provision of special education and related services. For initial IEPs, services must be implemented as soon as possible. Short delays in the immediate initiation of services may occur when IEP Team meetings are held during the summer or a vacation period, or when arrangements for services, such as transportation, must be made. A short delay during the school year should not exceed fifteen days. If the IEP Team determines the student needs extended school year and/or other services during the summer, these services must be provided, otherwise the implementation of the IEP will begin in the fall. For a preschool student, the IEP must be in effect by the third birthday. If a child's third birthday occurs during the summer the IEP Team must meet to complete the IEP prior to the third birthday and to determine the date when services will be initiated. If the IEP Team determines the child needs extended school year and/or other services during the summer, these services must be provided once the child turns three years of age, otherwise the implementation of the IEP will begin in the fall.

A current IEP must be in effect at the beginning of each school year for each student receiving special education and related services. For a student transferring from another district or state, and in consultation with the parent/adult student, the district must initiate special education services comparable to those provided by the previous district until the current IEP is adopted or revised as specified in Chapter 5, Section 4, IEPs for Transfer Students.

Chapter 6, Section 3 Provision of Services

The district must provide:

- A continuum of service options in order to respond to the intensity and severity of students needs;
- Services in school facilities that serve age-appropriate non-exceptional peers;
- Classrooms for eligible school age students with exceptionalities in close proximity to classrooms for age-appropriate non-exceptional peers;
- Classrooms for eligible students with exceptionalities that are adequate and comparable
- to the classrooms for students without exceptionalities;
- Classrooms/facilities for eligible students with exceptionalities with physical and/or sensory impairments that are in compliance, to the extent necessary, with the requirements of the Americans with Disabilities Act, Section 504 of the Rehabilitation Act of 1973, the

specifications outlined in West Virginia Code, Chapter 18, Article 10F, the current Uniform Federal Accessibility Standards and WV State Board of Education Policy 6200;

- Transportation, specially designed if necessary, for all students with exceptionalities in accordance with West Virginia Code §18-5-13 and State Board of Education policies governing transportation;
- Appropriate grouping of students with exceptionalities for specially designed instruction based upon meeting the students' similar social, functional and/or academic needs, as specified in their IEPs and without regard to identified exceptionality;
- The opportunity for students with disabilities to earn the required credits for graduation;
- Daily monitoring of hearing aids or the external component of a surgically implanted devices worn by students in schools in accordance with established procedures to assure they are functioning properly;
- Assistive technology devices or assistive technology services, or both, to a student with a disability if required as part of the student's special education, related services or supplemental services;
- On a case-by-case basis, school-purchased assistive technology devices in a student's home or in other settings if the student's IEP Team determines that the child needs access to those devices in order to receive FAPE; and
- Services for young children in the least restrictive environment which includes utilizing approved participating partners in WV Pre-K. The socioeconomic level, ability and/or funding streams should not be viewed as deterrents to providing fully inclusive programs.

CHAPTER 7 Discipline

Issues of services with regard to disciplinary actions will be covered in the Discipline Module.