

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

### **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 4, Section 3.G Gifted**

#### **Eligibility Criteria for Exceptional Gifted, Grades Nine through Twelve**

If the student is eligible as exceptional gifted, the district must develop an IEP. If the student is not eligible as exceptional gifted, the IEP Team must write a four-year plan that appropriately addresses the student's educational needs. The four-year education plan replaces the Individualized Student Transition Plan (ISTP) and, includes honors, Advanced Placement (AP) and/or International Baccalaureate (IB) classes that must be provided for the student in grades 9-12. The implementation and annual review of this plan are required of the district. The review team must include the student, parent and school representative.

### **Chapter 5 Individualized Education Programs**

The definition of special education also includes instruction in physical education, speech/language therapy, transition services, travel training, assistive technology services and vocational education. Specially designed instruction means adapting the content, methodology or delivery of instruction to:

1. Address the unique needs of the student that result from his or her disability or giftedness; and
2. Ensure access to the general education curriculum so that the student can meet the education standards that apply to all students.

### **Chapter 5, Section 1.C Scheduling IEP Meetings**

An IEP meeting must be convened:

3. When another agency fails to deliver transition or other services outlined in the IEP, the IEP Team must reconvene to identify alternative strategies to meet the transition objectives for the child set out in the IEP;

### **Chapter 5, Section 1.D IEP Team Membership**

**The following are required members of the IEP Team:**

- The **student** when appropriate, but required when the purpose of the meeting is consideration of the postsecondary goals and transition services needed for reaching those goals.
- To the extent appropriate and with parent or adult student consent, **a representative of any participating agency** that is likely to be responsible for providing or paying for transition

services. If a representative does not attend, steps must be taken to obtain participation from the agency in transition planning.

#### **Chapter 5, Section 1.F Invitation to IEP Team Meetings**

4. Beginning not later than the first IEP to be in effect when the student turns sixteen, or younger if determined appropriate by the IEP Team, the notice also must:
  - a. Indicate that the purpose of the meeting will be consideration of the postsecondary goals and transition services for the student;
  - b. Indicate that the district will invite the student; and
  - c. Identify any other agency that will be invited to send a representative with the consent of the parent/adult student.
  
5. Invite the student, if appropriate or required, to attend and participate in his or her IEP Team meeting. If a purpose of the meeting is to consider transition, and the student does not attend, the district must take other steps to ensure that the student's preferences and interests are considered.

#### **Chapter 5, Section 2.F Transition Services**

Secondary transition services are defined as a coordinated set of activities for a student with an exceptionality that are designed within a results-oriented process focused on improving the academic and functional achievement of the student to facilitate movement from school to post-school activities, including post-secondary education, vocational education, integrated employment (including supported employment), continuing and adult education, adult services, independent living or community participation. The activities include instruction, community experiences, development of employment and other post school adult-living objectives and, if appropriate, acquisition of daily living skills and a provision of functional vocational evaluation. These activities are based on the individual student's needs, taking into account the student's preferences and interests.

Beginning with the first IEP to be in effect when a student is sixteen years old (or sooner at the discretion of the IEP Team), the IEP must include:

1. Appropriate, measurable postsecondary goals related to independent living skills, if needed;
2. Appropriate measurable postsecondary goals based upon age-appropriate transition assessment related to training, education and employment; and
3. Transition services (including courses of study) needed to assist the student in reaching postsecondary goals identified on the IEP.

The goals and transition services must be updated on the IEP annually.

Not later than the student's 17th birthday, the IEP must include a statement that the student has been informed whether or not special education rights will transfer to the student on his or her 18th birthday. Special education rights will transfer from the parent to the student when the student turns eighteen years old unless the parent has obtained legal guardianship.

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

### **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**.

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

When a parent/adult student refuses to respond to a request for or refuses consent to the initial provision of special education and related services or revokes consent for continued special education and related services:

1. The district must provide PWN containing all the required content of PWN and must fully inform the parent of the reasons the district believes the student should receive special education and the potential consequences of refusing services, such as implications for student achievement, graduation, discipline protections and **transition to post school outcomes**.

**Chapter 5, Section 6. Students with Disabilities in Adult Prisons**The following are exceptions for students with disabilities who are convicted as adults under West Virginia law and incarcerated in adult prisons:

1. The student will not participate in statewide assessments.
2. **Transition planning and services** do not apply if the student will remain in prison beyond his or her 21st birthday.

#### **Chapter 6, Section 4. B. Adequate Staff**

**Students with Level I needs** typically, but not exclusively, function within the school setting by:

- Participating in transition activities leading to a vocational completer certificate, postsecondary education, military service or employment.

**Students with Level II needs** typically, but not exclusively, require services such as the following to function within a school setting:

- Transition activities that focus on special education vocational classes, supported employment or sheltered workshops; and/or
- Instruction until the age of twenty-one.

**Students with Level III needs** typically, but not exclusively, demonstrate those needs shown at Level II as well as needs such as those shown below to function within a school setting:

- Transition services that include coordination and linkages with the Office of Behavioral Health Services for Mental Retardation/Developmental Disabilities Waiver Program and adult community services and community use.

#### **Chapter 9, Section 1.B Responsibilities of the West Virginia Department of Education**

23. b. If any public agency other than an educational agency is otherwise obligated under federal or State law, or is assigned responsibility under State policy or pursuant to paragraph a. of this section, to provide or pay for any services that are also considered special education or related services (such as, but not limited to, services relating to assistive technology devices, assistive technology services, supplementary aids, supplementary services, related services transition services) that are necessary for ensuring FAPE to students with disabilities within the State, the public agency must fulfill that obligation or responsibility, either directly or through contract or other arrangement.

#### **Chapter 10, Section 4 Notice of Meetings**

If the purpose of the meeting includes the consideration of post secondary goals and transition services for the student, at age sixteen, or younger if appropriate, the written notice must also indicate this purpose, indicate that the district will invite the student and identify any other agency that will be invited to send a representative. The parent/adult student must provide written consent for any invited agency representative to attend the IEP Team meeting.

#### **Chapter 10, Section 6.A Informed Consent Required**

Informed written consent is required before:

5. An agency representative likely to pay for or provide transition services attends an IEP meeting.