

A. Purpose

To outline the Individualized Education Program (IEP) process and to ensure parents are informed of the process and treated as key members of their child's IEP.

B. Background

Through ongoing collaboration between staff and parents, the Frederick County Public Schools (FCPS) Department of Special Education and Student Services supports the philosophy of partnering with parents in best serving the needs of students.

C. Definitions

1. "IEP Team" is defined to mean a group of individuals at each school responsible for:
 - a. Identifying and evaluating students with disabilities.
 - b. Developing, reviewing, and revising a student's IEP.
 - c. Determining the placement of a student with a disability in the least restrictive environment.
2. "IEP Team Members" is defined to mean:
 - a. Parent/guardian (hereafter parent).
 - b. Not less than one regular education teacher of the student (if the student is, or may be, participating in the regular education environment).
 - c. Not less than one special education teacher or special education provider.
 - d. Principal or principal's administrative designee (serves as the chairperson).
 - e. An individual who can interpret evaluation results (may be a member already described above).
 - f. Student, when appropriate.
 - g. Other individuals, at the discretion of the parents or the school, who have knowledge or special expertise regarding the student, including related service providers.
 - h. If the purpose of the IEP meeting is to consider transition services for students age 14 and older, the student and a representative of the agency likely to provide or pay for these services must be invited to the IEP meeting. Parent consent is required annually for all representatives of agencies before their attendance at an IEP meeting at the beginning of each school year.
3. "Business Day" is defined as Monday through Friday when a local school system is open for business whether or not students are required to be in attendance.

4. “Informal Meeting”, for the purposes of this regulation, is defined to mean staff members informally meeting to discuss the student’s educational performance throughout the school year is not considered an IEP meeting, provided no changes are made to the IEP.
5. “Accessible Copy” is defined to mean documents are made available to the parent in a convenient method or manner. This can include a format other than print, such as Braille, larger print, or audio file.

D. Procedures

1. IEP Team Attendance

- a. A member of the IEP Team whose area of curriculum or related services is not being modified or discussed is not required to attend an IEP meeting if the parent of the student and the school agree that attendance is not necessary. This agreement must be in writing.
- b. A member of the IEP Team may be excused from attending an IEP meeting when the meeting involves a modification or discussion of the member’s area of curriculum or related service, if, before the meeting:
 - i. The parent and school consent to the excusal.
 - ii. The excused member submits a written summary of input into the development of the IEP.

2. Parent Participation

- a. The school must take steps to ensure that at least one parent of the student with a disability is present or afforded the opportunity to attend and participate at meetings of the IEP Team.
- b. Efforts to obtain participation include:
 - i. Scheduling the meeting at a mutually agreeable time and place.
 - ii. Providing written notice at least ten days in advance indicating the purpose, date, time, location, who will attend, and that parents may invite other individuals.
- c. If at least one parent cannot attend, the school may use other methods to ensure participation, such as individual conferences, video conferences, or teleconferences.
- d. An IEP meeting may be conducted without the parent if:
 - i. The school is unable to convince the parent to attend.
 - ii. The school has a record of at least three attempts to arrange a meeting (i.e., phone logs, written correspondence, visits to the home).
- e. An IEP meeting may be expedited without providing the parent ten days’ notice in advance in order to:
 - i. Address disciplinary issues.
 - ii. Determine placement of a student who is not currently receiving services.
 - iii. Meet other urgent needs of the student.
- f. A language interpreter will be provided during the IEP Team meeting for non-English speaking parent/guardian of a child with a disability, as warranted.

3. Use of Audio Recording Devices at IEP Team Meetings

- a. FCPS respects a parent's right to make a request to record the IEP Team meeting using an audio recording device. (FCPS prohibits video recording of IEP Team meetings.)
- b. If a parent wishes to record the IEP Team meeting, the parent is asked to provide at least 24 hours' notice to ensure proper setup of the meeting room. If FCPS staff wishes to record the IEP Team meeting, the same 24-hour notification will be provided to the parent.
- c. In accordance with Maryland law, consent to be recorded will be requested from those present. When a parent requests a meeting to be recorded, FCPS staff will also record independently.
- d. If an IEP Team member declines consent, the IEP chairperson will proceed with the excusal process. The excusal process allows the parent and the IEP chairperson to excuse a member of the IEP Team from an IEP Team meeting. Before an IEP Team member is excused from attending, the parent and the IEP chairperson must consent, in writing, to the excusal.
- e. The recording of any IEP Team meeting is maintained by FCPS as an "educational record" protected under the Individuals with Disabilities Education Act (IDEA) and the Family Educational Rights and Privacy Act (FERPA). The recording should not be disclosed without prior consent. FCPS must comply with a parent's request to access the recording within a reasonable time, but in no case later than 45 days after receipt of the request.

4. Parent Right to Mediation

- a. If, during an IEP Team meeting, a parent disagrees with the child's IEP or the special education services provided, the IEP Team shall provide the parent:
 - i. An oral and written explanation of the parent's right to request mediation;
 - ii. Contact information, including a telephone number to receive more information about the mediation process; and
 - iii. Information regarding pro bono representation and other free and low-cost legal and related services in the area.
- b. If the native language of the parents is spoken by more than 1% of the student population within FCPS, the parent may request:
 - i. The information about the right to mediation be translated into the parent's native language; and
 - ii. The translated document be provided within 30 days of the request.

5. IEP Team Responsibilities

- a. **Referral**
 - i. A written referral may be made to the school IEP Team for any student with a suspected disability who may need special education. An initial referral may be initiated by the student's parent or the school.
 - ii. The IEP Team will consider available data, including information obtained through screening and previous interventions, to determine if an assessment is needed.
 - iii. If the IEP Team determines that an assessment is needed, parental permission must be obtained. The parent will receive written notice of any assessment the school proposes or refuses to conduct.

- iv. If the IEP Team determines that an assessment is not needed, the team must inform the parent of the reason(s) for this decision.
- b. **Assessment**
 - i. The IEP Team will ensure that assessment materials and procedures are selected and administered in a way that is not racially or culturally discriminatory.
 - ii. The student must be assessed in all areas related to the suspected disability.
 - iii. A single procedure may not be used as sole criterion for determining if the student is a student with a disability or an appropriate educational program for the student.
 - iv. Assessment materials must be technically sound and administered in the student's native language or other mode of communication most likely to yield accurate information.
 - v. A written report of the assessment in each area of suspected disability must be available to the IEP Team. The report must be dated and signed by the evaluator.
- c. **Eligibility**
 - i. The IEP Team will determine the student's initial eligibility within the required timelines: 60 days from parental consent, and 90 days from receiving a written referral.
 - ii. The timeline does not apply if the parent repeatedly fails to produce the student for assessment, the student changes school districts before the completion of the initial evaluation process, or the parent and the IEP Team mutually agree, in writing, to extend the time frame or when the school system/facility is closed because of inclement weather or other emergencies that result in school closure.
 - iii. The IEP Team will determine a student's eligibility for special education and related services based on information from a variety of sources, including: existing data, classroom/district/state assessments, parent input, and observations.
 - iv. The student must meet eligibility criteria for identification in accordance with one or more of the disability categories as defined in state and federal regulations.
 - v. The IEP Team's decision regarding eligibility will be documented in writing and provided to the parent prior to the implementation of an IEP.
 - 1. The written statement shall include the basis for eligibility determination.
 - 2. The report shall contain the signature and title of each IEP Team member participating in the eligibility determination.
 - vi. The IEP Team may not identify the student as disabled if the determinant factor is:
 - 1. The lack of appropriate instruction in reading, or
 - 2. The lack of instruction in math, or
 - 3. Limited English proficiency, and the student does not otherwise meet the criteria.
 - vii. Each student with a disability will receive a re-evaluation of his or her special education eligibility by the IEP Team at least once every three years if the school determines that it is warranted, the parent or teacher requests a reevaluation, or before determining that the student no longer has a disability. A reevaluation should not occur more frequently than once a year, unless the parent and school agree otherwise.
- d. **Individualized Education Program (IEP) Development and Review**
 - i. The IEP Team will meet to develop an IEP for the student with a disability within 30 days of the evaluation meeting.

- ii. The content of the IEP will meet federal and state regulations as outlined in the Maryland Online IEP system.
 - iii. If the student's behavior impedes the student's learning or the learning of others, the IEP Team will consider positive behavioral interventions, strategies and supports, as appropriate.
 - iv. If the student is limited English proficient, the IEP Team will consider the language needs of the student as it relates to the IEP.
 - v. If the student is blind or visually impaired, the IEP Team will provide for instruction in Braille or the use of Braille, unless the team determines it is not appropriate.
 - vi. If the student is deaf or hard of hearing, the IEP Team will consider the student's language and communication needs, including opportunities for direct communication with peers and staff, and direct instruction in the student's mode of communication.
 - vii. A regular education teacher, to the extent appropriate, will participate in the development of the IEP.
 - viii. The IEP Team will consider the student's need for transportation, as a related service, in order for the student to benefit from special education.
 - ix. The IEP Team will ensure that hearing aids or the external components of surgically implanted medical devices worn in school by students with disabilities are functioning properly.
 - x. The IEP Team will meet at least annually to review and revise the IEP, as appropriate. Parents of students with disabilities will receive quarterly progress reports in writing.
 - xi. The IEP Team will determine, at least annually, whether the student is eligible for extended school year (ESY) services.
 - xii. The parents of the student with a disability or the school may request an IEP meeting at any time to review, and, as appropriate, revise the IEP.
 - xiii. Changes to a student's IEP may occur by the IEP Team or an amendment to the IEP without a meeting, provided that the amended IEP is accessible to the service providers and provided to the parent, upon request.
- e. **Placement**
- i. The IEP Team will ensure that, to the maximum extent appropriate, the student with a disability is educated with their typically developing peers in the least restrictive environment (LRE).
 - ii. Placement is based on the student's IEP. The student is educated in their home school that he or she would attend unless the goals, objectives, and services of the IEP cannot be implemented in that school.
 - iii. The approved IEP shall be implemented as soon as possible.
 - iv. A continuum of alternative placements is available to the student including supplementary aids and services in the classroom, resource, itinerant instruction, and access to more restrictive settings through the County IEP process.
 - v. The instructional setting for a student with a disability who has been removed from school for disciplinary action cannot be the student's home location. (See [FCPS Regulation 408-01](#), *Suspension and Expulsion*.)
 - vi. The instructional setting for a student with a disability who has been charged with a violent offense in the community cannot be the student's home location. (See

[FCPS Regulation 400-60](#), *Placement of Students Charged with a Reportable Offense Off Campus*.) When the recommendation of the 400-60 assessment team results in the student receiving educational services outside of the school in which the student is registered with potential increased special education services than currently designated in the student's IEP, an expedited IEP team meeting will be held at the recommended school with central office special education staff in attendance.

f. Dismissal

- i. The IEP Team, upon review of the IEP, may recommend a student's dismissal from special education services. If the parent/guardian disagrees with the dismissal decision, the appeal process is to be followed.
- ii. A parent may withdraw consent for special education and related services at any time. Upon receipt of a parent's written withdrawal of consent, the school shall provide the parent with written notice of their intention to cease services before services are ended. The school may not continue to provide special education and related services to the child. The appeal process is not initiated when dismissal of services is based on the parent request. Parents shall be made aware that revocation of services must be in their entirety and that the student forfeits access to the protections of special education law. Parents may re-initiate the special education process at any time subsequent to withdrawal of consent.

g. Prior Written Notice

- i. The IEP Team will give the parent written notice each time it:
 1. Proposes to initiate or change the identification, evaluation, educational program, or educational placement of a child or the provision of a free, appropriate public education (FAPE) for a child; or
 2. Refuses to initiate or change the identification, evaluation, educational program, or educational placement of a child or the provision of FAPE for a child.

h. Provision of Accessible Copies of Documents to Parents

- i. Before an IEP Team meeting, the special education case manager ensures the following:
 1. At least five (5) business days before a scheduled IEP Team meeting, the parents will receive an accessible copy of each assessment, report, data chart, draft IEP, or other document the team plans to discuss at the meeting. This may include a student's portfolio of student work. If discussion at the IEP Team meeting requires reference to documents that were not previously provided to the parent, the parent and school staff may agree to proceed with the meeting.
 2. School staff and parents shall agree to the format in which the documents will be provided. Documents may be sent home with the student, made accessible to the parent for pick-up at the school, faxed to the parent, e mailed, or sent by mail.
 3. An assessment, report, data chart, or other document prepared by a school psychologist or other medical professional that the team plans to discuss at the meeting may be provided to the parent orally and in writing prior to the meeting.
- ii. After an IEP Team meeting, the special education case manager ensures the following:

1. Not later than five (5) business days after the scheduled IEP Team meeting, the parents will receive an accessible copy of the completed IEP.
 2. If the IEP has not been completed by the fifth business day, the parent will be provided with the draft copy of the IEP.
 - iii. If school staff is unable to provide the parent with accessible copies of all documents described above due to an extenuating circumstance, this must be documented and communicated to parents. Extenuating circumstances may include but are not limited to the following situations:
 1. Expedited meeting held for disciplinary reasons.
 2. Expedited meeting held to determine placement of a student with a disability not currently receiving services.
 3. Meeting was canceled due to an acceptable reason as documented in the online IEP system and the acceptable reason interfered with the staff's ability to provide all or some of the required documents.
 4. Student is found eligible for special education and related services and parent waives right to a separate IEP meeting in order to proceed with development of the IEP.
 - iv. School staff will use the "Notice to Parent of Documents for Review at an IEP Meeting" to demonstrate compliance with this requirement.
 - v. Failure of school staff to comply with the timelines and actions required for providing documents to parents in advance of the IEP Team meeting or copies of the completed IEP following the IEP Team meeting does not constitute a substantive violation of the provision of a free, appropriate public education (FAPE).
- 6. Translation of an Approved Individualized Education Program (IEP), Individualized Family Service Plan (IFSP) and their amendments**
- a. If the native language of the parent is spoken by more than 1% of the student population within FCPS, the parents may request translation of a completed Individualized Education Program (IEP), Individualized Family Service Plan (IFSP), and an amendment to the completed plan.
 - b. The translation will be provided within 30 days of the request.
- 7. Appeal Process and Mediation/Due Process**
- a. Reasonable efforts will be made at the school level through the IEP meeting process to resolve disagreement(s) that may arise during an IEP Team meeting concerning the student's program, services, and recommendations.
 - b. If the disagreement(s) cannot be resolved at the school level, an appeal may be made to a supervisor of special education to initiate further attempts toward informal resolution.
 - c. If resolution cannot be reached, formal mediation and/or a due process hearing may be requested by parents/guardians, the mediation/due process will be initiated upon receipt of the written request.
 - d. If parents/guardians appeal or request formal mediation or a due process a hearing, the student must remain in his current educational placement pending resolution of the

dispute unless the parents/guardians and the school have agreed to an alternative or interim educational placement.

8. **Accountability, Monitoring and Reporting for System and School Improvement.** Each FCPS school will designate a multi-disciplinary team to review demographics of students identified with disabilities, including disproportionality, at least quarterly. Strategies to reduce any identified disproportionate representation should be incorporated into the school's improvement plan.

E. Related Information

1. **Board Policy**
 - a. [Policy 508](#), *Special Education*
2. **FCPS Regulations**
 - a. [Regulation 400-60](#), *Placement of Students Charged with a Reportable Offense Off Campus*
 - b. [Regulation 408-01](#), *Suspension and Expulsion*
3. **FCPS Resources**
 - a. [FCPS Special Education Handbook](#)

F. Regulation History (Maintained by Legal Services)

<i>Responsible Office</i>	Department of Special Education and Student Services
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