

Developing an Individualized Education Program: Article 7

511 IAC 7-42-6

COMPONENTS AND PARENT COPY

A. An IEP is a written document for a student who is eligible for special education and related services that is developed by a CCC in accordance with this section. Transition IEPs are written documents developed in accordance with 511 IAC 7-43-4 that are in effect for students:

1. entering into grade 9; or
2. becoming fourteen (14) years of age; whichever occurs first, or earlier if determined appropriate by the CCC.

B. When developing a student's IEP, a CCC must consider the following general factors:

1. The strengths of the student.
2. The concerns of the parent for enhancing the education of the student.
3. The results and instructional implications of the initial or most recent educational evaluation and other assessments of the student.
4. The needs of the student:
 - a) *academic*;
 - b) *developmental*;
 - c) *communication*; and
 - d) *functional*;

C. The CCC must also consider the following special factors when applicable:

1. Positive behavioral interventions and supports, and other strategies, to address any of the student's behaviors that impede the student's learning or the learning of others.
2. Any supports, under 511 IAC 7-35-2, necessary to provide public agency personnel with the knowledge and skills necessary to implement the student's IEP.

3. The language needs of a student with limited English proficiency as those needs relate to the student's IEP.

4. In the case of a student who is deaf or hard of hearing or a student who is deaf-blind, the student's:

- a) *language and communication needs*;
- b) *opportunities for direct communications with peers and professional personnel in the student's language and communication mode*;
- c) *academic level*; and
- d) *full range of needs; including opportunities for direct instruction in the student's language and communication mode*.

5. Instruction in braille and the use of braille for a student who is blind or has low vision or a student who is deaf-blind, unless the CCC determines, after a functional literacy assessment (sometimes referred to as a learning media assessment) of the student's reading and writing skills, needs, and appropriate reading and writing media (including an evaluation of the student's future needs for instruction in braille or the use of braille), that instruction in braille or the use of braille is not appropriate for the student.

6. The student's need for assistive technology devices and services.

7. The IFSP for students who are transitioning from early intervention programs under Part C of the Individuals with Disabilities Education Act, 20 U.S.C. 1400 et seq.

D. When developing an IEP, a CCC must determine the special education and related services that will meet the unique needs of the student, regardless of the student's identified disability.

E. The general education teacher who is a member of the student's CCC must, to the extent appropriate, participate in the development of a student's IEP, including the determination of the following:

1. Appropriate positive behavioral interventions and supports and other strategies for the student.
2. Supplementary aids and services, program modifications, and support for school personnel consistent with subsection (F)(4).

F. An IEP must contain the following:

1. A statement of the student's present levels of academic achievement and functional performance, including:
 - a) *how the student's disability affects the student's involvement and progress in the general education curriculum; or*
 - b) *for early childhood education students, as appropriate, how the disability affects the student's participation in appropriate activities.*
2. A statement of the following:
 - a) *Measurable annual goals, including academic and functional goals designed to meet:*
 - i) *the student's needs that result from the student's disability to enable the student to be involved in and make progress in the general education curriculum (or for early childhood education students, as appropriate, to participate in appropriate activities); and*
 - ii) *each of the student's other educational needs that result from the student's disability.*
 - b) *For students who participate in alternate assessments aligned to alternative academic achievement standards, a description of benchmarks or short-term objectives.*
3. A description of the following:
 - a) *How the student's progress toward meeting the annual goals described in subdivision (2) will be measured.*
 - b) *When periodic reports on the progress the student is making toward meeting the annual goals (such as through the use of quarterly or other periodic reports, concurrent with the issuance of report cards) will be provided.*
4. A statement of the special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the student, or on behalf of the student, and a statement

of the program modifications or supports for school personnel that will be provided to enable the student to do the following:

- a) *Advance appropriately toward attaining the annual goals.*
 - b) *Be involved in and make progress in the general education curriculum in accordance with subdivision (1) and to participate in extracurricular and other nonacademic activities.*
 - c) *Be educated and participate with other students with disabilities and nondisabled students in the activities described in this article.*
5. An explanation of the extent, if any, to which the student will not participate with nondisabled students in the general education environment and in extracurricular and other nonacademic activities.
 6. A statement regarding the student's participation in statewide or local assessments of student achievement, including the following:
 - a) *Any individual appropriate accommodations that are necessary to measure the academic achievement and functional performance of the student consistent with 511 IAC 7-36-10.*
 - b) *If the CCC determines, in accordance with 511 IAC 7-36-10(G) and 511 IAC 7-36-10(H), that the student must take an alternate assessment of student achievement, instead of a particular statewide or local assessment, a statement:*
 - i) *of why the student cannot participate in the general assessment;*
 - ii) *of why the particular alternate assessment selected is appropriate for the student; and*
 - iii) *documenting that the public agency informed the parent that the student's performance will not be measured against grade-level academic achievement standards.*
 7. The:
 - a) *projected date for initiation of services and modifications described in subdivision (4); and*
 - b) *anticipated length and frequency, location, and duration of services and modifications.*
 8. A statement of the student's need for extended school year services consistent with 511 IAC 7-36-4(C) and 511 IAC 7-36-4(D).

9. Identification of the placement in the least restrictive environment as described in section 10 of this rule.
10. Beginning not later than one (1) year before the student becomes eighteen (18) years of age, a statement that the student and the parent have been informed that parent's rights under this article will transfer to the student at eighteen (18) years of age in accordance with 511 IAC 7-43-4.
11. Written notes documenting the meeting of the CCC, including the following:
 - a) *The date and purpose of the meeting.*
 - b) *The names and titles of the participants.*
 - c) *The issues discussed during the meeting.*

G. For a student convicted as an adult under state law and incarcerated in an adult prison, the:

1. Requirement in subsection (F)(6) relating to participation of students with disabilities in state and local assessments does not apply; and
2. CCC may modify the student's IEP or educational placement without regard to the requirements of this section and section 10 of this rule if the state has demonstrated a bona fide security or compelling penological interest that cannot otherwise be accommodated.

H. Nothing in this section must be construed to require:

1. that additional information be included in a student's IEP beyond what is explicitly required in this article; or
2. the CCC to include information under one (1) component of the student's IEP that is already contained under another component of the student's IEP.

I. The public agency must give the parent a copy, at no cost, of the student's IEP. The copy may be:

1. provided to the parent at the conclusion of the CCC meeting; or
2. mailed to the parent at a later date.

If mailed, the copy must be received by the parent not later than ten (10) business days after the date of the CCC meeting.

J. Any member of the CCC may submit a written opinion regarding the IEP. The written opinion must:

1. be submitted to the public agency not later than ten (10) business days after the date of the CCC meeting; and
2. remain with the student's educational records.

511 IAC 7-42-7

WRITTEN NOTICE BY THE PUBLIC AGENCY & PARENTAL CONSENT

A. Written notice that meets the requirements of subsection (B) must be given to the parent of a student with a disability before the public agency:

1. proposes to initiate or change the identification or educational placement of the student or the provision of a free appropriate public education to the student; or
2. refuses to initiate or change the identification, educational placement of the student, or the provision of a free appropriate public education to the student.

B. The written notice required under subsection (A) must include the following:

1. A description of the action proposed or refused by the public agency.
2. An explanation of why the public agency proposed or refused to take the action.
3. A description of the following:
 - a) *Each :*
 - i) evaluation;
 - ii) procedure;
 - iii) assessment;
 - iv) record; or
 - v) report;
 - ii) procedure;

The agency used as a basis for the proposed or refused action.

- b) Other options that the CCC considered and the reasons why those options were rejected.*
- c) Other factors relevant to the agency's proposal or refusal.*

4. A statement that the parent of a student with a disability has protection under the procedural safeguards described in 511 IAC 7-37-1 and the means by which a copy of a description of the procedural safeguards can be obtained. The statement must also explain that after a public agency provides written notice regarding a proposed or refused action that is subsequent to the initial IEP, the parent may challenge the action proposed or refused by the public agency.