

**3525.2810 DEVELOPMENT OF INDIVIDUALIZED EDUCATION PROGRAM PLAN.**

Subpart 1. **Definitions.** As used in parts 3525.0210 to 3525.4770, the terms defined in this part have the meanings given them.

A. "Individualized education program" or "IEP" means a written statement for each pupil that is developed, reviewed, and revised in a meeting in accordance with this part and that includes:

(1) a statement of the pupil's present levels of educational performance, including how the pupil's disability affects the pupil's involvement and progress in the general curriculum, or for preschool pupils, as appropriate, how the disability affects the pupil's participation in appropriate activities;

(2) a statement of measurable annual goals, including benchmarks or short-term objectives, related to meeting the pupil's needs that result from the pupil's disability to enable the pupil to be involved in and progress in the general curriculum, and meeting each of the pupil's other educational needs that result from the pupil's disability;

(3) a statement of the special education and related services and supplementary aids and services to be provided to the pupil, or on behalf of the pupil, and a statement of the program modifications or supports for school personnel that will be provided for the pupil to advance appropriately toward attaining the annual goals, to be involved and progress in the general curriculum in accordance with subitem (1) and to participate in extracurricular and other nonacademic activities, and to be educated and participate with other pupils and students in the activities described in this paragraph;

(4) an explanation of the extent, if any, to which the pupil will not participate with students in the regular class and in the activities described in subitem (3);

(5) a statement of any individual modifications in the administration of state or districtwide assessments of student achievement that are needed in order for the pupil to participate in such assessment. If the IEP team determines that the pupil will not participate in a particular state or districtwide assessment of student achievement or part of such an assessment, a statement of why that assessment is not appropriate for the pupil; and how the pupil will be assessed;

(6) the projected date for the beginning of the services and modifications described in subitem (3), and the anticipated frequency, location, and duration of those services and modifications;

(7) beginning at age 14, and updated annually, a statement of the transition service needs of the pupil in accordance with part 3525.2900, subpart 4;

(8) when a pupil reaches the age of 18, unless a guardian or conservator has been appointed for the pupil by a court of competent jurisdiction, the following shall occur and be documented in the pupil's IEP:

(a) the district shall provide any notice required under this chapter to the pupil and the pupil's parents; and

(b) all other rights accorded to the parents under this chapter and Part B of IDEA 1997, Code of Federal Regulations, title 34, chapter 300, transfer to the pupil, even if the pupil is incarcerated in an adult or juvenile state or local correctional institution.

Beginning at least one year before the pupil reaches the age of 18, the pupil and the pupil's parents must be informed of those rights under this chapter that will transfer to the pupil at age 18;

(9) a statement of how the pupil's progress toward the annual goals described in subitem (2) will be measured, how the pupil's parents will be regularly informed by such means as periodic report cards, at least as often as parents are informed of their nondisabled student's progress, of the pupil's progress toward the annual goals described in subitem (2), and the extent to which that progress is sufficient to enable the pupil to achieve the goals by the end of the year;

(10) a statement of the pupil's need for and the specific responsibilities of a paraprofessional; and

(11) any documentation required in Minnesota Statutes, section 125A.0942.

B. "Individualized education program team" or "IEP team" means a group of individuals that must include:

(1) the parents of the pupil;

(2) at least one regular education teacher of the pupil, if the pupil is, or may be, participating in the regular education environment;

(3) at least one special education teacher or, where appropriate, at least one special education provider of the pupil;

(4) an administrative designee, as defined in part 3525.0210, subpart 2, who is qualified to provide or supervise the provision of specially designed instruction to meet the unique needs of pupils with disabilities, is knowledgeable about the general curriculum, and is knowledgeable about the availability of resources of the district;

(5) an individual who can interpret the instructional implications of evaluation results, who may be a member of the team described in subitems (2) to (6);

(6) at the discretion of the parent or the district, other individuals who have knowledge or special expertise regarding the pupil, according to Code of Federal

Regulations, title 34, section 300.344(c), including related services personnel, as appropriate; and

(7) whenever appropriate, the pupil.

**Subp. 2. Development of IEP.**

A. In developing each pupil's IEP, the IEP team shall consider the strengths of the pupil and the concerns of the parents for enhancing the education of the pupil, the results of the initial evaluation or most recent evaluation of the pupil, and, as appropriate, the results of the pupil's performance on any general state or districtwide assessment program.

B. The IEP team shall:

(1) in the case of a pupil whose behavior impedes his or her learning or that of others, consider, when appropriate, strategies, including positive behavioral interventions and supports to address that behavior;

(2) in the case of an English learner, consider the language needs of the pupil as such needs relate to the pupil's IEP;

(3) in the case of a pupil who is blind or visually impaired, provide for instruction in Braille and the use of Braille unless the IEP team determines, after an evaluation of the pupil's reading and writing skills, needs, and appropriate reading and writing media, including an evaluation of the pupil'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 pupil;

(4) consider the communication needs of the pupil, and in the case of a pupil who is deaf or hard of hearing, consider the pupil's language and communication needs, opportunities for direct communications with peers and professional personnel in the pupil's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the pupil's language and communication mode; and

(5) consider whether the pupil requires assistive technology devices and services.

C. If, in considering the special factors described in items A and B, the IEP team determines the pupil needs a particular device or service, including an intervention, accommodation, or other program modification, in order for the pupil to receive FAPE, the IEP team must include a statement to that effect in the pupil's IEP.

D. The regular education teacher of the pupil, as a member of the IEP team, shall, to the extent appropriate, participate in the development of the IEP of the pupil, including the determination of appropriate positive behavioral interventions and strategies and the

determination of supplementary aids and services, program modifications, and support for school personnel consistent with subpart 1, item A, subitem (3).

**Subp. 3. Review and revision of IEP.**

A. The district shall ensure that the IEP team reviews the pupil's IEP periodically, but not less than annually to determine whether the annual goals for the pupil are being achieved, and revises the IEP as appropriate to address:

- (1) any lack of expected progress toward the annual goals and in the general curriculum, where appropriate;
- (2) the results of any reevaluation conducted under part 3525.2710;
- (3) information about the pupil provided to, or by, the parents; or
- (4) the pupil's anticipated needs and other matters.

B. The regular education teacher of the pupil, as a member of the IEP team, shall, to the extent appropriate, participate in the review and revision of the IEP of the pupil.

**Subp. 4. Failure to meet transition objectives.** If a participating agency, other than the local school district, fails to provide the transition services described in the IEP in accordance with subpart 1, item A, subitem (7), the district shall reconvene the IEP team to identify alternative strategies to meet the transition objectives for the pupil set out in that program.

**Subp. 5. Construction.** Nothing in this part shall be construed to require the IEP team to include information under one component of a pupil's IEP that is already contained under another component of such IEP.

**Statutory Authority:** *L 1999 c 123 s 19,20*

**History:** *26 SR 657; 28 SR 1292; L 2009 c 96 art 3 s 22; L 2012 c 239 art 1 s 33*

**Published Electronically:** *October 12, 2012*