

## Frequently Asked Questions

### Amending or Modifying an IEP Without an IEP Meeting

#### **1. Can LEAs amend or modify a student's IEP without holding an IEP meeting?**

Yes. After the student's parents and the LEA hold the annual IEP team meeting, the student's parents and the LEA may agree to amend or modify the student's IEP in writing instead of convening an IEP team meeting. See 34 C.F.R. § 300.324(a)(4)(i). LEAs must ensure that the student's parents agree to the change and that the student's parents agree that an IEP meeting is unnecessary. LEAs should ensure that a written document is developed detailing the change. See *Spring Branch Indep. Sch. Dist. v. O.W. by Hannah W.*, 961 F.3d 781, 799 (5th Cir. 2020).

#### **2. When should an LEA amend or modify a student's IEP in writing without holding an IEP meeting?**

Neither the IDEA nor its implementing regulations address when it is appropriate or inappropriate to amend or modify a student's IEP in writing without holding an IEP meeting. LEAs, however, should remember that one of the purposes of the IDEA is to ensure that the student's parents can meaningfully participate in the development and implementation of the student's IEP. See *Deal v. Hamilton Cnty. Bd. of Educ.*, 392 F.3d 840 (6th Cir. 2004) (explaining that the failure to provide for meaningful participation by parents in the IEP process may result in a denial of FAPE). The use of written amendments or modifications to repeatedly change a student's IEP or to make major changes to a student's educational placement or services could expose an LEA to claims of failure to allow parent input. When an amendment or modification in writing is proposed, LEAs should ensure that parents are informed of their right to request an IEP team meeting and that parents are given an opportunity to ask questions about any of the proposed changes. In general, amendments or modifications made in writing are best used for clerical or small changes to a student's IEP.

#### **3. Must the student's parents agree to changes when an amendment or modification is made to a student's IEP in writing?**

Yes. When changes are made to a student's IEP at an IEP team meeting, the IDEA does not require that the student's parents agree to the changes. (Note: If the student's parents do not agree to changes proposed by the IEP team, the IDEA procedural safeguards allow the parents to utilize one of the dispute resolution options.) When changes are made to a student's IEP without an IEP meeting, however, the IDEA does require that the student's parent agree to the changes. *See K.A. ex rel. F.A. v. Fulton Cnty. Sch. Dist.*, 741 F.3d 1195, 1206 (11th Cir. 2013).

**4. Must an LEA provide a written copy of the revised IEP to the student's parents?**

Yes, upon request. An LEA must provide a student's parents with a revised copy of the IEP with the changes incorporated upon request. *See* 34 C.F.R. § 300.324(a)(6).

**5. Must an LEA provide prior written notice before implementing the changes?**

Yes. An LEA must still provide prior written notice when an amendment or modification is made to a student's IEP in writing rather than through an IEP team meeting. Prior written notice must be provided within 10 school days of those circumstances listed in State Board of Education Rule 0520-01-09-.15(4) and 34 C.F.R. § 300.503(a).

**6. What other precautions should an LEA be aware of when making an amendment or modification to a student's IEP in writing?**

The LEA must ensure that the student's IEP team is informed of the changes to the student's IEP. *See* 34 C.F.R. § 300.324(a)(4)(ii).