

Frequently Asked Questions Amendment to State Rule on Parent Participation

The state board of education recently passed an amendment to the Special Education Programs and Services Parent Participation Rule (Rule 0520-01-09-.15), which is anticipated to go into effect on March 12, 2019. The new rule requires parents receive a copy of a draft Individualized Education Program (IEP) at least 48 hours before a scheduled IEP meeting, if the school or district chooses to create such a draft.

1. Does this rule change require districts to create draft IEPs?

No. The rule does not require districts to create draft IEPs; it prescribes certain requirements *if* the district elects to create a draft IEP.

2. What constitutes a “draft” IEP?

Any portion of the IEP with new information to be reviewed by the IEP team at an IEP team meeting that has been synthesized into the format required for IEP development (e.g., organized in the workspace of EasyIEP or compiled in a generated draft document) is considered a “draft” IEP.

3. Does that mean that IEP team members cannot bring notes, assessment data, or other information to the IEP team meeting if it has not been shared through a draft IEP?

No, IEP team members are expected to have information to share at the IEP team meeting and may bring notes, data, information, etc., for reference as the IEP is developed.

4. How do we document that a draft copy was provided?

Several updates have been made to EasyIEP to allow for documentation. When an IEP meeting is generated, the user will be prompted to indicate whether a draft IEP will be created. If the user selects that a draft will be created, the invitation will print with the options for the parent to request or decline a copy. Additional statements have been added to the parental consent section of the IEP to document that the parent received a copy of the draft if one was created.

5. What if the parent does not return the IEP meeting invitation?

If a draft IEP will be created, a copy of the draft IEP must be provided to the parent in accordance with the state rule *unless the parent has declined the provision of a copy on the invitation*. Therefore, if the invitation is not returned, the parent has not declined and a copy must be provided to the parent at least 48 hours before the IEP team meeting.

6. How should the draft IEP be provided to the parent?

The draft IEP is no different than any other confidential information provided to the parents of students with disabilities (e.g., invitation to a meeting, progress reports, evaluation data, etc.). Districts must

ensure that the process for providing **any** confidential information to parents, including draft IEPs, adheres to state and federal laws such as IDEA and the Family Educational Rights and Privacy Act (FERPA).

7. Does the new rule require separate meetings for initial eligibility and IEP development?

No. While it is inappropriate to develop a draft IEP prior to determining eligibility, the IEP team has two options once eligibility has been determined:

- Move forward with developing the IEP at the eligibility meeting; **OR**
- Reconvene within 30 calendar days to develop the IEP.

If the team decides to reconvene, a draft IEP could be created prior to the meeting and provided to the parent in accordance with the state rule.

8. Are we required to translate the draft IEP into other languages before they are sent home?

Yes. If the final IEP needs to be translated for the parent to have meaningful access to the IEP, then the draft IEP must also be translated. Although IDEA does not specifically require all documents to be translated, Title VI of the Civil Rights Act of 1964 requires that “vital written materials” be accessible to limited English proficient (LEP) parents. Oral interpretations may suffice in more limited situations. However, [guidance from OSEP](#) dated June 14, 2016, indicates that “timely and complete translated IEPs” are necessary for LEP parents to have meaningful access to the IEP. The U.S. Department of Education Office for Civil Rights has additionally stated that special education related documents must also be communicated to LEP parents in a language they can understand.

9. Are we required to provide a draft copy of the behavior intervention plan?

If a student’s IEP reflects that behavior is being addressed through a functional behavior assessment (FBA) or a BIP and revisions are being proposed to those documents, this would constitute a proposed change to the IEP and would need to follow the draft IEP rules and guidance.

10. Are we required to provide draft copies to surrogate parents and foster parents?

If a surrogate parent or foster parent meets the definitions and requirements of Rules 0520-01-09-.20 and 0520-01-09-.04, respectively, he or she must be provided with a draft IEP if one is developed.

11. Does this rule apply if I write the present levels of performance and goals in a Word document and cut and paste the information into the IEP during the meeting?

Yes. Writing the information in the format required for the development of present levels of performance and annual goals would constitute a draft IEP and must be provided to the parent in accordance with the state rule.

12. Does this rule apply if I enter information in the workspace of EasyIEP but do not actually create a draft?

Yes. Writing the information in the format for IEP development would constitute a draft IEP and must be provided to the parent in accordance with the state rule.