



Maine Department of Education

Response to Questions from SAU's and Parents
Regarding the Maine Unified Special Education
Regulations

January 2008

Introduction

This Response to Questions document has been developed by the internal IDEA Team at the Maine Department of Education. Questions were posed at both the regional trainings that were co sponsored with MADSEC and those sponsored by the Maine Parent Foundation in the spring. In addition we have entered other frequently asked questions. The Maine Department has utilized the federal response to comments document as a primary source of responses to the questions posed in Maine, as the federal document serves as an interpretive document.

This document is meant to serve as a clarification resource and will be updated periodically as new questions are posed in the field.

Throughout the document any references to 34CFR §303 or §300 are to the federal IDEA regulations and references to MUSERS is to the Maine Unified Special Education Regulation.

A list of commonly used acronyms is articulated below in the order that they appear in the document:

IEP	Individualized education program
CDS	Child Development Services
IFSP	Individualized Family Service Plan
LRE	Least Restrictive Environment
PWN	Prior Written Notice
SAU	School Administrative Unit
FERPA	Family Education Rights and Privacy Act
PET	Formerly Pupil Evaluation Team
IDEA	Individuals with Disabilities Education Act
ISP	Individual Service Plan
PPPSC	Parentally Placed Private School Children
PLEP	Present Levels of Educational Performance
PT	Physical Therapy
OT	Occupational Therapy
PAAP	Personalized Alternate Assessment Portfolio
IEU	Intermediate Educational Unit (i.e. CDS site)
SOP	Summary of Performance

[Advance Written Notice of IEP/IFSP Team Meeting](#)

If the purpose of the Individualized Education Program (IEP) team meeting is an annual review for a student who is 13-20, do you list purpose as annual/transition on the Advance Notice?

Yes. You can always list several reasons for an IEP meeting.

Should the parent's IEP team notice include "post secondary goals" as well as "transition"?

The Advance Written Notice of IEP/IFSP Meeting includes post-secondary goals and transition services and each other purpose of a meeting as well as a section in which to add "other."

There are times when we have to have an emergency IEP team meeting and the IEP team meeting is scheduled for 2 days after the notice was sent. Where do we have parents sign the waiver of "7" day notice? Separate form?

The area in which to record the parent's 7-day waiver of an Advance Notice to an IEP/IFSP Team Meeting is on the second page of that form.

Age of Majority Rights

What legal rights do youth who have reached the age of 18 without guardianship have concerning approval of an IEP requesting evaluation or re-evaluation?

All rights under Part B of the Individuals with Disabilities Education Act (IDEA) and Maine's Unified Special Education Regulations (MUSER) transfer to the student at age 18. As such, an 18 year old student's consent is required in accordance with the regulations prior to conducting an evaluation or reevaluation.

Caseload

How do we figure caseload? If two special education teachers provide a special education service to the same student, do each of those teachers need to count them as part of their caseload?

Yes, they would. The language from Section X.2.A.(1) from the Maine Unified Special Education Regulations (MUSER) states that, "The caseload limits apply to the number of children for whom a special education teacher carries the responsibility for case management and/or consultation in addition to specially designed instruction." This description applies to speech and language services also.

Certification

Are there any changes in the certification of special education consultants or in the limits to their evaluation capabilities? Specifically, cognitive evaluation?

There have been no changes to Chapter 115, Certification, Authorization, and Approval of Education Personnel, Part II. Certificate 079: Special Education Consultant is still defined as follows:

A. Function: This certificate allows the holder to serve in kindergarten through grade 12 as a special education consultant in a public school, an approved private school, or an approved special education program. A special education consultant is one who provides educational assessments, consultation, and interventions for the purpose of identification, programming, or placement of special education students. Services are limited to the holder's areas of training and expertise. This certificate does not authorize a person to serve as a school psychological service provider.

Note: This certificate does allow the holder to work with children birth to 5 through Child Development Services.

[Child Development Services \(CDS\)](#)

How is CDS going to fulfill the requirement for regular education teacher at IEP meetings when the child isn't in a regular education setting (especially 3 yr olds and children with Autism or special purpose programs)?

For children 3-5 who are in the settings in Section X.2.C.(1)(a) the teacher of record for that program will participate as the regular education teacher. For children 3-5 who are served in special education programs, or in the home or the service provider location as reflected in X.2.C.(1)(b,c,d) of the rule, the regular education teacher at the IEP meetings must be an individual who holds a certificate as an Early Childhood Teacher with endorsement 081 or Early Elementary Teacher with endorsement 029.

If the family chooses the Individualized Family Service Plan (IFSP) over the IEP, is CDS still the "funding source"?

Yes, CDS ensures the provision of FAPE at no cost to the family for children with disabilities aged 3-5 regardless of whether an IEP or IFSP is used.

What about CDS Boards who choose to use only the IEP for children 3-5 without option of parental choice of continuing with IFSP until transition to public school at age 5?

If a School Administrative Unit (SAU) / Intermediate Education Unit (IEU) has made a choice to use only the IEP, the parents do not have the option to choose an IFSP.

Consent

Consent for initial Evaluation - Biological parent vs. Foster Parent - who has the right to give consent?

Section V.1.A.(4)(c) Consent for wards of the State.

(i) In general. - If the child is a ward of the State and is not residing with the child's parents, the SAU shall make reasonable efforts to obtain the informed consent from the parent (as defined in 20 USC 1402) of the child for an initial evaluation to determine whether the child is a child with a disability.

(ii) Exception.—For initial evaluations only, if the child is a ward of the State and is not residing with the child's parent, the SAU shall not be required to obtain informed consent from the parent of a child for an initial evaluation to determine whether the child is a child with a disability if: 05-071 Chapter 101, Maine Unified Special Education Regulation

(I) Despite reasonable efforts to do so, the agency cannot discover the whereabouts of the parent of the child;

(II) The rights of the parents of the child have been terminated in accordance with State law; or

(III) The rights of the parent to make educational decisions have been subrogated by a judge in accordance with State law and consent for an initial evaluation has been given by an individual appointed by the judge to represent the child. [34CFR 300.300(a)(2)]

Consent

Could you explain more about what consent override is and when it could be applied?

Section V.1.A.(4)(a)(i) and (b)(i) states:

MUSER (4) Parental consent

(a) In general.

(i) Consent for initial evaluation.--The SAU proposing to conduct an initial evaluation to determine if the child qualifies as a child with a disability under 34 CFR 300.8 [Section VII]after providing notice consistent with 34 CFR 300.503 and 504 [Section XV], obtain informed consent consistent with 34 CFR 300.9 [Section II.6], from the parent of such child before conducting the evaluation. Parental consent for initial evaluation must not be construed as consent for placement for receipt of special education and related services. The SAU must make reasonable efforts to obtain the informed consent from the parent for an initial evaluation to determine whether the child is a child with a disability. [34 CFR 300.300(a)]...

(b) Absence of consent.

(i) For initial evaluation.--If the parent of a child, enrolled in public school or seeking to be enrolled in public school does not provide consent for an initial evaluation under clause (a)(i), or the parent fails to respond to a request to provide the consent, the SAU may, but is not required to pursue the initial evaluation of the child by utilizing the procedures described in 20 USC 1415, if appropriate, . The SAU does not violate its obligation under 300.111 and 300.301 through 300.311 if it declines to pursue the evaluation. [34 CFR 300.300(a)(3)(i,iii)]

Section V.1.B.(3)(a)(i),(ii),(iii), and (b)(i), and (ii)

(3) Parent consent for reevaluation

(a) Subject to paragraph (3)(b) of this section, each SAU:

(i)Must obtain informed parental consent, in accordance with 34 CFR 300.(a)(1), prior to conducting any reevaluation of a child with a disability.

(ii) If the parent refuses to consent to the reevaluation, the SAU may, but is

Consent

not required to, pursue the reevaluation by using the consent override procedures described in (1)(A)(4)(a).

(iii) Does not violate its obligation under 34 CFR 300.111 and 300.301 through 300.311 if it declines to pursue the evaluation or reevaluation.

(b) The informed parental consent described in paragraph (3)(a) of this section need not be obtained if the SAU can demonstrate that

(i) It made reasonable efforts to obtain such consent; and

(ii) The child's parent has failed to respond. [34 CFR 300.300(c)]

Further information about consent override can be found in the U.S. Department of Education's Office of Special Education Programs Analysis of Comments.

Changes: We have restructured Sec. 300.300(c)(1) and added a new Sec. 300.300(c)(1)(ii) to clarify that a public agency may, but is not required to, pursue a reevaluation using the procedural safeguards.

(i) If the parent of a child enrolled in public school or seeking to be enrolled in public school does not provide consent for initial evaluation under paragraph (a)(1) of this section, or the parent fails to respond to a request to provide consent, the public agency may, but is not required to, pursue the initial evaluation of the child by utilizing the procedural safeguards in subpart E of this part (including the mediation procedures under Sec. 300.506 or the due process procedures under Sec. Sec. 300.507 through 300.516), if appropriate, except to the extent inconsistent with State law relating to such parental consent.

Do we need written consent to conduct screenings? (assessments - not for the purpose of identification)

No, please see MUSER V.1.A.(5)

(5) Rule of construction.--The screening of a student by a teacher or specialist to determine appropriate instructional strategies for curriculum implementation shall not be considered to be an evaluation for eligibility for special education and related services.

[34 CFR 300.302]

Consent

Do you need written consent to invite outside agencies (e.g., CDS, Vocational Rehabilitation, Sweetser Case Management) to an IEP team meeting if they already are involved with the child?

It depends on the specific situation.

1) For CDS children transitioning from Part C to Part B services, you don't need written consent; however SAU's must be aware that IDEA 300.321(f) states:

(f) Initial IEP Team meeting for child under Part C. In the case of a child who was previously served under Part C of the Act, an invitation to the initial IEP Team meeting must, at the request of the parent, be sent to the Part C service coordinator or other representatives of the Part C system to assist with the smooth transition of services.

2) For a child who is a State Ward or a State Agency Client, the child's caseworker representing a youth serving agency must be an IEP Team member according to MUSER VI.2.B.(8):

For a child who is a state ward or state agency client, the child's caseworker representing a youth serving state agency. The surrogate parent retains the sole authority to represent the child by exercising the procedural safeguards available under this rule.

3) For Part B Secondary Transition, MUSER VI.2.C.(3)(e) states:

(e) To the extent appropriate, with the consent of the parents or the child who has reached age of majority, in implementing the requirements of (c) above, the public agency must invite a representative of any participating agency that is likely to be responsible for providing or paying for transition services. [34 CFR 300.321(b)(3)]

If a student comes from out-of-state, and you need to evaluate, do you still need consent?

Yes. Please see MUSER Section IX.3.B.(5)(ii)(I)

Consent

Is the consent for an outside agency written consent?

Wherever state or federal regulations require consent, it is a written consent. See MUSER II.6 for a definition of "Consent".

Should we get parental consent for screening in case results indicate need for further evaluation? Wouldn't this allow us to use that information as part of a full referral?

Consent is not required for screenings. If the results of a screening lead to a referral for special education, a WN would be required in addition to a written consent for subsequent evaluations.

What about the parent who brings a member of an outside agency? Do we need written consent?

No, parents and or SAU's have a right to bring other individuals who have knowledge or special expertise regarding their child. Determination of knowledge and special expertise is made by the parent and or SAU who brought the individual. Consensus is obtained from the legal IEP team members.

What if the parent allows the child to be tested, goes to the meeting but then goes no farther (no consent for placement, counseling, etc.)?

V.1.A.(4)(a)(ii)

(ii) For services.--If the parent of such child fails to respond or refuses to consent to services under clause (a)(ii), the SAU may not use the due process procedures in order to obtain agreement or a ruling that services may be provided to the child. [34 CFR 300.300(b)(3)] (iii) Effect on agency obligations.--If the parent of the child refuses to consent to the initial provision of special education and related services, or the parent fails to respond to a request to provide consent for the initial provision of special education and related services, the SAU:(I) Will not be considered to be in violation of the requirement to make available a free appropriate public education to the child for the failure to provide such child with the special education and related services for which the SAU requests consent; and (II) Is not being required to convene an IEP meeting or develop an IEP Team Meeting under this section for the child for the special education and related services for which the SAU requests such consent. [34 CFR 300.300(b)(4)]

Consent

Would it be best practice to get a consent form for an agency that might be invited to an IEP meeting prior to the transition IEP meeting where the child's post-secondary goals will be discussed?

Yes, you do need the consent of the parents or the child if they have reached age of majority.

Data Collection

Do the Anticipated Services after graduation for December 1 child count need to be on the IEP? The Department of Education (DOE) suggestion for collecting this information?

Recording the Anticipated Services after graduation for the December 1st child count is not a required component of an IEP. A best practice approach to collecting this information from your staff could be to have the responsible case managers record the Anticipated Services on a separate form and send the list to the person responsible for completing the Child Count Application.

Definition

Define Least Restrictive Environment (LRE) as you did with present level and annual goals.

An explanation of how the student will participate with or without supplemental aids and services in the general education curriculum, non-academic areas and extracurricular activities alongside her non-disabled peers, or, an explanation of why the student, with supplemental aids and services, can not participate with nondisabled peers in the general education curriculum, non-academic areas and extracurricular activities.

There is no clarification on the contents of the "multiple" label.

The MUSER give the definitions of the disabilities in Section VII.

Definition

We need more guidance on "scientifically based" and "peer reviewed research" in determining both methods of service delivery and supplemental aids & services. please advise.

MUSER Section II.26 states:

"The term scientifically based research' -

(A) means research that involves the application of rigorous, systematic, and objective procedures to obtain reliable and valid knowledge relevant to education activities and programs; and

(B) includes research that —

(i) employs systematic, empirical methods that draw on observation or experiment;

(ii) involves rigorous data analyses that are adequate to test the stated hypotheses and justify the general conclusions drawn;

(iii) relies on measurements or observational methods that provide reliable and valid data across evaluators and observers, across multiple measurements and observations, and across studies by the same or different investigators;

(iv) is evaluated using experimental or quasi-experimental designs in which individuals, entities, programs, or activities are assigned to different conditions and with appropriate controls to evaluate the effects of the condition of interest, with a preference for random-assignment experiments, or other designs to the extent that those designs contain within-condition or across-condition controls;

(v) ensures that experimental studies are presented in sufficient detail and clarity to allow for replication or, at a minimum, offer the opportunity to build systematically on their findings; and (vi) has been accepted by a peer-reviewed journal or approved by a panel of independent experts through a comparably rigorous, objective, and scientific review."

The following discussion is given in the federal commentary section of IDEA.

Discussion: "Peer-reviewed research" generally refers to research that is reviewed by qualified and independent reviewers to ensure that the quality of the information meets the standards of the field before the research is published. However, there is no single definition of "peer-reviewed research" because the review process varies depending on the type of information to be reviewed. We believe it is beyond the scope of these regulations to

Definition

include a specific definition of "peer-reviewed research" and the various processes used for peer reviews.

Who are you defining as the public agency? School, Department of Health and Human Services (DHHS), private - non-profits, Community Care, or Community Health and Counseling Services (CHCS)?

The School Administrative Units (SAU) are responsible for providing FAPE. Section II of the MUSER defines "Public Agency".

Due Process

Does the mediation agreement that has been signed by both parties go into effect immediately or after 3 business days have passed?

There is no 3-business day requirement for the voiding of a mediation agreement as there is for resolution session agreements. The mediation agreement may contain whatever timeframe for the fulfillment of the agreement that the parties agree to & goes into effect immediately once signed by both parties.

Due process forms need to be changed so that a parent of a 3-5 year old understands the form.

The due process forms are model forms. The Due Process Office encourages parents & adult students to use the forms if they wish to file for due process. If the parents of an infant or toddler or 3-5 year old wish to file for due process, they may submit a letter to the Due Process Office which contains the regulatorily required elements.

The Due Process Office has adapted the forms for greater understandability by CDS parents and sites.

If I have had an IEP team meeting where a re-evaluation was determined, and Written Notice (WN) and consent were sent. Parents call and refuse to give consent. If we decide to file for a hearing, must I send a WN?

If a WN about the issues for a hearing has already been sent to the parents, no other WN about the hearing issues is necessary.

May an advocate file a Due Process Complaint?

No. If the parent or adult student is represented by an attorney, the attorney may file the hearing request. A parent or attorney may list on the hearing request form the information about the parent's advocate.

Notice under discipline - Is that notice to parents WN and if so - not one of the options on the WN form?

Yes, it is WN. It would be listed under the category of "Change of Placement".

Due Process

Provide justification for exceeding federal compensatory education statute of limitations "Exceeding federal standards".

In the "Analysis of Comments" to the federal regulations, it is indicated that the IDEA gives State Education Agencies (SEA) the option of giving parents a longer timeframe for complaint investigations. The Maine SEA proposed to continue the three-year statute of limitations for compensatory education that was in the 1997 IDEA and the 1999 Maine Special Education Regulations and this was adopted by the legislature.

Under what circumstances would a complaint investigation report or hearing decision order a monetary reimbursement?

For example, if parents have paid out of pocket for outside-of-school tutoring for their child, and a presider finds/concludes that a SAU has not met its obligation to provide a FAPE to the child, the presider may recommend to the Commissioner a Corrective Action Plan item that provides monetary reimbursement for all or part of the costs of the outside-of-school tutoring. The same applies to hearing officers & hearing orders, except that the hearing officer is independent & does not have to check first with the Commissioner for the allowability of a hearing order item.

Due Process

Who is the agency representative with the authority to obligate the CDS sites?

For Part C, MUSER VI.1.B.(1)(d) states:

(d) The case manager who has been working with the family since the initial referral of the child for evaluation, or who has been designated by the public agency to be responsible for implementation of the IFSP and has written authorization to obligate the IEU's human and fiscal resources.;

CDS Boards will provide written authorization for the case managers who may obligate the IEU's fiscal and human resources.

For Part B, MUSER Section VI.2.B.(4)(a)-(c) states:

(4) A representative of the school administrative unit who

(a) Is qualified to provide or supervise the provision specially designed instruction meet the unique needs of students with disabilities;

(b) Is knowledgeable about the general education curriculum;

(c) Is knowledgeable about the availability of resources of the local educational agency and has written authorization to obligate the unit...

Furthermore, CDS Administrative Letter Number 7 dated December 13, 2007 requires written CDS Board authorization of the certified individuals who may obligate CDS sites' human and fiscal resources.

Due Process

Why do parents have to express concerns in writing, but teachers need only to express specific concerns to special education director or other supervisor? I assume that there is no requirement for teachers to put their concerns in writing?

This question is referring to MUSER Section XVII.5.A and B.(1)-(3) which states:

5. Protections for Children Not Determined Eligible for Special Education and Related Services [34 CFR 300.534]

A. General.

A child who has not been determined to be eligible for special education and related services under this part and who has engaged in behavior that violated a code of student conduct, may assert any of the protections provided for in this part if the public agency had knowledge (as determined in accordance with paragraph (B) of this section) that the child was a child with a disability before the behavior that precipitated the disciplinary action occurred.

B. Basis of Knowledge.

A public agency must be deemed to have knowledge that a child is a child with a disability if before the behavior that precipitated the disciplinary action occurred—

(1) The parent of the child expressed concern in writing to supervisory or administrative personnel of the appropriate educational agency, or a teacher of the child, that the child is in need of special education and related services;

(2) The parent of the child requested an evaluation of the child pursuant to §§ 300.300 through 300.311; or

(3) The teacher of the child, or other personnel of the SAU, expressed specific concerns about a pattern of behavior demonstrated by the child directly to the director of special education of the agency or to other supervisory personnel of the agency.

Educational Records

What are the rules regarding transfer of records? Should schools retain a copy of IEP records on identified students?

The child's original cumulative file including special education records should go with the child to the current SAU. Only copies of the file should be sent to a special purpose private school placement. It is recommended that SAUs maintain copies for other purposes.

Educational Records

When an SAU receives a request from another SAU for a child's cumulative file, does faxing or emailing the electronic IFSP, IEP and or evaluations fulfill the 5 days to send records?

The five days to send records applies only to children who experience education disruption as described in 20-A MRSA Section 5161(9):

9. Students who experience education disruption. "Student who experience education disruption" means elementary school and secondary school students who experience an interruption in their current educational program for 10 or more consecutive school days by being placed in a program or school approved by the department, which may be as a result of a situation such as homelessness, unplanned psychiatric hospitalization, unplanned hospitalization for a medical emergency, foster care placement, youth development center placement or some other out-of-districts placement that is not otherwise authorized by either an individualized education plan or other education plan.

"Students who experience education disruption" does not include students who are out of school for 10 or more consecutive school days as a result of planned absences for a reason such as a family event or medical absences for planned hospitalization or recovery or pursuant to a superintendent's agreement developed in accordance with section 5205, subsection 2.

For children who are not experiencing education disruption, 20-A MRSA Section 6001-B (1) and (2) apply:

1. Education records must follow students who transfer. Education records must follow students who transfer to a school in another school administrative unit in the State. The education records of students who transfer from educational programs or schools for juveniles located in or operated by correctional facilities or out-of-state schools are also subject to this requirement.

2. Transfer of records. Upon application of a student to transfer to another school administrative unit in this State or to enroll at a school administrative unit in this State from an educational program or school for juveniles located in or operated by a correctional facility or a school outside of the State, and upon the written request of the superintendent of the school administrative unit into which the student seeks admission, school administrators at the school administrative unit from which the student is transferring shall provide

Educational Records

all of the student's education records, including disciplinary records, attendance records, health records other than confidential health records for which consent for dissemination has not been obtained and special education records, to school administrators at the school administrative unit to which the student is seeking a transfer. Confidential health records may be provided under this subsection only if the school administrator at the school administrative unit from which the student is transferring receives the authorization or consent necessary for the dissemination of information contained in the following records:

A. Records concerning information on a person's HIV infection status, including the results of an HIV test, as those records are described in Title 5, section 19203-D; [2003, c. 472, §1 (new).]

B. Records concerning information on a person's alcohol and other drug abuse treatment as those records are described in Title 5, section 20047; [2003, c. 472, §1 (new).]

C. Records concerning information on a person's health care and treatment as those records are described in Title 22, section 1711-C; and [2003, c. 472, §1 (new).]

D. Records concerning information on a person's mental health treatment as those records are described in Title 34-B, section 1207. [2003, c. 472, §1 (new).]

In MUSER XIV.3., it states:

Each SAU must permit parents to inspect and review any education records relating to their child which are collected, maintained, or used by the SAU under these regulations. The SAU must comply with a request without unnecessary delay and before any meeting regarding an IEP or any hearing pursuant to 34 CFR 300.507 or 300.530 through 300.532, or resolution session pursuant to 34 CFR 300.510, and in no case more than 45 days after the request has been made.

Evaluation

45 days - from date permission is received to the IEP team meeting date (date of meeting? Or date of notice sent?)

60 calendar days from the date of the SAU's receipt of permission / consent to evaluate from the parents.

Are the 60 days from the SAU's receipt of the consent to evaluate form 60 consecutive days or school days? If the child is absent does the 60 days continue to count down?

60 calendar days.

Yes, the 60 days continue to count down even if the child is absent. If this occurs, and if the timeline goes over because of it, clearly document the times that the SAU evaluator was prepared to evaluate and the child's repeated absences prolonged the timeline.

Do you have to re-evaluate a student before terminating special education services?

Yes, MUSER Sections VI.3.F. and VII.4 reflect that the child needs to be evaluated before a change in eligibility unless the child is aging out or graduating with a regular education diploma.

For a three-year re-evaluation, if it is determined no additional evaluation is needed - what becomes the NEW DATE due of the three-year evaluation?

Three years from the meeting at which the team determines that the child continues to be eligible and no evaluations are needed unless the team agrees to a shorter period. (e.g., the IEP Team decides to conduct the three-year re-evaluation the next year, because it will be a year in which there will be a significant transition for the child). Please see MUSER VI.1.B.(2).

For children 3-20 years of age, what happens if we go over the 60-day timeframe because the evaluations aren't done?

The SAU could be out of compliance and liable for compensatory education.

Evaluation

If a child is transferred to an outside placement (crisis unit, hospital) how does that affect the timeline for evaluation? Example, here 10 days - in hospital for extended time.

Document the inability to meet timelines and evaluate when the child is available.

If a referral was initiated prior to August 3, 2007 and the permission to evaluate was received prior to August 3, 2007, for example, what timeline does a district need to follow for the eligibility IEP meeting? 45 school days given it started with the old regulations, or 60 calendar days from receipt of permission to evaluate?

The timeframe from the former Maine Special Education Regulations that were in effect until August 3, 2007 would be applicable.

If the IEP team determines that a re-evaluation is not needed, is the re-evaluation date now in 3 years from the IEP team meeting at which the determination is made?

Yes, unless the team agrees to a different year (e.g., team decides to conduct the three-year reevaluation the next year because it will be a year in which a significant transition is to take place). Be sure to imbed in the Written Notice why the team determined they did not need any further evaluations and what criteria they are using to continue to determine that the student is still eligible for special education.

Re: 3-5 yr. olds - timeline for completing evaluation. We operate 60 days from referring for evaluation. (60 calendar days) Are we now 15 days to "meeting" then 45 days to complete the evaluation?

Under Part B (3-20), the SAU has 60 calendar days from the receipt of the parent's consent to evaluate to conduct the evaluation(s), convene the IEP team, and make the eligibility determinations.

Should you have a letter/IEP team meeting to discuss the renegotiation of the time frame? (Parent/kid isn't produced for evaluation).

Federal Regulations are silent. Best practice would recommend that the SAU document with a letter a conversation with the parent about the failure to produce the child and the need to extend the time frame for evaluations.
[V.1.A.(3)]

Evaluation

Three year evaluation - Do we (public agency) have the obligation to re-evaluate every three years even if the parent refuses to consent?

If the parent refuses to consent to the reevaluation, the SAU may, but is not required to, pursue the reevaluation by using the consent override procedures in 34 CFR 300.300(a)(3) [Section XVI.2]. The SAU does not violate its obligation under child find and evaluation and eligibility determination if it declines to pursue the evaluation or reevaluation.

To dismiss a child from speech/language, must the child go through a formal evaluation?

Yes. You need to adhere to the process outlined in Section V of the Maine Unified Special Education Regulation specific to Section V.3.F.(1) which then references the complete section such as the requirement under Section V.3.A.(1)(a)(b)(c) & (2)(a)(b)(c)(d). Be sure to complete Written Notice (formerly known as Prior Written Notice) of the team's decision for evaluation and respond to the rest of the questions (e.g., the IEP Team decides to conduct the three-year re-evaluation the next year, because it a year when there will be a significant transition for the child).

Please see MUSER V.1.B.(2).

What about outside evaluators who cannot meet the time frame?

It is the SAU's responsibility to hire evaluators who can meet the evaluation time frame – the SAU will be out of compliance and could be liable for compensatory education if the timelines are not met.

What if the parent of a high school student labeled S/L refuses re-evaluation?

MUSER Section V.1.B(3)(a) states that each SAU:

(i) Must obtain informed parental consent, in accordance with 34 CFR 300.(a)(1), prior to conducting any reevaluation of a child with a disability.

(ii) If the parent refuses to consent to the reevaluation, the SAU may, but is not required to, pursue the reevaluation by using the consent override procedures described in (1)(A)(4)(a).

(iii) Does not violate its obligation under 34 CFR 300.111 and 300.301 through 300.311 if it declines to pursue the evaluation or reevaluation.

Excusal

Documentation of agreement for a person whose area is not being discussed for a teacher or a related services provider - does the parent have to fill out "form" or can they send a written note to district?

The excusal forms are on the state web site. They are required.
www.maine.gov/education/forms/specservices.htm

Would it be a violation of FERPA for a special education teacher to show up at a parent's place of employment?

FERPA regulates educational records and access to educational records and does not apply to visits by school employees. If a teacher found it necessary to arrange a meeting with a parent at the parent's place of employment and were to notify a parent that the teacher wanted to meet with the parent at the parent's place of employment and the parent agreed to the meeting, the teacher would document the meeting and place the document in the child's educational file.

For amended IEP's do you change the date on the IEP cover page? Or just use the written documentation?

The annual review date stays the same. Page 1 of the IEP has a place to record the date(s) of the amendment(s).

If at annual review, the re-evaluations have not been completed, can the current IEP be amended - extended until that time that evaluations are completed (the re-evaluation date would go over the 60 days)?

No, you cannot extend the annual review. A new IEP must be written.

May a SAU decide to develop short-term objectives for all children who are identified under Chapter 101 and attend the SAU's public schools?

Yes, an SAU may decide to do that. The SAU must be aware that it is exceeding MUSER. If an SAU decides to do that, it would be advisable to add a statement about the decision to develop short-term objectives for all children attending the SAU's public schools in the SAU's special education policy.

May an SAU extend an IEP under amendment for a couple of weeks for extenuating circumstances such as completion of the three-year-evaluation?

IFSP/IEP extensions that cause an IFSP/IEP to go beyond an end date of one year, that are intended to be bridges between annual documents, are not allowable. As the oversight agencies, the Department of Education and the CDS State IEU cannot authorize its use as a vehicle to commit public funds.

IFSP/IEP amendments are permissible as long as they occur within the year span of the document. The team that makes the amendment must meet all the requirements unless the SAU and the parents agree to make amendments without an IEP team meeting.

What about transfers from out of state who were residentially placed. How do you do a comparable IEP while evaluating?

The SAU should contact the sending district and placement to review the factors of the child's safety within the specifics of the current placement. The receiving SAU should then move expeditiously to review evaluation data, determine if any additional evaluations are needed and develop an IEP which proposes the new placement.

When writing a new IEP, must the special education teacher and regular education teacher of the child write the IEP together? Or at least the regular teacher participate in some ways with the IEP writing?

The components of the IEP should be determined at the IEP meeting which must include a regular education teacher if the student is, or may be, participating in the regular education environment.

Where are "student interests" best documented?

It should be included in the "Strengths" section of "Considerations", unless the discussion is about interests as they relate to post - secondary goals and that should be in Section 11.

Which children who take alternate assessments must have short-term objectives in their IEP's?

MUSER § IX.3.A.1(a)(ii) states that, "For children with disabilities who take alternate assessments aligned to alternate achievement standards, a description of benchmarks or short-term objectives" are required in the IEP. If a child with a disability takes only a part of his assessments in alternate assessment aligned to alternate achievement standards, the part of the IEP that relates to the disability which requires an alternate assessment aligned to alternate achievement standards must have short-term objectives or benchmarks.

With IEP amendment, do you complete the:

1 - Written Agreement;

2 - Written Notice;

3 - new IEP?

Yes, you need:

1. IEP Amendment form
2. Written Notice
3. write the amendment on the previous IEP

Is there a requirement for "minutes" anymore?

No. Responses to the questions in Written Notice will capture the overarching issues and offerings that were recorded in previously required minutes.

Will SAU's still be allowed to use IEP Team Meeting Minutes to record decisions reached, etc.? If so, will some of the information that is required by the Pupil Record Audit Form (PRAF) be allowed to be documented only in the Minutes and no where else in our documentation?

Minutes are not required in the new regulations which are in effect. If a school unit chooses to continue using minutes, the minutes would continue to be an educational record with parents needing a copy. Staff must be reminded that no matter what they write in the minutes, the Written Notice must be fully completed. All the elements that were required in the former PET minutes have been added to the Written Notice form.

If in an IEP team meeting for a child who is attending a special purpose private school and who will not be attending public school, does a regular education teacher need to attend?

No, but you must be careful not to predetermine the child's LRE and may need someone with knowledge of the general curriculum, especially for high school students who need credits for graduation.

May a special education teacher be the IEU representative if stated that special education teacher is the IEU designee?

If that person has written authorization to obligate the unit's resources.
MUSER Section VI.2.B.(4)(c)

What about attendance of a regular education teacher for self-contained students who have no regular education teacher?

Not required if student is not and will not be participating in the general education curriculum or any part of the general education programming. However, the team might need the regular education teacher's input into the general education curriculum and to provide assistance in determining graduation components.

What do you do if the person's curriculum is being discussed but they are out sick on the day of the meeting? May another person step in if they are aware of the materials being presented?

Yes, if that person fits the criteria for IEP team membership as stated in MUSER Section VI.2.B.

What if the IEP expires and the elementary teacher is out sick, may the previous year teacher or next year teacher attend or do you extend the IEP?

You must not let the IEP expire, nor may you extend it or amend an expired IEP.

In circumstances where a regular education teacher of the child is unavailable to attend the IEP Team Meeting, the SAU must ensure that a teacher with knowledge of the student and of the general education curriculum is present at the meeting with the understanding that the IEP Team may decide to reconvene in order to include the actual teacher of the child if that teacher's input is required or if the parent requests a meeting that includes that teacher.

IEP Team Meeting

Are excusal forms required only for the four members of the team or for OT, PT, etc. as well?

If the SAU designates a related service provider as a necessary IEP team member, the answer is yes.

At the high school level, we invite all the teachers (regular education) who see the student: What happens if 2 out of 4 do not show up for the IEP meeting? Do we need to document (parental consent for excusal) for those 2, even if there is one (or more) regular education teachers at the IEP team meeting?

No, you are only required to have one regular education teacher for the child at the IEP meeting.

Can one individual be the representative of the public agency AND the special education teacher?

Yes, if that person is authorized to commit fiscal and human resources for the SAU.

Could you please give more detail on consolidation of IEP team meetings?

If feasible, IEP team meetings may be consolidated. For example, if an annual review and a three-year review are to be accomplished in a close proximity of time, the IEP team meeting for those two activities could be consolidated. The SAU can conduct the re-evaluation prior to the three years, but is not allowed to extend the annual review date to match the re-evaluation date.

Do teachers have to be listed by name on the meeting invitation or can I simply invite "10th grade teacher(s)"?

The regulation is silent about the level of specificity for the Advance Written Notice of IEP / IFSP Team Meeting about meeting attendees. OSEP has advised SEA's that the title of the position and not the name of the individual is sufficient in such a notice.

IEP Team Meeting

**Does anything need to be signed if the PARENT is not attending the meeting?
Can the meeting be held without parent? Do we need consent?**

The meeting can be held without the parent if the SAU can demonstrate its attempts to reach the parent and they do not show up. If the parent cannot attend the meeting because of scheduling conflicts then the meeting should be rescheduled. If the IEP is due to expire soon, the SAU needs to hold the meeting and develop an IEP.

Does the excusal of a regular education teacher(s) who provides a written report mean that NO regular education teacher ATTENDS the meeting?

Yes.

Does the regular education teacher need to stay for the entire meeting?

The federal regulations are silent on the specific amount of time a regular education teacher must stay at an IEP team meeting; however, the inclusion of a regular education teacher is for the purpose of ensuring that the team examines how the IEP aligns with the regular education curriculum and, as such, the regular education teacher should be prepared to attend the entire IEP Team Meeting unless excused pursuant to MUSER VI.2.F.

From a CDS perspective, regarding documenting non-attendance of IEP team member, is each service provided (special education and related services) considered a "curriculum area"?

No, the MUSER VI.2.(3) requires at an IEP/IFSP Team Meeting:

(3) No less than one special education teacher or, where appropriate, not less than one special education provider (licensed or certified special education provider)...

Note: Depending on the needs of the child and to ensure the provision of a FAPE, the SAU may determine that additional team members may be required.

[IEP Team Meeting](#)

If a parent brings to the IEP team meeting an evaluation done by an independent evaluator, who must be there to interpret the findings?

MUSER VI.2.B.(6) states:

"(6) An individual who can interpret the instructional implications of evaluation results, who may be a member of the team described in clauses (2) through (5) of this section."

If a teacher attends an IEP team meeting and provides verbal input, which is recorded in the minutes and then needs to leave early, is written input still required?

No. Be sure the parent has had sufficient time to ask and respond to any comments made by the regular education teacher.

If a teacher is to be excused from an IEP Team meeting, how far in advance of the meeting MUST the parent be contacted about the excusal?

The U.S. Department of Education Office of Special Education Programs (OSEP) did not define a timeline. To avoid mishaps - advise the parents as soon as possible and discuss whether the parent will agree to written input or whether the meeting must be rescheduled.

If one regular education teacher is attending, do you have to excuse others?

The regulations say there has to be at least one regular education teacher at the IEP team meeting. If the SAU has one regular education teacher at the IEP team meeting, the SAU doesn't need to excuse any other regular education teachers. If the SAU doesn't have at least one regular education teacher at the IEP team meeting, there must be an excusal agreement.

If the regular education teacher is sick on the morning of the meeting and there is no written report, may we have a meeting with the parents' excusal?

Yes, the SAU may hold the meeting, without the parent's consent, if another regular education teacher who has knowledge of the curriculum area and of the child can attend the meeting. If another teacher with those qualifications is not available to attend the meeting and there is no written report, the meeting must be rescheduled.

IEP Team Meeting

If the SAU wishes to invite outside agencies to an IEP team meeting, will the requirement for consent from the parent to invite outside agencies override the fact that the law says a public agency MUST invite outside agencies?

There is no override. If the SAU were challenged that it did not invite other agencies which might likely be responsible for providing or paying for transition, the SAU could provide information that they tried to obtain consent and to inform the parents of the need to invite the agency(ies).

If we are talking about math and the regular teacher in attendance is an English teacher, do we need to do an excusal from?

No. However, depending on the needs of the child and to ensure the provision of FAPE, the SAU may determine that additional team members may be required.

If you have three teachers attend a IEP team meeting and two leave early, do you have to fill out a document of agreement of excusal?

No, as long as the remaining teacher is a regular education teacher.

Is a face-to-face meeting necessary?

Alternative forms of meeting are possible, i.e., phone meeting, conference call, video broadcasting.

Is there a specific time period in which the written excusal form and the summary statement need to be sent out BEFORE the IEP team meeting?

No, the IDEA and MUSER leave the timeline up to the SAU's.

May a parent excuse an IEP Team member AT THE TIME of the meeting? (i.e., if someone was invited, had planned to attend, but at the last minute was unable to come?)

Yes, there is no timeframe for the excusal.

Representative of agency knowledgeable of resources. Do they also need to be able to commit financial resources? As has been previously stated in Maine regulations?

Yes. The MUSER Section VI.2.B.(4)(a)-(c) states:

(a) Is qualified to provide or supervise the provision specially designed instruction to meet the unique needs of students with disabilities;

(b) Is knowledgeable about the general education curriculum;

(c) Is knowledgeable about the availability of resources of the local educational agency and has written authorization to obligate the unit...

What does the SAU do if the parent does not want the child at the IEP team meeting?

Until the child reaches the age of majority or if parental rights have been terminated, the parent has a right to decide if they do not want to their child to attend. A good suggestion would be for the SAU to do some work in helping the parent understand the purpose for having a student attend.

What if a student is not able developmentally to represent their goals/wishes/dreams at the transition IEP team meeting?

If the child does not attend the IEP Team meeting, the public agency must take other steps to ensure that the child's preferences and interests are considered. For example, parents may represent the child's interests.

What if a student isn't accepted into a vocational program their junior or senior years of HS and that was the plan? We don't have control over our Regional Vocational Programs.

The IEP Team must develop an IEP that the team feels is needed for the child's academics, functional and developmental needs. If the plan can not be carried out, the IEP Team must meet to determine alternative strategies to meet those needs. It is important to be sure to invite the career and technical education staff to the IEP meeting.

What is the time frame for an IEP team meeting for transfer of student?

The regulations do not address this timeframe.

IX.3.B.(5)(a)(i-ii)(I-II) states:

(5) Program for Children Who Transfer School Districts.--

(a) In general.

(i) IEPs for Children Who Transfer SAUs in the Same State.—If a child with a disability (who had an IEP that was in effect in a previous SAU in the same State) transfers to a new SAU in the same State, and enrolls in a new school within the same school year, the new SAU (in consultation with the parents) must provide FAPE to the child (including services comparable to those described in the child's IEP from the previous SAU), until the new SAU either adopts the child's IEP from the previous SAU; or develops, adopts, and implements a new IEP that meets the applicable requirements in 300.320 through 300.324. [34 CFR 300.323(e)]

(ii) IEPs for Children Who Transfer From Another State. —If a child with a disability (who had an IEP that was in effect in a previous SAU in another State) transfers to a SAU in a new State, and enrolls in a new school within the same year, the new SAU (in consultation with the parents) must provide the child with FAPE (including services comparable to those described in the child's IEP from the previous SAU), until the new SAU

(I) Conducts an evaluation pursuant to 34 CFR 300.304 through 300.306 (if determined to be necessary by the new SAU); and

(II) Develops, adopts, and implements a new IEP, if appropriate, that meets the applicable requirements in 34 CFR 300.320 through 300.324. [34 CFR 300.323(f)]

Best practice would suggest that this be done as soon as possible

What's the time limit for notification/getting permission from student and parent for outside agency to attend transition IEP team meeting where the child's post-secondary goals and transition will be discussed?

No timeline is given.

IEP Team Meeting

You convene the annual IEP review meeting 1 day prior to the expiration of the last IEP and the parent does not attend the meeting. Must the SAU begin the new IEP 7 days later if the parent does not attend?

Complete the Written Notice and send it out immediately.

Instruction in reading & math

Is there a plan to guide special educators regarding "appropriate instruction in reading and math"?

See definition #26 in section II of Chapter 101. Appropriateness is determined by the IEP Team.

MaineCare Requirements

Clarify ISP or IFSP for Maine Care students - speech, Occupational Therapy (OT), etc. objectives.

The IFSP or IEP is an ISP for students in the MaineCare system.

MaineCare requires that parents sign all plans & amendments yet IDEA does not require parent's signature.

IDEA requires consent for initial evaluation and initial provision of special education and related services. Under the use of public insurance within the federal IDEA regulations, parents need to provide consent to access the public insurance, which is separate from the consent for initial evaluation. The USDOE has issued guidance that states that parents may be asked once to consent to use public insurance for the duration of the services in the IEP.

When billing Medicaid for speech/OT/PT do we need an Individual Service Plan (ISP) as well as an IEP?

No, the IEP is the ISP for this service only.

Monitoring

Why is monitoring no longer a service?

The MUSER now mirrors the federal language for services; therefore, monitoring has been removed from the regulations.

Parentally Placed Private School Children (PPPSC)

Are day care settings where children with disabilities attend private schools?

No. A private school is defined in Maine law at 20-A M.R.S.A. 1(22) as "an academy, seminary, institute or other private corporation or body formed for educational purposes covering kindergarten through grade 12 or any portion thereof."

If children are parentally placed in private schools, can parents choose not to share the fact that the child is there? In other words, what about parents' right to confidentiality?

Under Maine law, 20-A M.R.S.A. 5001-A, children between the ages of 7 and 17, unless otherwise excepted, must either attend public school or receive an equivalent instruction- which can include attendance at a private school. "A student is credited with attendance at a private school only if a certificate showing the name, residence and attendance of the person at the school, signed by the person or persons in charge of the school, has been filed with the school officials of the administrative unit in which the student resides." A parent is not required to share any information about the child with the SAU where the private school is located. (Conversely, an SAU is not responsible for locating, identifying and evaluating a parentally placed private school child if the parent of the child does not want the child to participate in Child Find activities.)

Invitation to private schools - no one shows up. What to do?

Document, document, document your efforts to engage representatives of private schools and parents of parentally placed private school students. The Federal regulations do not specify the number of times you must attempt to engage in "timely and meaningful consultation" with representatives of private schools and parents – nor do the State regulations. The Department of Education is asking school units to affirm at least one contact to each identified private school on their annual application.

What are the components of a service plan for PPPSC?

The U.S. Department of Education, on p. 8 of its Q & A document states that the service plan should reflect "only the services offered to a parentally placed child with a disability" - as opposed to an IEP, which must include all the services determined by the IEP team to be necessary in order to provide the child with FAPE - and must, to the extent appropriate, meet the IEP contents described in Section 614(d) of the IDEA (or for a child aged 3-5, where appropriate, the IFSP contents in Section 636(d)).

Parents

Are foster parents still automatically surrogate parents for purposes of I.E.P. team and consents? Is it the SAU's responsibility to seek out legal documentation of parent status?

Yes, foster parents are still automatically considered surrogate parents if they agree and have the capacity to serve. You are not required to seek out legal documentation, but it is a good idea.

How do you find out if a "biological parent's" rights are terminated?

Contact the local DHHS office.

Procedural Safeguards

When must the Procedural Safeguards be given to parents?

See Appendix 1 300.504 of the Maine Unified Special Education Regulations.

(a) A copy of the procedural safeguards available to the parents of a child with a disability or an adult student with a disability must be given to the parents or the adult student only one time a school year, except that a copy also must be given to the parents –

(1) Upon initial referral or parent request for evaluation;

(2) Upon receipt of the first State complaint and upon receipt of the first due process hearing request;

(3) In accordance with discipline procedures (see Procedures When Disciplining a Child with Disabilities, below); and

(4) Upon request by a parent or adult student.

(b) Internet Web site. The School Administrative Unit (SAU) may place a current copy of the procedural safeguards notice on its Internet Web site if a web site exists.

Re-Evaluation

Can a parent refuse to consent to a re-evaluation when the SAU is considering dismissing the child from Special Education services? Can we dismiss if the parent refuses the re-evaluation?

The parent can refuse to give consent for the re-evaluation, and the SAU may either proceed to dismiss the child from special education in the area of the refused evaluation or pursue a Due Process override of the parent's refusal to consent to an evaluation or reevaluation. Section V.1.B.(3)(a)(iii) in the MUSER indicates that the SAU "Does not violate its obligation under 34 CFR 300.111 and 300.301 through 311 if it declines to pursue the evaluation or reevaluation."

In regards to consent for a re-evaluation AFTER multiple attempts to contact parents to get permission - is that considered a refusal on the parent's part?

Please see MUSER Section V.I.B.(3) Parent Consent.

(3) Parent consent for reevaluation

(a) Subject to paragraph (3)(b) of this section, each SAU:

(i) Must obtain informed parental consent, in accordance with 34 CFR 300.(a)(1), prior to conducting any reevaluation of a child with a disability.

(ii) If the parent refuses to consent to the reevaluation, the SAU may, but is not required to, pursue the reevaluation by using the consent override procedures described in (1)(A)(4)(a).

(iii) Does not violate its obligation under 34 CFR 300.111 and 300.301 through 300.311 if it declines to pursue the evaluation or reevaluation.

(b) The informed parental consent described in paragraph (3)(a) of this section need not be obtained if the SAU can demonstrate that

(i) It made reasonable efforts to obtain such consent; and

(ii) The child's parent has failed to respond. [34 CFR 300.300(c)]

Re-Evaluation

Re-evaluation for a 12th grader - Is this required? Re-evaluation is typically done to determine eligibility and program planning....what obligation do schools have in "updating scores" for college purposes?

If the child is due for a re-evaluation to determine continued eligibility, follow the process in V.3.

Re-evaluation is not required to dismiss a child for graduation with a regular education diploma.

You do need to complete a summary of performance for the child.

Chapter 101 § V.3.F.(2)(a) and (b)

(ii) Summary of performance.--For a child whose eligibility under this part terminates under circumstances described in clause (i), a local educational agency shall provide the child with a summary of the child's academic achievement and functional performance, which shall include recommendations on how to assist the child in meeting the child's postsecondary goals.

Referral

May a group home or other residential "parent" make an initial referral? Who may make an initial referral? Is the "kinship" parent considered a "surrogate" like a foster parent?

A group home staff member can temporarily serve as surrogate and refer a child only if the child is considered homeless. The guardian who has the educational responsibility for the child can make the referral.

When a parent or teacher makes a referral, this school district has a policy in place to determine when the referral time line begins. What is the federal regulation on when this time line begins. For example, can the principal not act on the referral for 2 months?

An SAU's policy must define what constitutes the initiation of a referral, such as the signature and date put on the referral by the Principal. That date would start the 15 school day timeline to send parents the consent for evaluation or have an IEP team meeting to discuss the referral.

Required State Forms

Does the DOE header have to remain on the forms?

Yes, it does.

For those districts that have purchased a special education data system (CASE-E / Sped net), how will/can these forms be adapted to the system in place? (format but not content)

Please ask the company with whom the SAU does business, and the company will need to adapt the software accordingly.

Is the Microsoft Word format the only format or will one be developed in PDF? Do we need to keep the DOE emblem?

No, the forms will not be developed in PDF because that would eliminate the ability to type into the forms. Yes, you need to keep the emblem.

May the forms be filled out on-line or printed out and filled in by hand.

Either.

May we retype the forms as long as everything is included?

No, SAU's must use the required state forms.

On the EF-S-05 we are to check off which of the 14 services will be needed after graduation. Since this information is no longer included on the IEP how will we accurately document the need on the EF-S-05?

This has never been part of the IEP. Please see the answer to the question in the "Data Collection" section.

Our Mac users do not have Microsoft Word. Will there be formats other than Microsoft Word for these new forms?

The DOE has resolved this problem. Mac users are able to access the forms using Rich Text Format (RTF).

"Considerations" in Section 3-D in the IEP - How should this statement differ from the "Present Level" statement?

One does not necessarily need a statement here, but some level of documentation that the team considered the child's needs for these areas. After considering these areas, if the team decides that the child has developmental, academic, and or functional needs those must be reflected in the "Present Level" section.

Are Goals and Objectives no longer needed unless a student is taking alternate assessments?

Goals are needed for ALL students. Short-term objectives are required for students taking an alternate assessment aligned with alternate achievement standards.

Are short-term objectives needed for children with learning disabilities (LD) students to meet standards in standards-based schools?

Short-term objectives are needed for students that will be taking an alternate assessment based on alternate standards.

Assessment Accommodations: Can CASE-E put in MEA accommodations and we check appropriate ones?

The form must not be adjusted. Many SAU's add the accommodations sheet to the IEP. If CASE-E has a way for you to choose the items then you would choose and put them on the additional accommodations sheet of the IEP.

Can the IEP be printed, to be used manually? If they are only available on line, their usefulness becomes limited for CDS, which holds meetings in the field.

Yes, all forms can be printed.

Could you clarify what functional performance and functional goals might be for students who are not in life skills programs (e.g., students with LD)? Can you provide examples?

The definition in Chapter 101 states, "Functional performance means how the child demonstrates his/her skills and behaviors in cognition, communication, motor, adaptive, social/emotional and sensory areas".

There may be children who do not require functional goals.

Do all classroom modifications go under Section 8 of the IEP? Can you give some examples of how this would be written?

Yes, please see the sample IEP's on the DOE website.

Do all classroom modifications have to be listed separately in Section 8 of the IEP?

Yes, you can type in several and the space on the form will just increase.

Do all forms physically need to be part of every IEP even Summary of Performance as N/A?

No, the Summary of Performance is a separate document given to the student and not part of an IEP.

Do we have to do A,B,C, and D considerations on amended IEP's?

Yes. The Federal Regulations Title for Section 300.324 is: "Development, review and revision of the IEP".

Do we need to reference the MLR or tie goals to MLR for all children in special education or does this only apply to grades 9-12?

Goals should be tied to MLR for children 5-20 and to the Early Learning Guidelines for children 3-5.

Do you have examples and/or rubrics for section "D" of the new IEP?

See examples of IEP's at
<http://www.maine.gov/education/forms/specservices.htm>.

Required State Forms -- IEP

Does CDS have a form that explains the difference between IFSP/IEP? Also a CDS Written Consent Form?

No, the MUSER articulate the required elements of an IFSP and an IEP in Section IX. There is a required state IEP form for use with children three to 20 years of age. There is a required state IFSP form as well. The state has developed a consent form to be used B-20.

For "Other Health Impairment" and "Emotional and Multiple Disabilities" - It would be helpful to include a space for specific diagnosis.

This is not a requirement of the IEP.

For 3-5 year olds do we absolutely need to include the Secondary transition section 11-12 on our IEP?

No see the template language after Section 10 of the IEP.

Frequency is listed without intensity which CDS has on our IFSP/IEP. Do you need to add this to the IEP Section 7 & 8?

Duration of service would include the intensity of each session.

Gender was left off the cover page. We do have some students with ambiguous names and this omission may lead to a lack of accuracy in reporting on the EFS 05 and other reports.

If a school unit wants to include information outside of what is on the required form, they may add their own SAU Information page.

How are CDS sites to deal with Section 6 of the IEP? May we assume we don't have to write Short Term Objectives? How does this interfere with the relationship with MaineCare?

Federally, short-term objectives are not required except for students who are taking alternate assessments based on alternate standards. Since there are no state/local assessments for most, if not all, children served by CDS, then short-term objectives are not required. The DOE is working with MaineCare to clarify the new federal requirements.

How many goals do we need for each special education area we are teaching?

There are not specific numbers. The number of goals an IEP Team writes is what ever is needed to determine growth in the areas that are being addressed.

How specific do the goals at the high school need to be in terms of how they reflect Maine's Learning Results (MLR) standards - could you have something like: _____ "will demonstrate proficiency in MLR standards by passing his/her math/English classes."

The State Statute states: For children in grades 9-12 the IEP shall reflect the individual goals to successfully meet the content standards of the system of Learning Results in addition to any other diploma requirements applicable to all secondary school children.

IEP: Does the new form allow for 4 Present Level of Education Performance (PLEP) and 5 Annual Goals to be reproduced for each area (i.e. math, reading, behavior, etc.) or is it now combined into 1 PLEP?

See samples for help with this.

IEP's have always been accessible. How do the new regulations change this? What needs to be done?

Section IX.3.B.(4)(a) and (b) states, "Each SAU must ensure that the child's IEP is accessible to each regular education teacher, special education teacher, related services provider and any other service provider who is responsible for its implementation and each teacher and provider described in paragraph (3)(a) a of this section is informed of his or her specific responsibilities related to implementing the child's IEP and the specific accommodations, modifications and supports that must be provided for the child in accordance with the IEP."

If a student drops out or non-attends, are we obligated to measure goals?

No, not if the student has formally dropped out of school. Not attending and dropped out are handled differently. The SAU should should attempt to discover why the student is not attending and convene an IEP team meeting to consider whether the student's placement and programming are appropriate. Be sure that the school has completed its obligation regarding the truancy statute in order to try to get the student to attend.

[Required State Forms -- IEP](#)

If the classroom modification is NOT needed every time, how do you write the frequency?

If the team determines that the modification is appropriate on an "as needed basis" then that is the determination of need for this supplemental aid and/or modification.

If the student's IEP goal plans are to stay in school until 20, does the transition plan still begin at/by 16 - does it continue for 3 or 4 years?

No, the transition plan must begin by age 14 and continue until the child either ages out or receives a regular high school diploma.

If there are consultants from Baxter Outreach who provide consult services to SAU's, where should they be listed on the IEP? (Special education services? Related services? Supplemental Services?)

A related service assists the student to benefit from their special education service. Supplementary Services are supports that are provided in regular education classes and other education-related settings to enable them to participate to the maximum extent possible in the general curriculum with nondisabled peers. These two definitions need to be considered when determining what are the requirements of the outreach service.

If there is an area that does not need to be addressed on the transition plan, how is that indicated on the Plan?

State "NA" if a service is not needed.

In the frequency of services on the IEP, may an SAU use "as determined by teacher and student"?

In reference to program modifications, yes. If in reference to special education and/or related service, no.

In the IEP #7, page 5, there is no block for pay source. CDS needs that.

An additional sheet for the CDS prototype of the IEP includes the payment source.

In the IEP Form: To what does the statement at the top of page 9 relate? Is it misplaced or a part of the previous page?

No is it just continued language describing the transition requirements.

In the IEP why is secondary transition listed last? It needs to be considered BEFORE Goals and Objectives.

The order of construction is the order as listed in the federal regulations.

In the IEP, "Considerations C." - is it ok to just reference evaluations completed? "D." - is this a repeat of present levels?

In the present level, you are listing the present level of the areas that the team has decided to address through the goals. For the consideration of the results of the initial or most recent evaluations, one might write strengths and weaknesses also.

In the IEP, Page 8, Section 11, paragraph 2 ("Beginning..16") "age 14 until" should not be there. Paragraph 3 "required for students 14"?

New legislative language requires the complete transition process to start by the time the student reaches 14 years of age. The IEP now reflects the new language.

In the IEP, Section 2, Developmental Delay - may we use this in Kindergarten?

Yes, if your SAU allows it. Please reference Section VII.D. of the MUSER for the definition and time line for Developmental Delay.

In the transition section of the IEP, what should be included as a description of the child's "Course of study"? Sample?

See the sample IEPs.

Is PT and/or OT or social work, etc. considered a related service or special education service?

They are a related service for children aged 3-20.

May we at CDS add a separate page that will include all the "stuff" that seems to be missing that we need for MaineCare and Case-E?

Regional CDS sites could add a separate page for such data items. A prototype has been developed.

Modifications -- where would we place each class or mainstream for extended time on test?

Section 8 of the IEP.

Monitoring: if it's on the current IEP, is that no longer valid through the annual review (e.g. May 1, 2007- May 1, 2008)?

If monitoring as a service were on an IEP prior to August 3, 2007 then it stays there and is performed until the annual review. At the annual review, held after August 3, 2007, monitoring must be removed from the IEP.

On the IEP - for grades 9-12 -- do you develop goals for the subjects/curriculum that is taught in special education or for all areas of the content standards?

Goals are written to improve the area(s) of need determined in the Present Level.

On the IEP are items 1,2,3 and 4 only for use in Kindergarten transition?

Yes

On the IEP, can regular education teachers be reflected under Section 8 for the person responsible?

Yes.

On the new IEP, section 7, could "specially designed instruction" somehow say in Math, in English, Science, etc., so we can know in what content area the instruction is when looking at this question.

Math is not specially designed instruction in and of itself. The present level and goals should define the area of need. If the IEP team wishes to articulate the specially designed instruction in a content area, it may do so.

Please give good examples of "functional performance" that the State would approve of in an audit of program review.

See the sample IEP forms.

Post-Secondary goals - define? What are post-secondary goals?

The post secondary goals are goals that the child will achieve after the child graduates from high school with a regular education diploma or aging out.

Question on Section 8 in the IEP - in the past, only special education services and special education staff are reflected on the IEP but accommodations are often required of regular education teachers such as those who provide a copy of notes or extended time for home work.

These needs would be written in Section 8. The language is federal language which does not include definitions for accommodations and modifications. Even though we are using federal language, this is the section for listing the accommodations and modifications for which the classroom teachers are responsible.

Related services require goals - Does that mean we will need a transportation goal if children receive this support service?

Transportation is a related service and therefore needs goals if the IEP Team determines that the child needs improvements with some aspect of transportation. Just transporting a student to and from school without a need for the student to learn or improve a skill would not require goals in the IEP.

Short-Term Objectives - Do related services providers have responsibility for these for students who take the PAAP?

The related service personnel are responsible for the content in the IEP that reflects their services.

Short-term objectives appear to be for children who will be given an alternate assessment. Where are academic goals/objectives written for students with Mental Retardation (MR) who are not taking alternate assessment and between grades 1-12?

IEP short-term objectives are only required for those students who are taking alternate assessment based on alternate standards. The IEP team could add objectives if local policy allows.

IEP Goals are required for all students with disabilities and must be listed in Section 5 of the IEP.

Short-term objectives for MaineCare reimbursement - is this only for kids enrolled in a day treatment program or is it for all kids who get a covered service?

The DOE is conferring with the MaineCare program on how to address the change in IDEA and other state regulations.

Since we need to write measurable goals, do the transition post-secondary goals need to be written in measurable terms seeing as we don't need to measure?

Measurable Post-Secondary Goals (See Section 11 of the State Required IEP) are the post-secondary goals that the student will attempt to achieve after graduation. The U.S. Office of Special Education Programs requires each state to develop a method of collecting data to see if students with disabilities, after graduating from high school, actually achieve their post-secondary goals. While the school unit is not required to do the measurement, the intent behind the transition components of the IEP is to ensure that the IEP Team develops measurable post-secondary goals and implements the student's transition plan while the student is in public secondary school.

The lack of reference to a case manager will lead to potential confusion at the local level and make long-term tracking very difficult.

Case management is listed as a related service in MUSER Section XI and would be put in Section 7 of the IEP.

There is no place to report classroom-based accommodations. Is this information no longer needed?

Section 8 of the State IEP is where classroom-based accommodations are recorded.

There is no specific place to report state and local assessment. Is this information no longer needed?

The federal regulations no longer require this. In Section 3-D of the IEP, the consideration of academic, developmental and functional need is the area in the IEP where the team could state needed information on state and local assessment results.

What about accommodations on page 6 of the IEP? These are different from modifications on transition plan, can we leave the "needs and objectives" blank if there is nothing needed there? Can you send us some examples of completed Written Notice forms?

Samples may be found at
<http://www.maine.gov/education/forms/specservices.htm>

What does "Location of need in IEP" mean on page 2 of the IEP form?

When checking the box for a needed consideration, the location of need must reflect where this need is addressed in the content of the IEP, such as the page number or section.

Where in the IEP would the SAU write classroom modifications?

Accommodations and Modifications are written in Section 8 of the IEP.

Why doesn't the IEP cover page include the type of meeting?

It is on the Written Notice and the advance notice of IEP meeting.

Why is "peer-reviewed research" referenced in #8 but not #7?

Section 7 and 8 of the IEP are meant to be read as one continuous statement.

Why isn't assistive technology listed as a related service for many children 0-5?

If assistive technology is needed as a service, the IEP team would address this in Section 7 of the IEP. If the child needs an assistive technology device, the IEP team would address this in Section 8 of the IEP.

Will we have to include pages 8, 9, and 10 for students ages 3-14?

After Section 10, the IEP states: "If the child's IEP does not require Section 11, 'Secondary Transition', and Section 12, 'Age of Majority', this will be the last page of the IEP."

Will you post several "exemplar" IEP documents as models?

Yes. See www.maine.gov/forms/specservices/htm

Would it be possible for CASE-E to develop the forms in portrait format as opposed to landscape?

The IEP must remain in landscape format.

Required State Forms -- Written Notice (WN)

7 days written notice - does this mean 7 school days prior to implementation?

7 days means calendar days. Anytime the word "day" by itself is used it is a calendar day.

As a practical matter, do you envision the Written Notice being done right at the meeting or typed and sent shortly after?

Written Notice can be completed at the meeting or soon thereafter.

Can a new program determined by the IEP team be initiated the next day or should it be dated for 7 days later?

If the parent is in attendance at the IEP team meeting and the team and the parent agree to an early startup date for the program, add this agreement to a response in your Written Notice .

Do you send the Written Notice before you give the evaluation or after the evaluation is completed and have an IEP team meeting to discuss the evaluation?

A Written Notice would go prior to the evaluation to let the parents know what is being proposed or refused. At the IEP meeting to discuss the evaluation results you would do another Written Notice with the results of the meeting.

Does the "Written Notice" take the place of "Initial Referral Letter", "Consent for Placement Letter", "Consent for Evaluation Letter"?

An SAU may decide to send a cover letter with each WN if that is a practice they wish to continue.

Exactly WHEN is the Written Notice supposed to be sent? Before the annual IEP team meeting or after the meeting but before the IEP goes into effect?

WN for an annual review is sent out AFTER after the meeting.

For seniors whom we know will meet graduation requirements, do we need a full meeting or will the Written Notice suffice?

Annual review dates must be honored for all students and at this meeting, WN will be completed to reflect graduation status.

For transfer students implementing comparable services, does this fall under other IEP Program on the Written Notice?

Section 300.323 of the federal regulation states: If a child with a disability (who has an IEP that was in effect in a previous public agency in the same state) transfers to a new public agency in the same State, and enrolls in a new school within the same school year, the new public agency (in consultation with the parents) must provide FAPE to the child (including services comparable to those described in the child's IEP from the previous public agency) until the new public agency either 1) Adopts the child's IEP from the previous public agency or: 2) Develops, adopts, and implements a new IEP that meets the applicable requirements of 300.320 through 300.324. There is no longer an automatic requirement for the new public agency to complete a Written Notice for a transfer student, but they must consult with the parent. If an IEP meeting is held and a new IEP developed, then you must also send Written Notice after the meeting.

If a small amendment is made to the IEP without an IEP team meeting, is a Written Notice Required?

Yes.

If the IEP team met on May 1 and made a change to the IEP, may the change go into effect on May 2 or must it wait for 7 days - until the Written Notice has been sent to the parent?

If the parent agrees to begin the program before the seven days notice, add the discussion to the WN.

Is the Written Notice form used for the IEP meeting notice? (i.e. annual review?) if so, where do we list the participants?

No, the form "Advance Notice of the IEP Meeting" is the form used for notification of the meeting.

Is Written Notice for CDS children only required for evaluation initiated by CDS? What about private contractors who do evaluations/re-evaluations without CDS knowledge?

CDS is responsible for CDS-ordered evaluations per IEP/IFSP team decisions. Written Notice is required. WN is not required for evaluations conducted at the request of the parent or health care provider.

[Required State Forms -- Written Notice \(WN\)](#)

Is Written Notice only completed after a meeting has been held?

The references at the top of the WN form indicate when this document must be completed.

Must the SAU put ESY on the Written Notice?

Yes, if the IEP Team determined this was a needed service.

On the back page of the Written Notice, do we always list IEP team members and position for every IEP team meeting?

YES!

On the Written Notice, for initial referral for questions 1,2,3,4,5 may one write: "see referral form"?

No, you must complete the document.

On Written Notice where would the teacher comments go if they had been excused from the meeting? (One of the student's teachers)

Written Notice can reflect any relevant comments by the excused IEP team member.

On Written Notice, Section 4 - may we write "No other options considered?"

This section of the form allows the IEP team to reflect the rationale for the LRE.

When do you send Written Notice for initial referral?

WN is sent as soon as the referral is initiated. The initiation date of the referral is defined in the SAU's policy on referral.

When writing a Written Notice at an IEP team meeting, should the IEP start date be 7 calendar or school days after the IEP team meeting?

Seven calendar days.

Required State Forms -- Written Notice (WN)

Who signs the Written Notice? What makes the IEP & Written Notice legal documents without signatures?

The WN only needs the parent's signature when the meeting is for consent for initial placement. Federal regulations do not require a signature on an IEP.

Written Notice - should this notice include implementation of the IEP due to transferring student?

If the child is a child with a disability, MUSER states that an SAU must consult with parents. The requirement for a transfer WN is not in MUSER. If you have an IEP meeting, then the results of that meeting and offerings are incorporated into the WN.

Written Notice required form should be more expansive than just SAU - like = IEU, public education unit, etc.

M.U.S.E.R. states in Section I, the term SAU includes IEU.

Written Notice: if the parent wants us to provide a "service" and the rest of the team does NOT find this necessary, can this be documented on this form, especially if the parent wants the "NO" in writing?

It MUST be documented in the WN as it is a refusal.

[Speech / Language Eligibility Criteria Forms](#)

Do I only use this form for an Identification Meeting/Evaluation/Re-Evaluation Meeting?

Yes, and the form could also be used when the team is discussing a change in eligibility.

For the Eligibility Criteria form, do you need to answer “yes” to all questions in order for the student to be eligible. Shouldn’t the form say that someplace?

The Eligibility Criteria document is summative. If the answers to A, B , and C are yes then the Team would determine that the student is eligible.

How do you determine the “total” severity using the rating scales? You can rate each section, but if the responses go across multiple severity ratings, what do we call the final rating? In the Colorado scales, there were numerical values assigned to each level of severity for each category, and then ranges of totals to determine the overall severity. What do we do here?

The scale is designed to have teams look at consistent data points from which the team would develop an overall clinical determination of the severity of speech/language needs without summing the results of the scale. We did not want to have a complex form such as Colorado's.

On the Eligibility Criteria (c), the choices given say “and/or”. Does this mean you don’t have to have an observation in the learning environment that supports a disability, and that adverse effect could be determined by grades/testing only?

"C" references a clinical observation which is one done by the person evaluating the child and recording those observations noted during the testing process. The observation in the learning environment is a different observation required in M.U.S.E.R. Section V.4.C.

Under the language severity rating scale, there are no descriptions of language for the severity categories other than “no apparent problem”.

There is a definition at the top of the first page of the scale which is meant to serve as a guide. The district that developed this scale utilizes the definition as a guide and team members reflect their clinical judgment to determine severity based on the form, content and/or functional use of language.

[Speech / Language Eligibility Criteria Forms](#)

Under the rating scales, my Formal Testing does not show a Moderate to a Severe rating. But, the 'Effect on communication' and 'Effect on education' is in the moderate rating level. Do they then qualify for Speech and Language Services based on classroom observations by special education staff and teacher's reports about what they observe in the classroom? Part B. Is the classroom observation and teacher's input enough for verification?

Part A "for assessments that do not provide standard scores' does the student have a moderate to severe? If the student is considered impaired by teacher report...there must be a way that this can be quantified for eligibility purposes.

What if we have students who transfer into our SAU and the criteria under which they were identified is not significant enough to qualify them for speech/language services under our new criteria. May I use this form to show that they do not qualify for services?

Yes

Summary of Performance (SOP)

Can the summary of performance be mailed following graduation? What is the timeline?

The law states that the Summary of Performance is required when a child either ages out or graduates with a regular high school diploma. A reasonable period would be around the actual graduation date or date of aging out. The purpose of this document is to assist the student in reaching their post-secondary goals; therefore the student needs the document for their next steps following graduation or aging out.

In the case of students being tuitioned to public high school, who is responsible for the summary of performance?

The sending district is responsible for the SOP, but be sure the person who completes the summary knows the child and can provide complete information for the summary.

When do you do the Summary of Performance? Does it need to be completed at an IEP team meeting?

No, it does not need to be completed at an IEP meeting. It must be given to the student who is aging out and/or graduating with a regular education diploma. Please see Question 1 on this page.

With the summary of performance (SOP), who is responsible for the follow up of the recommendations?

The SAU is not responsible for the follow up activities described in the SOP.

MUSER Section V.3.F(2)(b) states:

(ii) Summary of performance. -- For a child whose eligibility under this part terminates under circumstances described in clause (i), a local educational agency shall provide the child with a summary of the child's academic achievement and functional performance, which shall include recommendations on how to assist the child in meeting the child's postsecondary goals.

The federal regulations are silent on responsibility for implementing any recommendations in the SOP.

Terms

Is the term "exceptionality" still being used, or has it been changed to "disability"?

No, the term is "a child with a disability".

[Transfer student in same SAU](#)

What if a child moves from one school to another within the same district. Do the time lines for evaluations stand?

Yes, the responsibility is unit by unit, not school by school.

If the transfer is from unit to unit, MUSER Section V.1.A.(3)(b)(i) applies:

(b) Exception.--The relevant timeframe in clause (a)(i) shall not apply to a SAU if:

(i) A child enrolls in a school served by the SAU after the relevant timeframe in clause (a)(i) has begun and prior to a determination by the child's previous SAU as to whether the child is a child with a disability (as defined in 20 USC 1402), but only if the subsequent SAU is making sufficient progress to ensure a prompt completion of the evaluation, and the parent and subsequent SAU agree to a specific time when the evaluation will be completed;