

Adapted Physical Education Under the Law

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Individuals with Disabilities Education Act

- A law that makes available a free appropriate public education to eligible children with disabilities throughout the nation and ensures special education and related services to those children.



Essential Basics



Sec. 300.39 - Special Education

Means specially designed instruction, at no cost to the parents, to meet the unique needs of a child with a disability, including instruction in physical education.



Sec. 300.39(b)(2) - Physical Education

The development of physical and motor fitness; fundamental motor skills and patterns; and skills in aquatics, dance, and individual and group games and sports (including intramural and lifetime sports); and

Includes special physical education, adapted physical education, movement education, and motor development.



Sec. 300.39(b)(3) - Specially Designed Instruction

Means adapting, as appropriate to the needs of an eligible child under this part, the content, methodology, or delivery of instruction -

- To address the unique needs of the child that results from the child's disability; and
- To ensure **access** of the child to the general curriculum, so that the child can **meet the educational standards.**



Sec. 300.39 - Adapted Physical Education

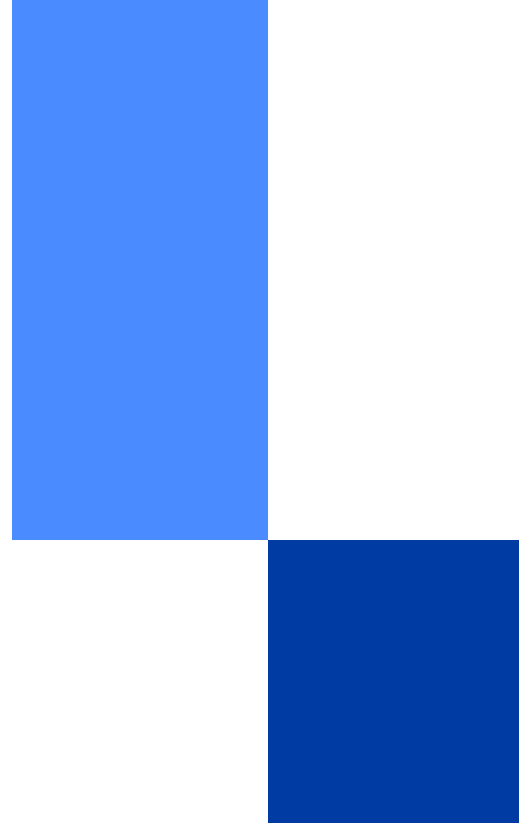
Adapted physical education is a special education service, meaning specially designed instruction.

As per the Every Student Succeeds Act (ESSA) physical education is part of a well-rounded education (Academic content area)

As a well-rounded education and special education service, it **can be a stand alone area on the IEP.**



Screening



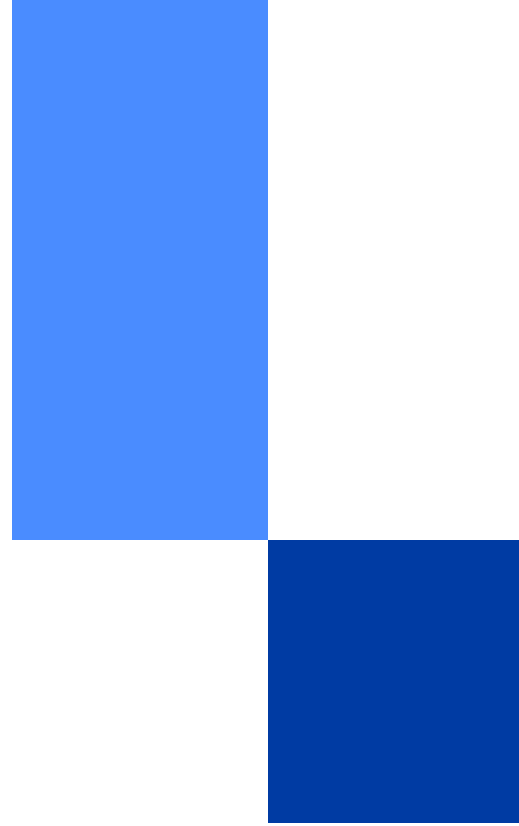
Sec. 300.302 - Screening

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.

- Universal screening of all students in a class can occur to offer instructional strategies and identify class needs.



Types of IEP Meetings



Sec. 300.300(d)(1)(i) - Referral / Planning Meeting

- The IEP team will convene to review existing data as part an evaluation or a reevaluation.
- Relevant data will be presented and discussed.
 - Data of student performance in physical education provided by the physical educator

[Download Sample Referral Form Template](#)



Sec. 300.300(d)(1)(i) - Referral / Planning Meeting

- The team will ask if there are diagnostic questions to whether the student requires the service.
 - Has the student made sufficient progress or shown regression?
 - Has the student undergone any medical changes that impact performance?
 - Is there sufficient data to drive the educational supports and services?

[Download Sample Parental Consent Form Template](#)



Sec. 300.306 - Determination (If testing was administered)

- The IEP team reconvenes to review and discuss the evaluation results to guide the educational supports and services.
- IDEA indicates this occurs 60 days after parental consent is provided.
 - Follow the local education agency guidance for the timeframe.

[Download Sample Evaluation Report \(TGMD-3\)](#)



Sec. 300.324(b)(1)(i) - Annual Review Meeting

- Reviews the child's IEP periodically, but not less than annually, to determine whether the annual goals for the child are being achieved.
- Revises the IEP, as appropriate to address any lack of expected progress toward goals and in the general education curriculum.
 - Update evaluation results, information about the child (including from parents)
 - Update child's anticipated needs



Sec. 300.303 - Triennial / Reevaluation

- The IEP team **must meet at least once every 3 years** and no more than once a year, unless the parent and the public agency agree otherwise.
- The IEP team will **review** present levels of academic achievement and functional performance; and other **relevant data to determine if updated testing is needed to guide educational supports and services.**

[Download a Sample Report Template](#)



Sec. 300.324(a)(4) - Amendment

- The parents of a child with a disability and the public agency may agree to convene at IEP meeting between annual review meetings for the purpose of modifying the IEP.

Sec. 1414(d)(3)(F) - Amendment

- Changes to the IEP may be made either by the entire IEP team or a portion, by amending the IEP rather than redrafting the entire IEP. The parents shall received a revised copy.



Evaluation Procedures



Sec. 300.304 - Conduct an Evaluation

Use a variety of assessment tools and strategies to gather functional, developmental, and academic information, including information provided by the parent to assist in...

- Determine if the child has a disability
- Determine the content of the child's IEP

Must not use any single measure or assessment

Must use technically sound instruments



Sec. 300.304(c)(1) - Evaluation Assessment

- Not to be discriminatory on a racial or cultural basis
- Administered in the language and form most likely to yield accurate information
- Used for purposes for which the assessments or measures are valid and reliable
- Administered by trained and knowledgeable personnel
- Administered in accordance with any instructions provided by the producer



Multi-confirming Data

- Review of records (Prior data)
- Teacher observation of the student's performance in physical education
- Collaboration/Consultation with other team members (including parents/student)
- A standardized tool that has been determined valid and reliable
- Standard-based informal data
- Daily Anecdotal notes and progress reports

List of Assessment Tools



Sec. 300.310 - Observation (Evaluation)

- The public agency must ensure that the child is observed in the child's learning environment (including the regular classroom setting) to document the child's academic performance and behavior in the areas of difficulty.



Sec. 1414(a)(1)(C)(i)(1) - Timeframe (Evaluation)

- Within 60 days of receiving parental consent for the evaluation, or, if the State establishes a timeframe within which the evaluation must be conducted, within such timeframe; and
- To determine the educational needs

It is important to know the timeframe your local education agency.



Sec. 300.300 - Parental Consent

- The public agency must make reasonable efforts to obtain the informed consent from the parent.
- For reevaluation/triennial ONLY, if the parent refuses to consent, the public agency may, but is not required to, pursue the reevaluation by using the consent override procedures.

[Download Sample Parental Consent Form Template](#)



Sec. 300.300(b)(3) - Parents Fail to Give Consent or Refuse to Respond

- If the parent of a child fails to respond to a request for, or refuses to consent to, the initial provisions of special education and related services, the public agency may not provide services to the child.
- The public agency **will not be in violation of the requirement to make FAPE available.**
- The public agency is not required to convene an IEP team meeting or develop



Sec. 300.304 - Appropriate Evaluation Tools

- The public agency must use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information (including information from the parent).
- The public agency will not use any single measure or assessment as the sole criterion for determining an appropriate educational program.



Sec. 300.304 - Appropriate Evaluation Tools

- The public agency will use **technically sound instruments** that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors.



Eligibility



Sec. 300.311(a)(5)(ii)(A) - Rationale for Service

- Adapted physical education may be necessary for students with disabilities when their disability significantly impacts their ability to make sufficient progress towards age or State-approved grade level standards.



Sec. 300.306 - Determination of Eligibility

- Upon completion of the administration of assessments and other evaluation measures, a group of qualified professionals and the parent of the child determine the educational needs of the child.
- The public agency provides a copy of the evaluation report to the parents

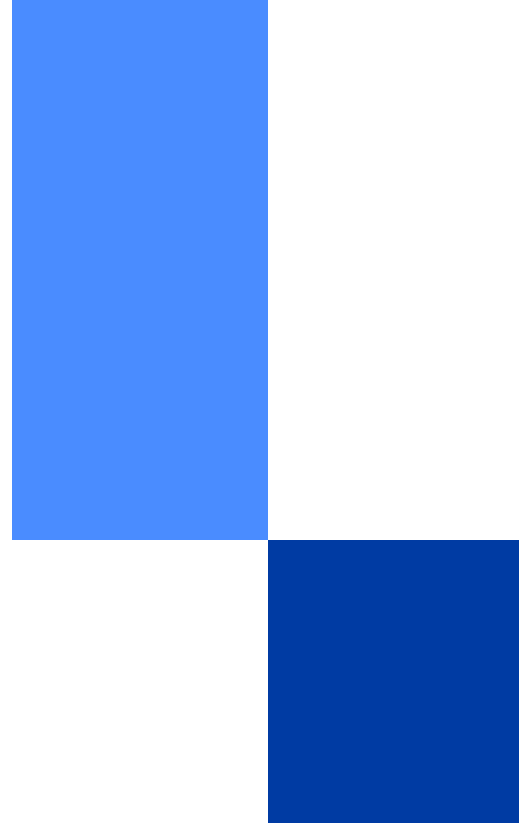


Determination for Service

- The IEP team will discuss the assessment results and determine the appropriate educational supports and services.
- NCPEID organization Recommends
 - 2 or more years below the child's chronological age
 - 25% or greater discrepancy between the chronological age and age equivalency
 - 1.5 standard deviations or greater below the mean



Individualized Education Program (IEP)



Sec. 300.22 - IEP defined

- A written statement for a child with a disability that is developed, reviewed, and revised.
- Students identified as in need of an IEP may receive it (and APE) between ages 3 - 21 years.
 - OSEP guidance letter for preschoolers
 - OSEP guidance letter for 16 - 21 year olds
 - Students under the age of 3 will receive an Infant and Family Service Plan (IFSP)



Sec. 300.320(a)(1) - IEPs Contain PLAAFP

- A statement of the child's present level of academic achievement and functional performance.
 - How the child's disability affects the child's involvement and progress in the general education curriculum.

Sec. 300.324(a) - Development of the PLAAFP

- Consider the strengths
- Consider parental concerns
- Consider recent evaluation results

PLAAFP
Writing
Support



Sec. 300.320(a)(2) - IEPs Contains Measurable Goals

- A statement of measurable annual goals, including academic and functional goals.
 - Meet the child's needs that result from the child's disability to enable the child to be involved in and make progress in the general education curriculum.
 - Meet each of the child's other educational needs that result from the child's disability.

Goal Writing Support



Sec. 300.320(a)(3) - IEPs Contain Progress Reports

- A description of how the child's progress toward meeting the annual goals described in the measurable goal.
- When periodic reports on the progress the child is making toward meeting the annual goals (such as through the use of quarterly or other periodic reports, concurrent with the issuance of report cards) will be provided.



Sec. 300.320(a)(4) - IEPs Contain Supplementary Aids and Services.

- Based on peer-reviewed research to the extent practicable, to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel, provided to enable the child
 - To advance towards attaining annual goals
 - To be involved in making progress in the general education curriculum
 - To participate in their least restrictive environment

Supplemental Aids & Services Support



Sec. 300.320(a)(7) - IEPs Contain Services

- The projected date for the beginning of the services and modifications described in the supplementary aids and services, and the anticipated frequency, location, and duration of those services and modifications.

Support for Writing
Services

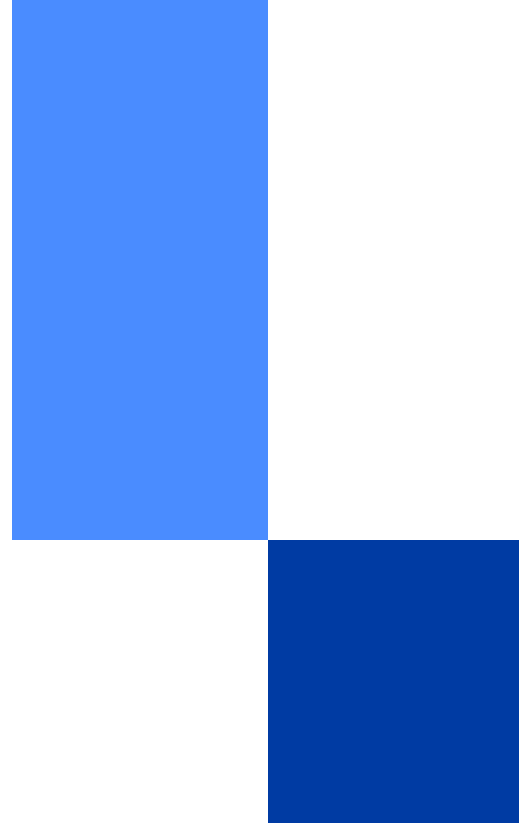


Sec. 300.320(b) - IEPs Contain Transition Services

- Beginning not later than the first IEP to be in effect when the student turns **16, or younger** if determined appropriate by the IEP team, and updated annually, thereafter, the IEP must include
 - Appropriate measurable **postsecondary goals** based upon age appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills.



Placement



Sec. 300.320(a)(5) - IEPs Contain Placement

- An explanation of the extent, if any, to which the child will not participate with nondisabled children in the regular class and in the activities described in their supplementary aids and services.



Sec. 1412(a)(5)(A) - Least Restrictive Environment

- To the maximum extent appropriate, children with disabilities, are educated with children who are not disabled.
- Removal of children with disabilities from the regular educational environment occurs only when the nature or severity of the disability of a child is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.



Sec. 300.116(a) - Placement Decision

- Is made by a group of persons, including the parents, and other persons knowledgeable about the child, the meaning of the evaluation data, and the placement options.
- Is made in conformity with the least restrictive environment provisions.



Sec. 300.116(b) - Placement Decision Continued

- Is determined at least annually
- Is based on the child's IEP
- Is as close as possible to the child's home

Sec. 300.327 - Placement Decision

- Each public agency must ensure that the parents of each child with a disability are members of any group that makes decisions on the educational placement of their child.



OSEP Letter to Trigg 2007 - Placement Decision

- In all cases, placement decisions must not be made solely on factors such as:
 - Category of disability
 - Severity of disability
 - Availability of special education & related services
 - Configuration of the service delivery system
 - Availability of space
 - Administrative convenience



Sec. 300.115 - Continuum of Placement

- Requires each public agency to ensure that a continuum of alternative placements including
 - Regular classes
 - Special classes
 - Special schools
 - Home instruction
 - Instruction in hospitals and institutions
- This continuum is intended to ensure that a child is served in a setting where they can be educated successfully in the LRE.

Continuum of
Environments

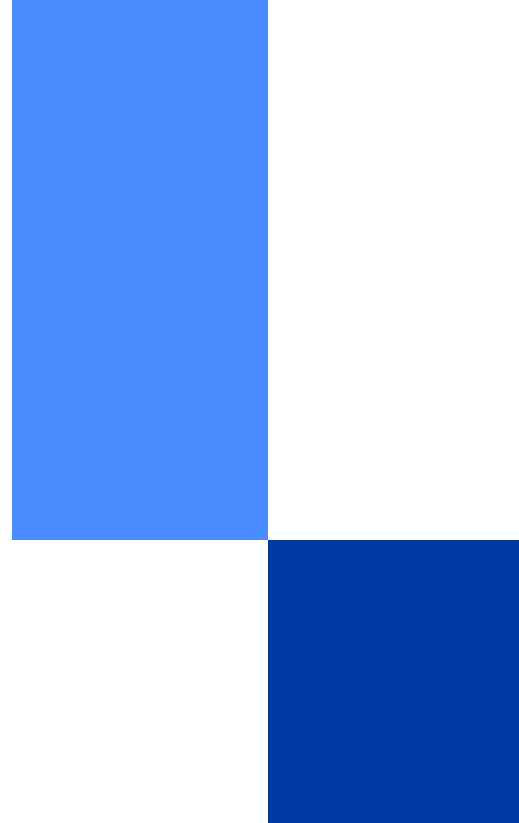


Sec. 300.503 - Prior Written Notice (Placement)

- Parents must be given written notice of a meeting and reasonable time before a public agency implements a proposal or refusal to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child.



IEP Team and Attendance



Sec. 300.321 - IEP Team Members

- The public agency must ensure that the IEP team includes
 - The parent of the child
 - At least one regular education teacher
 - At least one special education teacher
 - One qualified person to supervise the provisions of the specially designed instruction (principal / principal designee)



Sec. 300.321 - IEP Team Members (MORE)

- The public agency must ensure that the IEP team includes
 - An individual who can interpret the instructional implications of evaluation results.
 - APE Teacher for Physical Education
 - At the discretion of the parent or the agency, other knowledgeable individuals with special expertise.
 - When appropriate, the student



Sec. 300.321(e) - Attendance at an IEP Meeting

- A member of the IEP is not required to attend in whole or in part when the parent and public agency agree in writing that the attendance is not necessary because the member's area is not being discussed or modified.

[Download Sample Template](#)



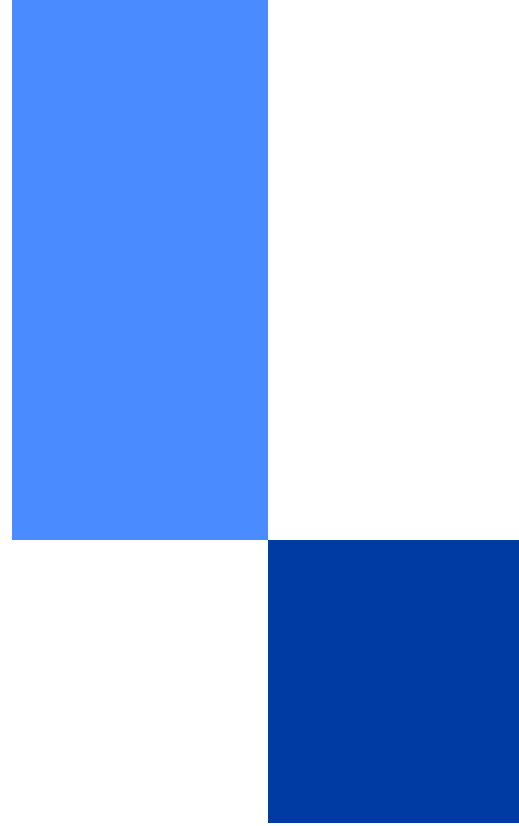
Sec. 300.321(e) - Excusal from an IEP Meeting

- When a member's area is being discussed or modified, the member may be excused from attending in whole or in part when the parent agrees in writing and the public agency provide consent.
 - The member must submit input into the development of the IEP in writing prior to the meeting.

[Download Sample Template](#)



Transition Services



Sec. 300.43 – Transition Services Defined

- A coordinated set of activities for a child with a disability, focused on improving the academic and functional achievement that facilitates the movement from school to post-school activities, including independent living and community participation.
- The process starts no later than 16 years, but can start earlier. Some States begin the process at age 14. Sec. 300.320(b)



Other Support Documents



U.S. Government Issued Documents

- U.S. Government Accountability - Students with disabilities: More information and guidance could [improve opportunities in physical education and athletics](#) (June 2010)
- U.S. Department of Education - Creating equal opportunities for children and youth with disabilities to participate in [physical education and extracurricular athletics](#) (August 2011)
- U.S. Department of Education - Parent and educator resource guide to [section 504](#) in public elementary and secondary schools (December 2016)
- U.S. Department of Education - [Federal Register](#): Assistance to States for the education of children with disabilities and preschool grants for children with disabilities (August 2006)
 - Pages 46541, 46583 specify physical education concerns



Office of Special Education Program Policy

Letters, (List of Letters Prior to 2001) (List of Letters 2001 - Present)

- Placement decisions of student with disabilities (November 11, 2007)
- No other subject may substitute for or occur during physical education (February 12, 2010)
- Extracurricular activities under section 504 (January 25, 2013)
 - Fast Facts
- APE services for preschoolers (July 31, 2013)
- APE services for transition aged (16 - 21 years) students (October 23, 2013)
- Standard-based academic s and goals (November, 16 2015)
- Children residing in nursing homes (home and hospital) (April 26, 2016)
- Issues of substituting or replacing P.E. services with related services (May 12, 2021)



Court Cases Related to (Adapted) Physical Education

(Short Description of Each Case Listed Below)

- Board of Education of the Hendrick Hudson School District v. Rowley (1982)
- Diaz-Fonseca v. Puerto Rico, 1st Circuit (6/16/2006)
- Hemet (CA) Unified School District (OCR, 7/2/2009)
- Marshall Joint School District no. 2 v. Circuit District, 7th Circuit (8/2/2010)
- Merrill Delemerced v. School District of Tro, NY, NY SCt (4/12/13)
- Springfield Local Schools OH SEA (12/19/2014)
- Worthington City Schools OH SEA (3/19/2015)
- Robbinsdale ISD #281, MN Educational Agency (7/29/2016)
- Endrew F. v. Douglas County School District (2017)
- Estate of Isis Esquivel v. Brownsville ISD, SD TX (9/11/2018)
- R.S. v. Woods Charter School Company Middle District of NC (3/4/2019)



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