



Regulation Review: IEP Team Member Participants & Excusal

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IEP Teams

Practice Tip:

When Deciding Whether an “Excusal” of an IEP Team Member is Necessary...

First Determine Whether the Person is a Required Member of the Child’s IEP Team



Who is Required on the Team?

14 DE Admin Code § 925. 21.0

Defines Who Must Be On the IEP Team
For a Child with A Disability



Who is Required on the Team?

The Parents of the Child

14 DE Admin Code § 925.21.1



Who is Required on the Team?

A Representative of the LEA Who Is:

Qualified to Provide/Supervise the Provision of Specially Designed Instruction;

Knowledgeable About the General Education Curriculum;

Knowledgeable About the Availability of Resources; and

Has Authority to Commit LEA Resources and Ensure IEP Services are Provided (DE specific provision)

14 DE Admin Code § 925.21.1.4



Who is Required on the Team?

An LEA May Determine Which Specific Staff Member Will Serve as the Representative as Long as They Meet the Requirements

LEA Representative Should Have the Authority to Commit Resources Because the LEA Will Be Bound by the IEP that is Developed at an IEP Team Meeting

Analysis of Comments & Changes, OSERS, 71 Fed. Reg. 46670 (August 14, 2006)



Who is Required on the Team?

An Individual Who Can Interpret the Instructional Implications of Evaluation Results (Who May Already Be a Member of the Team in Another Role)

14 DE Admin Code § 925.21.1.5



Who is Required on the Team?

Not Less than One Regular Education Teacher of the Child (if the Child Is, or May Be, Participating in the Regular Education Environment)

14 DE Admin Code § 925.21.1.2



Regular Education Teacher

What if the Child Has More than One Regular Education Teacher?

The Regular Education Teacher Who Serves on the IEP Team Should Be a Teacher Who is, or May Be, Responsible for Implementing a Portion of the IEP so the Teacher Can Participate in Discussions About How to Best Instruct the Child; and...



Regular Education Teacher

If the Child Has More than One Regular Education Teacher Responsible for Implementing A Portion of the IEP, the LEA May Designate Which Teacher(s) Will Serve as the IEP Team Member(s); and

The LEA Could Also Agree that Each Teacher Attend Only the Part of the Meeting that Involves Modification to, or Discussion of, the Teacher's Area of the Curriculum

Analysis of Comments & Changes, OSERS, 71 Fed. Reg. 46675 (August 14, 2006)



Who is Required on the Team?

Not Less than One Special Education Teacher of the Child, or Where Appropriate, Not Less than One Special Education Provider of the Child

14 DE Admin Code § 925.21.1.3



Special Education Teacher

What if the Child Has a Speech-Language Impairment and No Special Education Teacher?

If the Child Only Receives Speech-Language Services, the Special Education Pathologist is Considered the “Special Education Provider” and a Required Member of the IEP Team

OSEP Letter to Lilly Rangel-Diaz (April 25, 2011)

Analysis of Comments & Changes, OSERS, 71 Fed. Reg. 46670 (August 14, 2006)



Related Service Providers

What About Physical, Occupational, and Speech Language Therapists?

IDEA Does Not Expressly Require that Related Service Providers Attend IEP Team Meetings. However, if a Child with a Disability Has an Identified Need for Related Services, it Would Be Appropriate for the Related Services Providers to Attend the Meeting

OSEP Letter to Lilly Rangel-Diaz (April 25, 2011)



Who is Required on the Team?

At the Discretion of the Parent or the LEA, Other Individuals Who Have Knowledge or Special Expertise Regarding the Child

14 DE Admin Code § 925.21.1.6



Other Individuals...

The Party Who Invites the Individual to Be a Member of the IEP Team Determines the Knowledge or Special Expertise of Such Individual

Who Could the Other Individuals Be?

14 DE Admin Code § 925.21.1.6.

Analysis of Comments & Changes, OSERS, 71 Fed. Reg. 46669 (August 14, 2006)



Who is Required on the Team?

Whenever Appropriate,
the Child with a Disability

14 DE Admin Code § 925.21.1.7



Who is Required on the Team?

Whenever the Child Is, or May Be, Participating in a Career and Technical Education Program, a Career Technical Education Teacher of the Child, or Career Technical Teacher Coordinator
(DE specific provision)

14 DE Admin Code § 925.21.1.8



IEP Teams

The School or District Determines the Specific Personnel to Fill the Roles for the School or District's Required Participants at the IEP Team Meeting.

A Parent Does Not Have a Legal Right to Require Other School or District Personnel to Attend an IEP Team Meeting.

Therefore, if a Parent Invites Other School or District Personnel Who Are Not Designated by the School or District to Be on the IEP Team, They Are Not Required to Attend.



IEP Teams

If the LEA Designates an Individual as a *Required* IEP Team Member, the LEA Must Ensure the Individual Attends the Meeting, *Unless* the Excusal Provisions are Met.

So, What are the Rules Around Excusal?



Team Member Excusal

The Ability to “Excuse” Only Applies to:

the Regular and Special Teacher(s),
the Parents,
the School / District Representative,
and the Individual to Interpret Instructional
Implications of Evaluation Results.

14 DE Admin Code § 925.21.5



Team Member Excusal

Two Different Types of Excusals !

Type One Requires: Parental Agreement

Type Two Requires: Parental Consent and Written Input to IEP

The Type of Excusal Depends on Whether the Team Member's Area of Curriculum or Related Services is Being Modified or Discussed at the IEP Team Meeting



Type One - Excusal

A Team Member is Not Required to Attend a Meeting, in Whole or in Part, if

the Parent and LEA Agree in Writing the Attendance of the Member is Not Necessary Because the Member's Area of the Curriculum or Related Services Is Not Being Modified or Discussed at the Meeting

14 DE Admin Code § 925.21.5

Type Two - Excusal

A Team Member is Not Required to Attend a Meeting, in Whole or in Part, When the Meeting Involves a Modification to or Discussion of the Member's Area of the Curriculum or Related Services, If

the Parent and LEA Consent to the Excusal in Writing;
and

the Member Submits, in Writing, to the Parent and the IEP Team, Input into the Development of the IEP Prior to the Meeting

Team Member Excusal

Parental Agreement

OSEP established no specific rule on the content of the written agreement

Analysis of Comments & Changes, OSERS, 71 Fed. Reg. 46674 (August 14, 2006)

Parental Consent

“Consent” means the parent has been fully informed of the activity for which the consent is sought and understands that the granting of consent is voluntary and may be revoked at any time. LEA must provide sufficient information to ensure the parent fully understands the parent is consenting to excuse an IEP team member from attending a meeting in which their area will be discussed and that if the parent does not consent, the IEP team meeting must be held with that team member in attendance

See, “Consent” 34. C.F.R. § 300.9



Team Member Excusal

Can an LEA Routinely Excuse IEP Team Members from Attending IEP Team Meetings?

No. Parent Agreement or Consent is Required in Each Instance. OSEP Encourages LEAs to Carefully Consider, Based on the Individual Needs of the Child and the Issues that Need to Be Addressed Whether it Makes Sense to Offer to Hold the IEP Team Meeting Without a Team Member in Attendance or Whether it Would be Better to Reschedule the Meeting

Analysis of Comments & Changes, OSERS, 71 Fed. Reg. 46669 (August 14, 2006)



Team Member Excusal

How Far in Advance of an IEP Team Meeting Can the LEA Request Excusal?

Ideally, LEAs Would Provide as Much Notice as Possible, and Have Agreements or Consents Signed at a Reasonable Time Before a Meeting. Might Not Always be Possible When a Member has an Emergency or Unavoidable Scheduling Conflict...



Team Member Excusal

To Require LEAs to Request Excusal or Obtain Agreement or Consent to Excuse a Member a Set Number of Days Prior to a Meeting Would be Counter to the Intent of Providing Flexibility to Parents in Scheduling IEP Meetings. Parents Have the Right Not to Agree or Consent to the Excusal of an IEP Team Member.

Analysis of Comments & Changes, OSERS, 71 Fed. Reg. 46676 (August 14, 2006)



Team Member Excusal

How Far in Advance of an IEP Team Meeting Must the Written Input Be Provided to the Parent and IEP Team Members?

No Specific timeframe. Parents Can Always Request to Reschedule an IEP Team Meeting or Request that an IEP Team Meeting Be Reconvened if Additional Time is Needed to Consider the Written Information

Analysis of Comments & Changes, OSERS, 71 Fed. Reg. 46676 (August 14, 2006)



Team Member Excusal

Must the Excused IEP Team Member Agree to Be Excused from the Meeting?

No. There is No Requirement the Excused Member Agree to the Excusal, or that Other IEP Team Members Agree to the Excusal. The LEA Determines the Individual With the Authority to Make the Agreement or Provide the Consent With the Parent to Excuse the IEP Team Member from Attending

Analysis of Comments & Changes, OSERS, 71 Fed. Reg. 46676 (August 14, 2006)



Fact Pattern One

6th Grade Student Has a Learning Disability in Math, and Receives Speech Language Services Twice a Month. Student's Annual IEP Review Meeting is Scheduled, and the Speech Language Therapist is Not Available to Attend.

- (A) Is the SLP Therapist a Required IEP Team Member?
- (B) Can the SLP Therapist Be Excused from the Meeting?
- (C) What Does the LEA Need to Do to Excuse the SLP Therapist?



Fact Pattern Two

9th Grade Student Has a Learning Disability in Reading, and Participates in the General Education Environment. Most of his Instruction is provided in Inclusion Classrooms. He has 5 Regular Education Teacher for Various Subject Matter Classes. Student's Annual IEP Review Meeting is Scheduled, and his Social Studies Teacher is Not Available to Attend.

- (A) Is the Social Studies Teacher a Required IEP Team Member?
- (B) Can the Social Studies Teacher Be Excused from the Meeting?
- (C) What Does the LEA Need to Do to Excuse the Social Studies Teacher?