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QUESTIONS AND ANSWERS ON INDIVIDUALIZED EDUCATION PROGRAM (IEP) DEVELOPMENT, THE STATE'S MODEL IEP FORM AND RELATED REQUIREMENTS

October 2010

The following questions and answers address some of the important issues raised by requests for clarification of the federal and State requirements for IEPs. This document will periodically be updated. This guidance does not impose any requirements beyond those required under applicable law and regulations. This document supersedes any previously issued guidance on this topic.

If you have questions regarding the IEP form and related requirements, you may submit them to the following mailbox: SEFORMS@mail.nysed.gov.

STUDENT INFORMATION SUMMARY FORM

1. Is it appropriate to list the current medications that a student is taking on the Student Information Summary form?

A school district should consider a student's right to confidentiality of medical information before including such information on a form that would be available to school personnel. Health-related information included in a student's present levels of performance and/or on the optional Student Information Summary form should include only information school personnel would need to know to implement the student's IEP.

2. Why isn't there a place for the parent or guardian name on either the example of the optional summary form or on the IEP model form?

Section 200.4(d)(2) of the Regulations of the Commissioner of Education does not require that the parent or guardian name be in a student's IEP. However, the district may choose to include this information on the optional Student Information Summary.

GENERAL QUESTIONS ON THE STATE-DEVELOPED FORM

3. When must the new IEP form be used?

IEPs developed for the 2011-12 school year, and thereafter, must be on the State form. The 2011-12 school year starts on July 1, 2011.

4. May a school district add 'drop-down' options in fields that are open text fields on the State's IEP form?

The IEP form developed by the State provides open text fields to allow the Committee on Special Education (CSE) and Committee on Preschool Special Education (CPSE) to enter student-specific information. The State has provided drop-down choices in the IEP only where there is State regulation or policy to guide those choices. The drop-down options provided by the Department on the State form may not be modified.

The school district could add 'drop-down' options on the IEP form for other sections of the IEP where the district is seeking consistency in the wording of recommendations provided that the choices are consistent with State policy and provided that district-added drop-down choices do not limit the CSE or CPSE from making other recommendations outside the drop-down choices in order to meet the individualized needs of the student.

Any school district wishing to add drop-down options to the IEP form should carefully review the State's guidance related to these sections of the IEP to ensure consistency with State policy. http://www.p12.nysed.gov/specialed/publications/iepguidance.htm.

5. Does the projected date of IEP implementation only need a month and a year? The example says September 2010?

The projected date an IEP is to be implemented should include the month, day and year. The example provided in Attachment 3, General Directions to Use the State's Model Individualized Education Program (IEP) Form, is 'September 7, 2010'.

6. Can the font size, margins and font style in the IEP be modified?

Yes.

7. Can we put page numbers on the IEP form?

Yes.

8. What training will be available to district staff on the use of the State's forms?

The New York State Education Department (NYSED) will be offering extensive training opportunities for school personnel on use of the State's IEP, meeting notice and prior written notice forms. Scripted PowerPoint presentations with accompanying examples, questions and answers and guidelines will be posted on NYSED's website to provide wide access to professional development from individual computers. This will provide no-cost access to information and training. In addition, each of the

State's Regional Special Education Technical Assistance Support Centers (RSE-TASC) are planning multiple and comprehensive regional training sessions to address the scope of training needed for individualized education program (IEP) development and the meeting notice and prior written notice requirements.

9. Aside from being a new form, does the State IEP form create new requirements for the content of an IEP?

No.

DISABILITY CLASSIFICATION

10. Where is a diagnosis of Asperger Syndrome documented in a student's IEP?

A 'diagnosis' such as Asperger Syndrome could be documented on the optional Student Information Summary form and/or in Present Levels of Performance.

11. The State IEP form does not reference declassification. Where should recommendations upon declassification (including, as appropriate: testing accommodations; the student's eligibility for the diploma "safety net;" the student's continued exemption from the language other than English (LOTE) requirement; and needed declassification support services to be provided to the student and/or the student's teachers during the first year after the student is declassified) be documented?

The State's model IEP form only includes information that is required by law or regulation to be included in a student's IEP. There is no requirement in law or regulation to include information related to declassification in an IEP. However, the Committee must document its recommendations made upon declassification of the student to the board of education and in prior written notice to the student's parents.

Any recommendations relating to declassification must be provided to the board of education by the CSE. The recommendation must:

- identify the declassification support services, if any, to be provided to the student and/or to the student's teachers; and
- indicate the projected date of initiation of such services, the frequency of provision of such services and the duration of such services, provided that such services shall not continue for more than one year after the student enters the full-time general education program.

Other recommendations, including those that will continue upon the student's declassification such as the student's continued eligibility for the "safety net" or LOTE exemption, should be included in the notice to the Board of Education and in prior written notice to the parent.

PRESENT LEVELS OF PERFORMANCE AND INDIVIDUAL NEEDS

12. Is it allowable to leave any part of the student's present levels of performance sections of the IEP blank?

No. Section 200.4(b)(2)(i) of the Regulations of the Commissioner of Education requires that the IEP report the present levels of academic achievement and functional performance and indicate the individual needs of the student according to each of the four need areas, including how the student's disability affects involvement and progress in the general education curriculum, or for preschool students, as appropriate, how the disability affects the student's participation in appropriate activities. If there are no individual needs related to one or more of the four need areas, the IEP could indicate that the student's skills are within normal limits or that no disability-related needs were identified.

13. Examples in the *Present Levels of Performance/Evaluation Results* section and other sections of the IEP use both complete sentences and phrases. This format appears inconsistent? Is it intentional?

These are examples only intended to demonstrate that there are various ways to document information in a student's IEP. A district has local discretion as to how it documents student-specific information.

14. Should evaluation results (such as from State assessments) be kept from year to year in that section in the IEP (so that there is a running record of information)? Is standardized testing/State assessment information required to be included in the *Evaluation Results* section of IEP?

In developing the recommendations for the IEP, the Committee must consider the results of the initial or most recent individual evaluation of the student as well as the results of the student's performance on any general State or district-wide assessment programs. A district could, but is not required to, provide historical State assessment and/or individual evaluation results in a student's IEP.

15. Must the results for a student's New York State Alternate Assessment (NYSAA) be documented in the IEP?

No. Regulations do not require that alternate assessment results be included in an IEP. However, in developing recommendations for an IEP, the Committee must consider the academic, developmental and functional needs of the student, including, as appropriate, the results of the student's performance on any general State or district-wide assessment program. To the extent that the evaluation results from the NYSAA form the basis for present level of performance statements, they should be documented in the IEP.

16. Should the IQ score be documented in the IEP?

Whether a student's IQ score and/or scores on subtests are deemed relevant assessment data that needs to be documented in the IEP is a Committee decision and should be based upon the individual student.

17. On page 4 of the directions, under *Evaluation Results* it states that, "the following section of the IEP provides space for the Committee to document the evaluation results considered." Please explain.

Documentation of each student's present levels of performance in the IEP must include consideration of the results of the initial or most recent individual evaluation of the student, as well as the results of the student's performance on any general State or district-wide assessment programs. The State's IEP form includes an *Evaluation Results* section as a place to document the results of evaluations that were conducted and considered in the development of the student's IEP. Alternately, the Committee could document its consideration of the evaluation and assessment results under the four need areas (academic achievement, functional performance and learning characteristics; social development; physical development; and management needs). There is no requirement that the specific names of the individual tests conducted to complete the initial evaluation or reevaluation of the student be indicated in the IEP.

18. Can districts put formalized/standardized evaluation or assessment results within the body of the academic, social or physical sections of the present levels of performance, or does that information have to be included in *Evaluation Results* section of the form?

A Committee may choose to document evaluation results within each of the three areas (academic, social or physical sections) rather than within the *Evaluation Results* section of the form. If the Committee chooses to do so, it is recommended that information on the form direct the reader to the academic, social and physical need sections of the IEP.

19. If a student's most current State assessment results are included in the IEP, would the IEP need to be amended when/if updated/revised State assessment results are received by the district?

A change to a student's State assessment results would not in and of itself require a review or revision to the student's IEP. Section 200.4(f)(2) of the Regulations of the Commissioner of Education requires that the IEP be reviewed and, as appropriate, revised, periodically but not less than annually to address any lack of expected progress towards the annual goals and in the general education curriculum; the results of any reevaluation and information about the student provided to, or by, the parents; the student's anticipated needs; or other matters, including a student's need for test accommodations and/or modifications and the student's need for a particular

device or service in order for the student to receive a free appropriate public education (FAPE).

20. Is the intent of the *Evaluation Results* box to contain standardized scores, a narrative description of what that means and the implications for instruction?

This section of the IEP is provided to assist the district in documenting its consideration of the evaluation results to ascertain the student's present levels of performance. A Committee may choose, but is not required, to include standardized scores in this section of the IEP. It may, as an alternative or in addition to standardized scores, provide a narrative description of the results. The Committee must ensure that all sections of the IEP are clearly understood by the reader and that the instructional implications of the evaluation results are clear.

21. In terms of best practice, should trainers be encouraging districts to separate or sort evaluation results by content/skill areas?

The manner in which a school district documents its present level of performance statements in a student's IEP is at local discretion. Examples could be provided to school districts to the extent they assist districts to organize the information in an IEP.

22. The State IEP form requires documentation of the committee's 'consideration of student needs that are of concern to the parent' in three of the *Present Levels of Performance* sections. What does this mean?

The State IEP form requires the Committee to identify the needs of the student relating to the three areas of present levels of performance, which includes consideration of the concerns of the parent for enhancing the education of their child as required by federal and State regulations. This does not mean that the IEP must document every concern expressed and/or recommendation that the parent offers. While the IEP does not necessarily require an explicit statement that a particular need area is of concern to the parent, documenting when a need area that will be addressed in the student's IEP is an area of concern expressed by the parent will assist the district in documenting that it considered the parents' concerns. If a parent had no concerns related to his/her child's disability-related needs or chose not to participate in the IEP development process, the Committee could, but is not required to, also indicate this on the IEP.

In the consideration (i.e., discussion and documentation) of a parent's concerns, the Committee may reach a consensus that the parent's expressed concerns are not appropriate to address in a student's IEP. In this case, there would be no documentation of these concerns in the IEP. However, if, in consideration of the concerns of the parent, the Committee refuses to initiate or change the identification, evaluation, educational placement of the student or the provision of FAPE to the student, this information must be included in the prior written notice provided to the parent.

One example of how the needs of the student, including consideration of student needs that are of concern to the parent may be documented in an IEP can be found at http://www.p12.nysed.gov/specialed/formsnotices/IEP/directions.htm.

Following is another example.

ACADEMIC, DEVELOPMENTAL AND FUNCTIONAL NEEDS OF THE STUDENT, INCLUDING CONSIDERATION OF STUDENT NEEDS THAT ARE OF CONCERN TO THE PARENT:

- Reading decoding skills.
- Self-correction strategies.
- Self-regulatory skills to more appropriately handle distractions.
- Techniques for coping with frustration, particularly with homework (concern of the parent).
- Scheduling accommodations for fatigue (concern of the parent).

23. How do districts properly document concerns of the parent when:

- **discussion with parent has occurred and there are no concerns of the parent in that area; or**
- **contact with the parent has been attempted but no contact or discussion has occurred?**

Is it allowable in the above situations to leave the field blank or should something be written? If a statement should be written, can you give an example for each of the above situations?

A Committee can only consider the parents' concerns if they have been shared by the parents at the meeting, in writing or through other communications. If a parent had no concerns related to his/her child's disability-related needs or chose not to participate in the IEP development process, the Committee could indicate this in the IEP. While the example provided in guidance shows an IEP that provides an explicit statement regarding a parent's concerns as a means to document this required consideration, there is no requirement that the IEP do so.

It is not appropriate to leave the field blank since the requirement is that the Committee document the present levels of performance and needs of the student. If a student doesn't have needs to be addressed in the IEP related to one or more of the four need areas, then the form could state "not applicable" or "none."

24. What should be documented on the new IEP form regarding parent concerns if the parent is unable to be reached due to transient living situations or simply neglect of the attempted contact. Similarly, what about children who are wards of the county/State? Is there a "blanket statement" to indicate attempts at parental contact?

As stated above, a Committee can only consider concerns if they have been shared by the parents at the meeting, in writing or through other communications. However, each school district must take steps to provide parents with a meaningful opportunity to participate in meetings for their child. For students who require a surrogate parent (see section 200.5(n) of the Regulations of the Commissioner of Education), the surrogate parent's concerns for the education of the student must be considered.

25. While including consideration of student needs that are of concern to the parent is good practice, incorporating that consideration explicitly into the IEP may create dilemmas for districts. Would a district need to transcribe the parent's wishes and then document why the wishes could not be fulfilled? Would a district have to include each particular concern raised by the parent?

Consideration of the concerns of the parents is not just a good practice; it is a requirement of federal law, federal regulations and State regulations. The identification of the needs of the student must reflect consideration of the concerns of the parents for enhancing the education of their child. This does not mean that every concern expressed and/or recommendation that the parent offers must be included in the IEP form. While prior written notice does require the district to document actions refused and the reasons for the refusal, the needs of the student to be addressed by the IEP must include consideration of concerns of the parent for enhancing the education of the student. The recommendations to be included in the students' IEP reflect the consensus of the CSE or CPSE, in consideration of many factors, including the concerns raised by the student's parent(s).

26. What if a parent insisted that her child needed an IEP goal of demonstrating mastery at, for example, riding a bicycle, using school-based physical therapy (PT) and adapted physical education (APE) as the means of achieving that goal? It may be appropriate that APE and/or PT address some related skill development essential to progress in the general education curriculum and daily living skills, but it is questionable whether learning to ride a bicycle is a required component of a FAPE that a district must provide. How would a district include in the IEP consideration of such a parental concern without assuming responsibility and liability for actually teaching the student to ride a bicycle (and for actually providing the bicycle, for that matter)?

In this case, the Committee should consider (i.e., discuss and document) the parent's concerns, which may be related to motor development, balance, and/or development of age-appropriate leisure activities. The IEP must include the needs of the student in consideration of the concerns of the parent. If the Committee reaches a consensus that using the methodology of teaching the student to ride a bicycle is not a need recommended for safety or other reasons, this should be explained to the parent in prior written notice, but would not need to be included in the IEP.

27. Should information in the management needs section of the IEP be specific or generic? Examples in the new guidance document tend to be general and

based around skill development. Districts tend to provide specific information (such as Joey needs timers or Sophie needs verbal prompts). Which is correct or are both acceptable? There is some confusion as to what information goes under *Management Needs* and what information belongs in *Recommended Special Education Programs and Services*.

Each Committee must decide on a case-by-case basis the level of specificity needed to identify a student's management needs. To document management needs, the Committee must determine the nature of and degree to which environmental modifications and human or material resources are required to enable to student to benefit from instruction in consideration of the student's present levels of performance in the areas of academic achievement, functional performance and learning characteristics; social development and physical development. At this point in the IEP development process, the Committee is identifying needs, (e.g., limited audio/visual distractions, scheduled rest periods, consistency in routine, assistive technology to assist communication, assistance with transitions), not specific recommendations to address those needs.

In the section of the IEP *Recommended Special Education Programs and/or Services*, the IEP must identify the specific recommendations to address the management needs of the student, as identified under *Present Levels of Performance*. Examples include, but are not limited to, preferential seating in regular class recommended for a student who needs limited audio/visual distractions; text-to-speech and speech-to-text software for a student who needs assistive technology to assist in communication skills.

STUDENT NEEDS RELATED TO SPECIAL FACTORS

28. Under *Student Needs Relating to Special Factors,* after the check-box for *Assistive Technology Device or Service,* there's also a check-box for whether the CSE recommended use of the device in the home. What are the criteria for determining whether an assistive technology device is necessary for home use in order to provide a free appropriate public education to the student?

The need for assistive technology is determined on a case-by-case basis, taking into consideration the unique needs of the individual student. If the CPSE or CSE determines that a particular assistive technology item is required for home use in order for a particular child to be provided FAPE, the technology must be provided to implement the IEP. In making a recommendation as to whether a student needs the use of the assistive technology device at home, the CPSE or CSE should consider such factors as whether the student needs the assistive technology device at home to prepare homework assignments or to engage in functional skills at home or in other environments related to his/her instructional program. For additional information and resources for assistive technology, see http://www.cqcapd.state.ny.us/advocacy/assisttechtraid/asst-tech-traid.htm

29. In the *Student Needs Relating to Special Factors* section of the form, if the answer to the question, "Does the student need a particular device or service to address his/her needs?" is "No", what are the valid responses to the subsequent question, "In the case of a student who is deaf or hard of hearing, does the student need a particular device . . . -"No", or "Not Applicable ?"

It depends. If the student is deaf or hard of hearing, but does not need a particular service or service in consideration of the student's language and communication needs, etc., then the form would indicate "no." If the student was not deaf or hard of hearing, then the form would indicate "not applicable."

If the answer to the first question for a student is "No", can the response to the second question ever be "Yes"?

No.

30. What might be some special education services to address the language needs of a child who is limited English proficient (LEP)or English language learner (ELL)?

For all LEP/ELL students with disabilities the Committee must consider how the student's language needs relate to the IEP. Schools must provide a student with LEP with alternative language services to enable him/her to acquire proficiency in English and to provide him/her with meaningful access to the content of the educational curriculum that is available to all students, including special education and related services. The Committee should consider the following questions:

- Has the student been assessed in English as well as his/her native language?
- Did the evaluation of the student with LEP measure the extent to which the student has a disability and needs special education rather than measure the student's English language skills?
- Does the disability impact on the student's involvement and progress in the bilingual education or English as a second language (ESL) program of the general curriculum?
- What language will be used for this student's instruction?
- What language or mode of communication will be used to address parents or family members of the student?
- What accommodations are necessary for instruction and testing?
- What other language services (i.e., ESL, bilingual education) must be provided to ensure meaningful access to general and special education and related services?

Examples of special education services needed to address the student's needs might include, but are not limited to, interpreters, bilingual speech and language therapy, bilingual counseling and bilingual special class.

31. Can a school district attach a behavioral intervention plan (BIP) to a student's IEP?

Yes. A school district may provide a copy of the student's BIP with the IEP. However, the BIP is not a required component of a student's IEP.

32. Must a student's BIP be part of the IEP?

No. There is no requirement to include a student's BIP as part of that student's IEP. However, regulations require that a student's need for a BIP be documented in the student's IEP.

33. What is expected to be entered in the text box following indication that the student needs a BIP?

If a Committee determines that a student needs a BIP, the IEP must indicate that need. In addition, other information related to a BIP is required to be included in a student's IEP, if applicable to the individual student.

- If a student's BIP will include the use of a time out room for a student, the IEP must include this recommendation as well as a recommendation as to the maximum amount of time the student will need to be in a time out room as a behavioral consequence as determined on an individual basis in consideration of the student's age and individual needs.
- In addition, if applicable, other information relating to a student's BIP as required by section 200.22(e)(9) of the Regulations of the Commissioner of Education must be identified in an IEP.

The Committee could, but is not required, to include other information related to the BIP as it deems appropriate (e.g., identify behaviors to be addressed by the BIP).

34. For students with severe needs, where do items such as harnesses and helmets belong on the new IEP forms?

If a student needs an intervention that is medically necessary for the treatment or protection of the student (such as a soft helmet for a student with a seizure disorder), these needs could be appropriately identified under the Present Levels of Performance section of the IEP. Devices needed to address special transportation needs of the student would be documented under the 'Special Transportation' section of the IEP. However, a Committee may not recommend and a school may not use movement limitation, including helmets and harnesses, to address student behavior[1]. See http://www.p12.nysed.gov/specialed/publications/policy/BIattach-909.htm.

35. Should use of a time out room be documented in a student's IEP?

[1] As of the date of this publication, there is an exception to this prohibition only for 18 specific named students attending one out-of-State residential school pursuant to section 200.22(e) of the Regulations of the Commissioner of Education. This exception does not apply to any other NYS students attending public or private schools.

Yes. Section 200.22(c)(2) of the Regulations of the Commissioner of Education requires that a student's IEP specify when a BIP includes a recommendation for the use of a time out room for a student with a disability.

36. In the section *Consideration of Special Factors* there is a text box to add clarification in the area of behavior. There are no text boxes or extra space for clarification for the other factors. For example, if a student needs assistive technology, you check yes but there is no way to comment on what that device may be.

The specific recommended special education program or service is not identified in the *Consideration of Special Factors* chart; only that the student needs a device or service in order to receive FAPE. If the student needs an assistive technology device, the specific device and/or services would be documented under the section *Assistive Technology Devices and/or Services*. The additional text box related to behavior considerations has been added to document specific needs of the student to be addressed by the BIP (e.g., use of a time out room).

MEASURABLE POST-SECONDARY GOALS AND TRANSITION NEEDS

37. How can the Committee assist the student to increase self-awareness and identify obtainable measurable post-secondary goals?

In NYS, the assessment process relating to transition goals and services begins with the Level 1 career assessment at age 12. This assessment is used to determine vocational skills, aptitudes and interests.

Beginning with the first IEP to be in effect when the student turns age 15, the Committee must consider age-appropriate transition assessments and the student's strengths, preferences and interests to identify the student's measurable post-secondary goals. The Committee can assist the student with identifying strengths, needs, interests, and preferences and consider these when exploring career areas and courses of study. The school should provide the student with meaningful opportunities to explore his/her career interest areas, such as job shadowing or school-to-work experiences.

In addition, each student, including each student with a disability as appropriate, must have an annual guidance review where post-secondary goals can be discussed with the student. The Career Plan is another process available to NYS students to increase self-awareness and guide the student to identify obtainable post-secondary goals (http://www.p12.nysed.gov/cte/careerplan/).

The school may also consider utilizing a person-centered planning approach. Person-centered planning is a problem-solving process designed to assist individuals

in planning for their future. For more information about person-centered planning, see http://www.pacer.org/tatra/resources/personal.asp.

For technical assistance on transition planning, contact the transition specialists with the Regional Special Education Technical Assistance Support Centers (RSE-TASC) found at http://www.p12.nysed.gov/specialed/techassist/rsetasc/memo909.htm.

38. Other than the State Performance Plan (SPP) Indicator 14, is there a NYSED expectation/plan for districts to regularly measure the achievement of these measurable post-secondary goals?

No.

39. When would measurable post-secondary goals related to independent living skills <u>not</u> be appropriate?

Many students with disabilities have the skills, knowledge and supports necessary to live independently as adults. If the Committee determines that there is not a need in this area, then the IEP does not need to include a post-secondary goal for independent living. In making this determination, the Committee should consider the student's level of independent skills in such areas as shopping, managing a budget, renting an apartment, driving or taking public transportation, engaging in community-based recreational activities, etc.

40. How are a student's employment aspirations documented in his/her IEP?

A student's employment aspirations would be documented in an IEP under the heading of measurable post-secondary goals.

41. Should a student's transition assessment be documented in an IEP?

Yes. The present levels of performance of the student should include information based on results from age-appropriate transition assessments.

42. Does there need to be a statement regarding transition needs in EACH section of the *Present Levels of Performance*?

No.

43. How do we distinguish between instruction and course of study?

According to federal guidance from November 16, 2006, "Instruction is a component of a transition program that 'the student needs to receive in specific areas to complete needed courses, succeed in the general curriculum and gain needed skills' (Storms, O'Leary, & Williams, 2000, Transition Requirements: A Guide for States, Districts, Schools, Universities and Families. University of Oregon, Western Regional

Resource Center, p.28). Courses of study are 'a multi-year description of coursework (necessary) to achieve the student's desired post-school goals'" (Storms, O'Leary, & Williams, 2000, Transition Requirements, p.8). For example, courses of study could include a specific CTE sequence leading to an industry credential. You can find this guidance at the NSTTAC website, in the SPP 13 Checklist FAQ document. See question 16 at http://www.nsttac.org/pdf/i13checklistqa.pdf.

MEASURABLE ANNUAL GOALS

44. Does a district have to include annual goals specifically for a related service? (Revised 3/11)

The Committee must make a recommendation as to the student's annual goals to address his or her needs as identified under present levels of performance. Once these goals have been identified, then the Committee must discuss and recommend special education program and services, including related services, to be provided for the student to advance appropriately toward attaining the annual goal(s).

45. Who is responsible for developing goals for a preschool child with a disability, the district, provider, or the evaluator?

The CPSE must develop an IEP which includes measurable annual goals and short-term instructional objectives and benchmarks.

46. Can a teacher/provider choose to include objectives or benchmarks in the IEP of a student who is not eligible for NYSAA or a preschool student with a disability?

If a school district chooses to include short-term instructional objectives and benchmarks in the IEPs of other students, it should do so based on an established district policy that uses consistently-applied criteria for determining which students will have short-term instructional objectives and benchmarks included in their IEPs. Such a decision should not be left to individual teachers/providers.

47. Who is responsible for implementing and monitoring progress on each goal?

Each individual teacher/provider responsible for providing instruction to assist the student to meet the goal should have responsibility for progress monitoring of that goal. Where there is a question as to who has responsibility for monitoring the student's progress toward the annual goal, it should be discussed with the Committee Chairperson to ensure that the appropriate provider(s) have a clear understanding of their responsibility in that area.

48. What happens if monitoring of progress toward goals shows that the student is not making the expected/desired progress?

If a student is not making sufficient progress to achieve his/her annual goals, the Committee must review the goals and services and, as appropriate, revise the IEP to ensure that the student is being provided with the appropriate supports and services to achieve meaningful and appropriate goals.

49. Is the schedule when you review the data collected by method or procedure or when you implement the procedure?

Evaluation schedules state the date or intervals of time when the evaluation procedures will be used to measure the student's progress toward the annual goal.

50. Do benchmarks and objectives need to have criteria/method and schedule or are these components only needed for the Annual Goal?

While each measurable annual goal must include the evaluative criteria, evaluation procedures and schedules to be used to measure progress toward meeting the annual goal, short-term instructional objectives and/or benchmarks are not required to include these components.

REPORTING PROGRESS TO PARENTS

51. Where does the IEP document a student's progress, or lack of progress, toward reaching his or her annual goals?

The IEP must document when periodic reports on the progress the student is making toward the annual goals will be provided to the student's parent; however, there is no regulatory requirement for the IEP to serve as that progress report to the parent nor was it designed for this purpose. For purposes of reporting progress to the parent, however, the district could copy the annual goal section of the IEP and add a template to report progress. When the IEP is reviewed at least annually, the present levels of performance and/or evaluation results should reflect the progress made during the previous year.

52. Regarding the criteria for goals: how is the "extent of performance" different than the "criteria that the goal has been achieved?"

It is unclear from this question where the term "extent of performance" came from. Evaluative criteria are the measures used to determine if annual goals have been achieved. In reporting progress to the parents, the report should identify the extent to which the goal has been achieved in measurable terms. For example, if the annual goal is that a student independently write three-sentence paragraphs using correct sequencing of sentences, the report to the parent in March on the extent to which the student is progressing toward this goal might indicate that the student is writing two-sentence paragraphs when using a graphic organizer.

RECOMMENDED SPECIAL EDUCATION PROGRAMS AND SERVICES

53. Page 13 in Attachment 3: General Directions to Use the State's Model IEP, Recommended Special Education Programs and Services section, provides examples of how integrated co-teaching, CT services and resource room program could be listed. Does the example provided meet the State's regulations for minimum level of service requirement for resource room and consultant teacher?

The example included a typographical error and has since been corrected.

54. Why is it that "teacher of the visually impaired" and "teacher of the deaf" are not included in the drop-down option list of related services?

Teachers of the visually impaired and teachers of the deaf are individuals who provide specific services. There is no regulatory requirement that an IEP identify the qualifications of the individual providing services to a student.

55. Where can additional information be found about special education services and programs included within the continuum?

The following is a link to the April 2008 Policy Memorandum entitled Continuum of Special Education Services for School-Age Students with Disabilities: http://www.p12.nysed.gov/specialed/publications/policy/schoolagecontinuum.html.

For information on the preschool continuum of services, see http://www.p12.nysed.gov/specialed/publications/preschool/guide/.

56. In the *Recommended Special Education Programs and Services* section of the State IEP form, could "Music Therapy" be an option to write in the text box that follows the list of drop-down related service options?

Yes, if recommended by the Committee.

57. Do speech and language services have to be a minimum of two 30-minute sessions per week during the Extended School Year Program?

No. The Regulations of the Commissioner of Education were amended, effective December 8, 2010, to repeal the requirement that such services be provided for a minimum of two 30-minute sessions each week. (revised March 2011)

58. In the *Recommended Special Education Programs and Services* section of the IEP, the State form allows documentation of other clarifying information relating to a recommended program or service under the column *Applicable Service Delivery Recommendations*. If the CSE determines the need to indicate a specific maximum group size for a related service, for example, is that where it could be documented?

Yes

59. The examples under supplementary aids and services/program modifications and accommodations are quite explicit. Where can additional information regarding these requirements be found?

See question #8 in the guidance document entitled "*Continuum of Special Education Services for School-Age Students with Disabilities*," released in April 2008, http://www.p12.nysed.gov/specialed/publications/policy/schoolagecontinuum.html.

60. Where are one-to-one teacher aides and/or teaching assistants documented in a student's IEP?

A one-to-one teacher aide/teaching assistant would be documented in a student's IEP under the heading of *Supplementary Aids and Services*.

61. Where do "consults" go in the IEP?

It is unclear what is meant by the term "consults." Services such as "consultation with the school counselor on behavioral issues" would be documented in the *Supports for School Personnel on Behalf of the Student* section of the IEP. Such consultations are not a related service. CT services would be documented in the programs and services section of the IEP.

62. The chairperson in my district documents an "access aide" in the IEP to assist kids with specific parts of their day. Is this a term that can be used? Shouldn't frequency and duration be identified in the IEP?

The term "access aide" is not a term used in Part 200 of the Regulations of the Commissioner of Education. To provide clarity on the Committee's recommendation, the IEP should indicate that a teacher aide is recommended, and the frequency, duration and location for such service must also be indicated. This recommendation would be included in the IEP as a Supplementary Aid/Service.

63. How are frequency and duration for some program modifications such as extra set of books, no penalty for spelling, visual schedule, etc., documented in an IEP?

Use of a particular program modification on a regular basis may be documented in a student's IEP as a daily frequency (e.g., daily or daily for a specified number of hours). Duration can, for example, be documented as a specified amount of time (e.g., 20 minutes), for specific assignments (e.g., writing assignments, new lessons, or new units) or for specific subjects.

64. What is meant by "location" of services which must be documented in the IEP? Does it mean the same as "placement?"

"Location" of services is not the same as "placement". The student's placement is the educational setting in which the student's IEP will be implemented (e.g., public school, neighboring school, BOCES, approved private day school, approved private residential school). "Location" in the context of a student's IEP generally refers to the type of environment that is the appropriate place where a particular service, program modification or accommodation would be provided (e.g., Placement: Public High School. Location of Services: CT services will be provided in the general education math class; individual speech and language therapy will be provided in a separate therapy room).

65. What does the least restrictive environment (LRE) mean and how does it relate to the continuum of service options?

LRE refers to the extent special education services are provided to a student in a setting with the student's non-disabled peers and as close to the student's home as possible. The continuum of services identifies different service delivery models to provide specially designed instruction to a student with a disability. Some of the services such as consultant teacher and integrated co-teaching services are directly designed to support the student in his/her general education class. Others may or may not be provided in settings with non-disabled peers, depending on the needs of the student. This is why the documentation of "location" in the IEP is important. The continuum of placement options is also directly related to LRE placement decisions.

66. Where does a recommendation for transitional support services fall within the continuum? Is it considered its own service pursuant to section 200.6(c) of the Regulations of the Commissioner of Education? Procedurally, it does not appear as a drop down on the choices for special education program services in the new IEP form. Some districts currently list it as such – are they mistaken? Are there guidelines for what is meant by "temporary" or use of this service?

Since transitional support services means temporary services provided to a general or special education teacher to aid in the provision of appropriate services to a student with a disability transferring to a regular program or to a program or service in a less restrictive environment, such services would be documented in a student's IEP under the heading of Supports for School Personnel on Behalf of the Student. The Committee's recommendation for transitional support services would include the frequency, duration, location, beginning service date and, at the discretion of the Committee, end service date.

67. What is meant by "supports for school personnel on behalf of the student?"

The IEP must describe the supports for school personnel that will be provided on behalf of the student in order for the student to advance toward attaining the annual goals, to be involved in and progress in the general curriculum and to participate in extracurricular and other nonacademic activities. Supports for school personnel are those that would help them to more effectively work with the student. These could include, for example, special training for a student's teacher to meet a unique and specific need of the student. These supports for school personnel are those that are needed to meet the unique and specific needs of the student.

Examples of supports that may be provided for school personnel include:

- information on a specific disability and implications for instruction;
- training in use of specific positive behavioral interventions;
- training in the use of American Sign Language;
- assistance with curriculum modifications;
- behavioral consultation with school psychologist, social worker or other behavioral consultant; and/or
- transitional support services.

68. How must consultant teacher (CT) services be identified in a student's IEP? When a student is recommended to receive CT Services and the same individual is providing the service for multiple subjects, how should that be displayed in the IEP? Do you have to put "indirect" and "direct" in the IEP for CT services?

CT services would be identified in the IEP as a special education program/service. If the student's IEP indicates CT services, the IEP *must* specify the general education class(es) (including career and technical education classes, as appropriate) where the student will receive the services.

- If CT services are to be provided to an elementary student, the IEP should indicate the subject areas of instruction when the CT would be providing services to the student (e.g., during reading groups; during math instruction).
- If CT services are to be provided to a middle or secondary student, the IEP must specify the class subject(s) where CT will be provided (e.g., English, math, science, art, music).
- If indirect CT services are to be provided, the IEP must indicate the regular (or general) education class being taught by the teacher receiving the consultation.
- If the student is recommended to receive CT services for multiple subjects, they should be listed separately so that the recommendation for frequency and duration and location for the various subjects is clear. The chart below illustrates how such services could be documented on the State's model IEP form.

The IEP should specify the type of CT services the student will receive (i.e., direct and/or indirect) so that it is clear to parents and educators the extent to which such services will be provided. A recommendation for direct or indirect consultant teacher services could be documented either directly after the recommended service (e.g.,

Consultant Teacher – indirect) or in the section of the State IEP form *Service Delivery Recommendations.*

The location of consultant teacher services, either direct/and or indirect, must specify the general education class(es) for which CT services will be provided. For indirect consultant teacher services, this does not mean that the indirect CT will be provided in the subject area classrooms, but rather to those teachers.

RECOMMENDED SPECIAL EDUCATION PROGRAMS AND SERVICES					
SPECIAL EDUCATION PROGRAM/SERVICES	**SERVICE DELIVERY RECOMMENDATIONS**	**FREQUENCY** HOW OFTEN PROVIDED	**DURATION** LENGTH OF SESSION	**LOCATION** WHERE SERVICE WILL BE PROVIDED	**PROJECTED BEGINNING/ SERVICE DATE(S)**
SPECIAL EDUCATION PROGRAM:					
Consultant Teacher Services	Direct and Indirect	2 days/week	40 minutes	Math class	9/7/10
Consultant Teacher Services	Direct and Indirect	2 days/week	40 minutes	English class	9/7/10

The effective implementation of CT services requires general and special education teachers to work cooperatively to address the needs of students with disabilities. Section 200.4(e)(5) of the Regulations of the Commissioner of Education requires that, following the development of an IEP in which CT services are recommended, the general education teachers of the student for whom the service will be provided must be given the opportunity to participate in the instructional planning process with the CT to discuss the objectives and to determine the methods and schedules for such services. Therefore, there is no requirement that the IEP specify separately the frequency and duration of direct versus indirect consultant teacher services.

69. Does the minimum number of hours for CT services include both direct and indirect services?

Yes. The minimum number of hours for CT services, two hours per week, applies to direct and indirect services, in any combination.

70. May school districts continue to use other terms to identify integrated co-teaching services in a student's IEP?

No. It is required that all districts use the term “integrated co-teaching”, consistent with the regulatory requirements, so that the level of services to be provided to a student is clear and consistent among school districts. To clarify for parents that a previously recommended service means the same as integrated co-teaching, terms such as collaborative team teaching (CTT), blended class or inclusion class may also be indicated in the IEP. For example:

RECOMMENDED SPECIAL EDUCATION PROGRAMS AND SERVICES					
SPECIAL EDUCATION PROGRAM /SERVICES	SERVICE DELIVERY RECOMMENDATIONS*	FREQUENCY How often provided	DURATION Length of session	LOCATION Where service will be provided	PROJECTED BEGINNING / SERVICE DATE(S)
SPECIAL EDUCATION PROGRAM:					
Integrated Co-Teaching Services (Collaborative Team Teaching)		5 days a week	40 minute class periods	English class	

71. What specific information must be in the IEP to specify the class size?

Class size means the maximum number of students who can receive instruction together in a special class or resource room program and the number of teachers and supplementary school personnel (i.e., teaching assistants and/or teacher aides) assigned to the class. For example, the IEP could specify: 12 students to one special education teacher and one teaching assistant (12:1+1).

72. What types of services are included in the definition of related services?

Related services means developmental, corrective, and other supportive services as are required to assist a student with a disability and includes speech-language pathology, audiology services, interpreting services, psychological services, PT, OT, counseling services, including rehabilitation counseling services, orientation and mobility services, evaluative and diagnostic medical services to determine if the student has a medically related disability, parent counseling and training, school health services, school nurse services, school social work, assistive technology services, appropriate access to recreation, including therapeutic recreation, other appropriate developmental or corrective support services, and other appropriate support services and includes the early identification and assessment of disabling conditions in students. This list is not exhaustive and may include other developmental, corrective or supportive services if they are required to assist a student with a disability to benefit from special education in order for the student to receive FAPE.

73. Regarding parent training and education – what is it and where does it go in the IEP? Can parent training and education be as simple as a list of resources? Is it a related service? How would frequency, duration and location be indicated for the services?

Parent counseling and training is a related service and, if recommended for a student, should be listed in the IEP under the IEP form section *Related Services*. Parent counseling and training means assisting parents in understanding the special needs of their child; providing parents with information about child development; and helping parents to acquire the necessary skills that will allow them to support the implementation of their child's IEP. Examples include, but are not limited to:

- providing parents with information about cognitive and speech and language development;

- counseling the parents about how to respond at home to a student's behavior in a manner consistent with the in-school behavior management program;
- training parents to use the same mode of communication (e.g., sign language) the child would be using at school; and
- training on how to operate assistive technology devices at home.

The State's model IEP form provides a list of drop-down options for related service recommendations. Related service recommendations, including parent counseling and training, require the identification of the frequency, duration, location and projected beginning date (end dates are optional). The chart below illustrates how such service would be documented using the State's model IEP form.

RECOMMENDED SPECIAL EDUCATION PROGRAMS AND SERVICES					
SPECIAL EDUCATION PROGRAM/SERVICES	**SERVICE DELIVERY RECOMMENDATIONS**	**FREQUENCY** HOW OFTEN PROVIDED	**DURATION** LENGTH OF SESSION	**LOCATION** WHERE SERVICE WILL BE PROVIDED	**PROJECTED BEGINNING/ SERVICE DATE(S)**
RELATED SERVICES Parent Counseling and Training	Group instruction on sign language and use of communication boards	One day/ week for five weeks	60 minutes	School Library	10/5/10 – 11/2/10

74. Where should student-owned physical or medical equipment be listed in the IEP (such as an augmentative communication device or a wheelchair)?

If a student needs a particular assistive technology device in order for the student to receive FAPE, this recommendation should be included on the State's IEP form under *Assistive Technology Devices and/or Services*. If the district wishes to document when assistive technology devices are student-owned, it may do so under *Applicable Service Delivery Recommendations*.

75. What is a district's responsibility in the case of a student losing an assistive technology device (with multiple programs on it) between home and school (it had been determined that the student needed the device both at home and school and the district purchased only one device)?

The school district is responsible to ensure a student's IEP is implemented. If a student's IEP requires that an assistive technology device is needed at home or in other settings in order for the student to receive FAPE, the district must replace the lost device.

76. If specialized reading instruction is required and is provided by a certified reading teacher, what service or program should be listed in the IEP (is it resource room, a supplemental service)?

For a student with a disability recommended for specialized reading instruction to be provided outside of the general education class, this service could be recommended in the IEP of the student as special class, related service or resource room program. Specially-designed instruction provided to an individual student with a disability or to a group of students with disabilities by a certified special education teacher in the student's general education classroom to aid the student(s) to benefit from the general education class instruction could be recommended in the IEP of the student as direct consultant teacher services. Where the Committee recommends the focus of this service be to provide specialized reading instruction, this could be indicated in the IEP under *Applicable Service Delivery Recommendations*. For additional information on specially designed reading instruction, see http://www.p12.nysed.gov/specialed/publications/policy/readguideline.html.

77. Can the drop-down menu for assistive technology be more comprehensive as in the manual? Or, should we put this additional information in the text box?

The State IEP form does not provide drop-down options for assistive technology devices and/or services recommendations. However, the district may populate this box with a drop-down menu as long as the menu does not preclude additional options and is consistent with State policy.

12-MONTH SERVICES

78. An IEP developed for July and August may differ from the IEP developed for the school year program. Most often services in July and August focus on annual goals from the previous school year, but there are times when a new annual goal needs to be written related for the area of concern or regression but is not articulated in the previous annual goal. Where and how would they be written? Can we have goals for just for July and August?

If the Committee determines that a student needs a new annual goal to be addressed during July and August, then the Committee must revise the student's IEP accordingly. Annual goals should be documented in the IEP under the section *Measurable Annual Goals*. If the Committee has selected specific goals to be addressed during the July/August program, then the section of the IEP for *12-Month Service and/or Program* could add clarification as to the goals to be addressed through the recommended services.

12-MONTH SERVICE AND /OR PROGRAM – Student is eligible to receive special education services and/or program during July/August: ☐ No ☒ Yes

If yes:

☐ Student will receive the same special education program/services as recommended above.

OR

☒ Student will receive the following special education program/services:

SPECIAL EDUCATION PROGRAM /SERVICES	SERVICE DELIVERY RECOMMENDATIONS	FREQUENCY	DURATION	LOCATION	PROJECTED BEGINNING/ SERVICE DATE(S)
Speech and Language Therapy	To address annual goals relating to expressive language and social communication	2 times/week	30 minutes	Special class	July 3 - August 13

Name of school/agency provider of services during July and August: XYZ BOCES

For a preschool student, reason(s) the child requires services during July and August:

79. Must the IEP indicate the projected beginning service date for extended school year (ESY) services when those services remain exactly the same as for the 10 month program?

No. For a student recommended for the same special education program and/or service during July and August as the rest of the year, the beginning service date would already be documented on the *Recommended Special Education Programs and Services* chart that precedes the *12-month Service and/or Program* chart.

80. Under 12 month services/programs: "For preschool student, reason(s) the child requires services during July and August." What about school-age students? Why does the form ask for preschool students to state the reason for 12-month services?

Section 4410(5)(h) of Education Law and section 200.16(e)(4) of the Regulations of the Commissioner of Education require the IEP of a preschool student to include in its recommendation for services during the months of July and August a statement of the reasons for such recommendation. There is no comparable State law and/or regulation relating to recommendations for July/August services for a school-age student. However, the reasons for the recommendation for July/August services would need to be provided to the parent in prior written notice.

81. For parentally-placed students who qualify for ESY, there is a need for an individualized education services program (IESP) for the school year and an IEP for the ESY programming. Do we continue to do a 10-month IESP and a 6-week IEP for parentally-placed private school students? Is this still the case?

Yes.

82. Is there a difference in 12-month programming vs. ESY?

Twelve-month special service and/or program means a special education service and/or program provided on a year-round basis for students determined to be eligible in accordance with sections 200.6(k)(1) and 200.16(i)(3)(v) of the Regulations of the

Commissioner of Education whose disabilities require a structured learning environment of up to 12 months duration to prevent substantial regression. A special service and/or program must operate for at least 30 school days during the months of July and August, inclusive of legal holidays, except that a program consisting solely of related service(s) must be provided with the frequency and duration specified in the student's IEP.

The terms 'twelve-month special service and/or program' and 'extended school year (ESY)' have the same meaning.

83. When a student is in Special Class for a particular subject, how is that indicated in the IEP? For example, if the student has Special Class for Math and another Special Class for English, how would that be displayed in the IEP?

For a student who is recommended for special class for a portion of the school day and only for specific subjects, the IEP should list them separately. The chart below demonstrates how such recommendations would appear on the State's model IEP form.

RECOMMENDED SPECIAL EDUCATION PROGRAMS AND SERVICES					
SPECIAL EDUCATION PROGRAM/SERVICES	**SERVICE DELIVERY RECOMMENDATIONS**	**FREQUENCY** HOW OFTEN PROVIDED	**DURATION** LENGTH OF SESSION	**LOCATION** WHERE SERVICE WILL BE PROVIDED	**PROJECTED BEGINNING/ SERVICE DATE(S)**
SPECIAL EDUCATION PROGRAM:					
Special Class - Math	Class size: 12:1+1	5 days/week	40 minutes	Separate class	9/7/10
Special Class - English	Class Size: 12:1+1	5 days/week	40 minutes	Separate class	9/7/10

TESTING ACCOMMODATIONS

84. In the NYSED Test Accommodations manual it refers to "flexible setting." Can the IEP state "flexible setting" with some criteria, for instance, flexible setting to provide access to minimal noise, or for administration in a small group? The issue is "separate setting" means "a separate room apart from the standard setting being used to administer the test," and people don't want to exclude the student from taking the test in a classroom if it can meet the needs for a setting modification.

The State's IEP form includes drop-down options on how testing accommodations should be indicated in the IEP. Testing accommodations must be clearly stated to ensure a consistent understanding by the CSE or CPSE, school principal, teacher(s), supplementary school personnel, student and the student's parents. Flexible setting

is a category of testing accommodations that includes both changes in the conditions of the setting, such as special lighting or adaptive furniture; or changes in the location itself, accomplished by moving the student to a separate room. Types of setting accommodations include the following:

- Separate location/room – administer test individually
- Separate location/room – administer test in small group (3-5 students)
- Provide adaptive or special equipment/furniture (specify type, e.g., study carrel)
- Special lighting (specify type, e.g., 75-watt incandescent light on desk)
- Special acoustics (specify manner, e.g., minimal extraneous noises)
- Location with minimal distraction (specify type, e.g., minimal visual distraction)
- Preferential seating

Following is an example of how a recommendation for a flexible setting should be indicated in the IEP.

TESTING ACCOMMODATIONS (TO BE COMPLETED FOR PRESCHOOL CHILDREN ONLY IF THERE IS AN ASSESSMENT PROGRAM FOR NONDISABLED PRESCHOOL CHILDREN): INDIVIDUAL TESTING ACCOMMODATIONS, SPECIFIC TO THE STUDENT'S DISABILITY AND NEEDS, TO BE USED CONSISTENTLY BY THE STUDENT IN THE RECOMMENDED EDUCATIONAL PROGRAM AND IN THE ADMINISTRATION OF DISTRICT-WIDE ASSESSMENTS OF STUDENT ACHIEVEMENT AND, IN ACCORDANCE WITH DEPARTMENT POLICY, STATE ASSESSMENTS OF STUDENT ACHIEVEMENT		
TESTING ACCOMMODATION	**CONDITIONS***	**IMPLEMENTATION RECOMMENDATIONS****
☐ NONE		
Special Acoustics	All tests	Location with minimal extraneous noise
*Conditions – Test Characteristics: Describe the type, length, purpose of the test upon which the use of testing accommodations is conditioned, if applicable. **Implementation Recommendations: Identify the amount of extended time, type of setting, etc., specific to the testing accommodations, if applicable.		

For additional information on testing accommodations, see:
http://www.p12.nysed.gov/specialed/publications/policy/testaccess/policyguide.htm

85. Can a preschool student with a disability have test accommodations in his/her IEP?

Yes, if the preschool student with a disability would be participating in State or district-wide or classroom tests and the student was determined by the CPSE to need testing accommodations.

COORDINATED SET OF TRANSITION ACTIVITIES

86. The *Coordinated Set of Transition Activities* section seems misplaced, creating a potentially disjointed flow of topics. Can this section be moved to coincide with the post-secondary goals?

No. The IEP form has been developed to present Committee recommendations in the same sequence that the development of IEP recommendations should occur. The specific coordinated set of activities to be provided for the student to achieve his/her post-secondary goals are based on individual student's needs and post-secondary goals and, therefore, appear later in the IEP. After the Committee identifies the measurable post-secondary goals for the student, it must discuss what annual goals the student should achieve toward his/her post-secondary goals. Recommendations for special education programs and services must consider the services the student might need to reach those annual goals. The *Coordinated Set of Activities* documents these and other transition activities and makes it clear as to which agencies are responsible for providing these services.

87. The new *Guide to Quality IEP Development and Implementation* on page 51 (second paragraph from the bottom) regarding the *Coordinated Set of Activities* states "the IEP must include the service and the implementation date of the service if it is different than the implementation date of the IEP." So where would that go? There is no column to identify implementation dates for the above.

The implementation date of a recommended service to be provided by an agency may be documented in either the *Service/Activity* column or the *School District/Agency Responsible* column, following the name of the service/activity or district/agency. For example:

BEGINNING NOT LATER THAN THE FIRST IEP TO BE IN EFFECT WHEN THE STUDENT IS AGE 15 (AND AT A YOUNGER AGE, IF DETERMINED APPROPRIATE).		
COORDINATED SET OF TRANSITION ACTIVITIES		
NEEDED ACTIVITIES TO FACILITATE THE STUDENT'S MOVEMENT FROM SCHOOL TO POST-SCHOOL ACTIVITIES	SERVICE/ACTIVITY	SCHOOL DISTRICT/ AGENCY RESPONSIBLE
Instruction		
Related Services		
Community Experiences		
Development of Employment and Other Post-school Adult Living Objectives	Job coaching – October 2011	Abilities, Inc.
Acquisition of Daily Living Skills (if applicable)		
Functional Vocational Assessment (if applicable)		

88. If an agency is providing a service (like job coaching), where is this captured in the IEP and how should it be listed?

All recommended transition services and activities are documented under the heading *Coordinated Set of Transition Activities*. A service such as job coaching should be documented in the chart under the heading of *Service/Activity*. See example above.

PARTICIPATION WITH STUDENTS WITHOUT DISABILITIES

89. It appears that the rationale(s) for nonparticipation with students without disabilities is no longer required in the 'LRE' (*Participation with Students*

***without Disabilities*) section of the IEP, nor is it directly addressed in the *Effect of Student Needs on Involvement and Progress in the General Education Curriculum* section. Where, if at all, should that rationale(s) be denoted?**

Section 200.4(d)(2)(viii) of the Regulations of the Commissioner of Education requires a student's IEP to provide an explanation of the extent, if any, to which the student will not participate with nondisabled students in the regular class, or for preschool students, in appropriate activities with age-appropriate peers without disabilities. The Committee must document the extent to which a student's disability precludes his/her participation with students without disabilities by identifying the percent of the school day or by identifying particular activities that the student will not participate in with his/her nondisabled peers in the *Participation with Students Without Disabilities* section of the State IEP form. The IEP could, but is not required to, include a narrative explanation of the student-specific factors for recommendations to remove the student from the regular class (or for preschool students, appropriate activities with age-appropriate peers without disabilities). Options considered and reasons rejected relating to the provision of services and placement of the student in the least restrictive environment must be provided to the parent in prior written notice.

PLACEMENT RECOMMENDATION

90. What does placement recommendation mean?

Placement recommendation means the educational setting in which the student's IEP will be implemented. Placement should indicate the type of setting where the student will receive the special education programs and services (e.g., public school, BOCES, approved private school).

91. What if a student is a resident of and is receiving IEP services in his/her public school district and thus placement is the public school district, but he also goes to a Career and Technical Education (CTE) course at BOCES for culinary arts instruction as part of his Coordinated Set of Transition Activities. Would the public school district be his only "Placement" in the IEP and BOCES then be a location of service in the IEP under Coordinated Set of Transition Activities and not an additional placement?

Yes. The IEP would identify the student's placement as "Public School District". BOCES would be identified as the "school district/agency responsible" for the instruction, in the *Coordinated Set of Transition Activities* section of the IEP.

92. Where does home instruction get documented in an IEP?

A student with a disability who is home instructed ("home-schooled") pursuant to section 100.10 of the Regulations of the Commissioner of Education would have an IESP rather than an IEP. The IESP would indicate placement as "student is home-

schooled". For a student with a disability who is recommended for home instruction by the CSE, the IEP would indicate placement as "home instruction."

93. Does the name of the provider of service need to be in the IEP?

For students eligible for 12-month service and/or program, the IEP must indicate the identity of the provider of services during the months of July and August. Other than for 12-month services/programs, there is no regulatory requirement that an IEP include the name of the provider of service (e.g., a specific approved private school).

94. If a student is receiving Home Instruction, how should this information be recorded and reported in the Special Ed Programs section of the IEP?

Home and hospital instruction is a placement recommendation for a student with a disability. The special education programs and services the student will receive at home or in the hospital must be determined by the CSE in consideration of the student's unique needs and such recommendation would be indicated in the IEP under *Recommended Special Education Programs and Services*. For example:

RECOMMENDED SPECIAL EDUCATION PROGRAMS AND SERVICES					
SPECIAL EDUCATION PROGRAM/SERVICES	**SERVICE DELIVERY RECOMMENDATIONS**	**FREQUENCY** HOW OFTEN PROVIDED	**DURATION** LENGTH OF SESSION	**LOCATION** WHERE SERVICE WILL BE PROVIDED	**PROJECTED BEGINNING/ SERVICE DATE(S)**
SPECIAL EDUCATION PROGRAM: Special class	Individual home instruction	5 X week	2 hours / day	Student's home	9/7/10
RELATED SERVICES: Speech and Language Therapy	Individual	5 days/week	30 minutes per session	Student's home	9/7/10

Placement: Home Instruction

MISCELLANEOUS QUESTIONS

95. Can the school district bring a draft IEP to the Committee meeting? If a CPSE/CSE develops a draft IEP, must that draft IEP be sent home to the parent prior to the meeting, or can the CPSE/CSE wait and give it to the parents at the meeting?

With respect to draft IEPs, the United States Education Department opined "…we encourage public agency [school district] staff to come to an IEP Team [committee on special education (CSE)] meeting prepared to discuss evaluation findings and

preliminary recommendations. Likewise, parents have the right to bring questions, concerns, and preliminary recommendations to the IEP Team [CSE] meeting as part of a full discussion of the child's needs and the services to be provided to meet those needs. We do not encourage public agencies [school districts] to prepare a draft IEP prior to the IEP Team [CSE] meeting, particularly if doing so would inhibit a full discussion of the child's needs. However, if a public agency [school district] develops a draft IEP prior to the IEP Team [CSE] meeting, the agency [district] should make it clear to the parents at the outset of the meeting that the services proposed by the agency [district] are preliminary recommendations for review and discussion with the parents. The public agency [school district] also should provide the parents with a copy of its draft proposals, if the agency [district] has developed them, prior to the IEP Team [CSE] meeting so as to give the parents an opportunity to review the recommendations of the public agency [school district] prior to the IEP Team [CSE] meeting, and be better able to engage in a full discussion of the proposals for the IEP. It is not permissible for an agency [district] to have the final IEP completed before an IEP Team [CSE] meeting begins." (Analysis of Comments and Change, Federal Register / Vol. 71, No. 156 / Monday, August 14, 2006 / Rules and Regulations, page 46678).

96. Does an IEP developed in November of 2010 have to be on the new IEP form if the IEP will continue to be in effect through November of 2011? What if the IEP includes ESY services (12-month service and/or program) for the summer of 2011?

A district must ensure that all IEPs in effect for the 2011-12 school year, and thereafter, be on the State form. If an IEP is developed during the 2010-11 school year using an existing district IEP form, that form may be used for the remainder of the 2010-11 school year. However, IEPs in effect for the 2011-12 school year, which begins July 1, 2011, must be on the State form.

97. Can information from an IEP on a district's existing IEP form (not a State IEP form) be transferred onto the State's IEP form for use in the 2011-12 school year?

Yes.

98. If a district transfers information onto the State form, does the parent need to receive a copy of the IEP on the State form? If so, is this considered a newly developed or revised IEP?

If the school district is only transferring information documented in a prior IEP onto the State IEP form, this is not considered a newly developed or revised IEP and the parent would not need to receive a copy. However, to ensure the parent has the same information as school personnel, it is recommended that the parent receive a copy of the IEP on the new form.

99. What should a Committee do if when transferring information from a district IEP form onto the State's IEP form, it does not have documentation for all required sections?

The State's form includes information required by State law and regulation. Therefore, if in transferring information from a current IEP to the State form, the district does not have documentation for all required sections of the State IEP form, the Committee must meet to revise the student's IEP, using the new IEP form, to ensure a complete and appropriate IEP is in place for the student beginning with the 2011-12 school year.

100. If a district transfers information onto the State form, does the parent need to receive prior written notice for the use of the new form?

No. Prior written notice must be provided when a district proposes or refuses to initiate or change the identification, evaluation, educational placement of the student or the provision of a free appropriate public education to the student. Transferring information onto the State IEP form does not meet the requirements for prior written notice.

101. In developing an IESP for a student with a disability who is parentally placed in a nonpublic school or who is home schooled pursuant to section 100.10 of the Regulations of the Commissioner of Education, must the district of location use the State's required IEP form?

No. The State did not develop a model IESP form and does not have authority by State regulation to require that the IESP be on a form prescribed by the Commissioner. However, State law requires that an IESP be developed in the same manner and with the same contents as an IEP is developed. A school district that chooses to use the State's form for purposes of developing an IESP could modify it to indicate it is an IESP.