

BSPK's
Prior Written Notice
A Special Education Newsletter

Fall Checklist:
New Students, New Obligations

☐ **STUDENTS WITH SECTION 504 PLANS**

Although the law does not require 504 Plans to be reviewed annually, it is best practice to do so, and we suggest school districts conduct the review each fall. At this point in the school year, all students who have Section 504 Plans should be identified and assigned a Case Manager. The Case Manager should have distributed the previous school year's Section 504 Plans to all appropriate staff members. We recommend that within the first two months of the school year, the building principal notify the student's parents that the team needs to meet to review the Section 504 Plan and to determine whether it is still necessary or appropriate for the new school year. The team, including parents, is charged with deciding whether to continue the existing Plan, discontinue the current Plan, or develop a new Plan. If there is an "active" Section 504 Plan, a copy of the Plan should be placed in the student's cumulative record folder by October 15th of each school year. Updated copies of the student's Section 504 Plan should be distributed to all of the student's teachers after review by the Case Manager. The Section 504 Plan can be reviewed by the team at any time if concerns develop as to the appropriateness of the services and/or accommodations/modifications being provided to the student. This review can be initiated by staff or parents.

Any time the written results of a team meeting are provided to a student's parents, they should also be offered a copy of the Notice of Procedural Rights.

Districts should also ensure that all staff have a copy of each student's 504 Plan, and that relevant staff meet to review implementation of the Plan.

☐ **TRANSFER STUDENT WITH IEP**

With the new school year underway, students from other Ohio districts or from other states may have transferred into your school. Students with IEPs that transfer from other districts in the state or from other states must be provided a FAPE, including services "comparable" to those described in their previous IEP until such time as the school, in consultation with the parents, adopts the previous IEP or develops and implements a new IEP.

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Extended School Year Services ("ESY")
Data Collection Starts Now!

- ESY services must be provided only if the services are necessary to provide FAPE. The District must evaluate data regarding whether ESY is necessary to prevent significant regression and also determine whether the regression can be recouped in a timely manner during the school year
- A district should convene a child's IEP team by April 30 to consider eligibility for ESY services in order to allow sufficient time for the team to determine appropriate services, if required.
- A district cannot limit ESY services to a particular category of disability.
- A district cannot limit ESY services by type, amount, or duration.
- A district must consider ESY services as part of the IEP process for transitioning a child from Part C – early intervention to Part B – special education services.
- The district should use data from summer, winter, and spring breaks to determine if the student has a history of regression that is not adequately recouped.
- If the IEP team determines that ESY services are not necessary to provide FAPE and declines to provide ESY, the district must issue a PR-01 to parents explaining the decision.

For additional information, please sign up for our December 12, 2013 Special Education Webinar: ESY.

FERPA & THE IDEA

In most respects, IDEA parallels the confidentiality requirements of FERPA, but there are some differences. Like FERPA, the IDEA entitles parents to copies of records only when they are effectively prevented from conducting an in-person review (although copies of the IEP document and ETR must be provided to parents upon request and at no cost). FERPA and IDEA both require schools to provide parents with records without unnecessary delay and within a 45-day window, but the IDEA also requires schools to respond to a request before holding an IEP meeting, due process hearing, or resolution session. Under both FERPA and the IDEA, parents have the right to permit their representative to inspect and view educational records on their behalf.

IDEA requires districts to take specific action to safeguard the confidentiality of personally identifiable information (i.e., an appointed district official is responsible for ensuring the confidentiality of personally identifiable information at the collection, storage, disclosure, and destruction stages, and must receive training regarding FERPA and IDEA confidentiality requirements). FERPA does not allow parents to request that the district destroy their child's education records. Under IDEA, however, parents have the right to demand the school destroy the student's personally identifiable information when it is no longer needed to provide educational services to the child. Districts must inform parents when they no longer require the records and of the district's obligation to destroy the records at the parents' request.

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- For students transferring from another Ohio school district: if the district has concerns about the student's ETR, the IEP team should refer the child for additional evaluation. This would be considered a reevaluation. O.A.C. § 3301-51-07(K)(5).
- For student transferring from another state: if the district has concerns about the student's ETR and determines that a new evaluation is necessary, the evaluation is considered an initial evaluation and will require parental consent. O.A.C. § 3301-51-07(K)(6).

Also, the district shall take the steps necessary to promptly obtain from the other school district the student's records, including the IEP and supporting documents and any other records relating to the provision of special education and related services to the student.

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Upcoming Webinars & Events:

- 10.15.13: Ohio School Council Hotline Seminar
- 12.12.13: ESY Webinar