

The Minnesota Department of Education (MDE) Division of Compliance and Assistance developed this document to assist school districts in making determinations regarding who the individualized education program (IEP) team members will be and when the district must obtain written agreement or consent to excuse a team member from an IEP meeting. The purpose of this document is to provide helpful, general information to the public. It does not constitute legal advice nor is it a substitute for consulting with a licensed attorney. The information below should not be relied upon as a comprehensive or definitive response to your specific legal situation.

Question 1: Who are necessary members of an IEP meeting?

Answer: The required members of an IEP team include:

- a. Parents of the student.
- b. At least one regular education teacher of the student (if the student is, or may be, participating in regular education classes).
- c. At least one special education teacher of the student or, where appropriate, at least one special education services provider of the student.
- d. An administrative designee, also called a representative of the agency, who is qualified to provide or supervise the provision of specially designed instruction to meet the unique needs of students with disabilities, is knowledgeable about the general curriculum, and is knowledgeable about the availability of resources of the district.
- e. An individual who can interpret the instructional implications of evaluation results, who may also be a member of the team as described above.

Additionally, a teacher who is licensed the student's disability area must be part of the student's IEP team. That team member is responsible for conducting the student's evaluation and participating at team meetings when an IEP is developed, reviewed, or revised. Consultation and indirect services as defined in Minnesota Rules, 3525.0210 must be provided to the general or special education teacher providing instruction if not licensed in the disability. The frequency and amount of time for specific consultation and indirect services is determined by the IEP team.

IEP teams for students under the autism spectrum disorder (ASD) category **must** include one of the following types of teachers:

- Licensed ASD teacher, licensed at the age/grade level of the student.
- Licensed academic and behavior strategist (ABS) teacher for students in K-12, with a range of mild to moderate needs,
- Licensed early childhood special education (ECSE) teacher for children from birth through age six.

The IEP team may include additional professionals with experience and expertise in ASD, including, but not limited to:

- School psychologist.
- Speech and language pathologist.
- Occupational therapist.
- Other licensed special education teachers.
- Other related service personnel.

Authority: 34 C.F.R. § 300.321(a)(1)-(5), Minn. R. 3525.2810, subp. 1(B), Minn. R. 3525.2350, subp. 2, and Minn. R. 3525.1325, subp. 4; *See also*, Minn. R. 8710.5500, Minn. R. 8710.5050, and Minn. R. 8710.5850.

Question 2: Who else may attend an IEP meeting?

Answer: Additional members of an IEP team may include:

- a. At the discretion of the parent or the district, other individuals who have knowledge or special expertise regarding the student, including related services personnel, as appropriate.
- b. The student with a disability, whenever appropriate. The district must invite a student with a disability to attend the student's IEP team meeting if a purpose of the meeting will be the consideration of the postsecondary goals for the student and the transition services needed to assist the student in reaching those goals under 34 C.F.R § 300.320(b). If the student does not attend the IEP team meeting, the school district must take other steps to ensure that the student's preferences and interests are considered.
- c. To the extent appropriate, with the consent of the parents or a student who has reached the age of majority in implementing the transition requirements, the school district must invite a representative of any participating agency that is likely to be responsible for providing or paying for transition services. If a participating agency, other than the local school district, fails to provide the transition services described in the IEP the school district shall reconvene the IEP team to identify alternative strategies to meet the transition objectives for the student set out in that program.

Authority: 34 C.F.R. § 300.321(a)(6)-(7), 34 C.F.R. § 300.321(b)(1)-(3), Minn. R. 3525.2810, subp. 1(B) and Minn. R. 3525.2810, subp. 4.

Question 3: What happens if a required IEP team member, other than the parent, is unable to attend a scheduled IEP team meeting?

Answer: The parent of the student and the district can agree, in writing, that it is not necessary for the IEP team member to attend if the member's area of the curriculum or related services is not being modified or discussed in the meeting.

A necessary member of the IEP team may be excused from attending an IEP team meeting, in whole or in part, if the parent and the district consent in writing to the excusal and the necessary

member submits written input for the development of the student's IEP **prior** to the meeting. The written consent must be sufficient to ensure that the parent is fully informed of their right to have an IEP meeting with all members present.

Authority: 34 C.F.R. § 300.321(e) and 71 Fed. Reg. 46674.

Question 4: What happens if the IEP team notice includes a discretionary IEP team member who subsequently is unable to attend the IEP team meeting?

Answer: Because discretionary IEP members are not required members of the IEP team, the school district is not required to obtain written agreement or written consent from a parent when that member is unable to attend an IEP meeting.

Authority: 34 C.F.R. § 300.321(e) and 71 Fed. Reg. 46675.

Question 5: What process should a school district use to determine whether it should hold an IEP meeting without the presence of a necessary IEP team member?

Answer: Comments to the federal regulations encourage local education agencies (LEAs) to carefully consider, based on the individual needs of the student and the issues to be addressed at the IEP team meeting, whether it makes sense to offer to hold the IEP team meeting without a particular IEP team member in attendance or to reschedule the meeting so that a team member could attend and participate in the discussion. The comments specifically state that LEAs may not routinely or unilaterally excuse IEP team members from attending IEP team meetings without parental consent. A school district that routinely excuses IEP team members from attending IEP team meetings is not in compliance with the Individuals with Disabilities Education Act (IDEA) requirements and, therefore, is subject to the state's monitoring and enforcement provisions.

Authority: 34 C.F.R. § 300.321(e) and 71 Fed. Reg. 46674.