

IDEA & Gifted File Review Workshop Q & A

Question	Answer	Resources
<p>1. KIAS randomly selects a list of current KIDS ID numbers from the previous school year for the file review. The KIAS system allows a user to remove a student from the random sample, which is then replaced with another random KIDS ID. In what instance would it be appropriate to remove a student from the sample? For example, what if the student has moved out of district/State is that reason to request a new KIDS ID?</p>	<p>It is <u>not</u> appropriate to remove a student from the sample because he/she moved out of district or state. You can still answer the file review questions because they are based on last year's documentation. This student's file is still relevant to the LEA's overall policies and procedures and a District Corrective Action Plan is still warranted to correct any noncompliance.</p>	<p>Quick Start Guide for IDEA File Review https://www.ksde.org/Portals/0/ECSETS/KIAS/KIAS_QSG_Ind13_IDEA_Gifted.pdf</p>
<p>2. When a child is transitioning from Part C to Part B, what if the Part C provider does not hold a transition planning conference, and therefore the Part B provider has no opportunity to participate? (34 C.F.R. 300.124(c))</p> <p>[This question is in reference to self-assessment question 1.]</p>	<p>The law states that the Part C provider "will, in the case of a child who may be eligible for preschool services, with the approval of the family of the child, convene a conference among the lead agency [Part C provider], the family, and the local educational agency [Part B provider]...to discuss any such services that the child may receive..." (20 U.S.C. § 1437(a)(9)(A)(ii)(II)). "The local education agency [Part B provider] will participate in transition planning conferences arranged by the designated lead agency [Part C provider]..." (20 U.S.C. § 1412(a)(9); also see 34 C.F.R. 300.124(c)).</p> <p>This means that it is the responsibility of the Part C provider to invite the Part B provider to participate in a transition conference. The Part C provider will only convene a transition conference if the family approves. If the Part B provider is invited to participate in a transition conference, the Part B provider must participate. If the Part B provider is not invited by the Part C provider to participate in a transition conference, the answer to this self-assessment question would be "N/A".</p>	
<p>3. Where do I find parent rights/procedural safeguards and notice documents in the parent's native language? (K.S.A. 72-3430(b)(3),(e); K.A.R. 91-40-26(b),(d); 34 C.F.R. 300.503(c), 300.504(d))</p> <p>[This question is in reference to self-assessment questions 2. and 3.]</p>	<p>KSDE has notice and parent's rights documents in Spanish on the website and is working on adding more languages in the future. If you need documents in other languages now, KSDE can direct you to a district that may have a document in a language not available on the website. You can also reach out to colleagues from districts that are likely to have these, such as Kansas City, Garden City, Wichita, etc. Note that if you use a document provided by another district, you use it at your own risk.</p>	<p>KSDE Special Education Notices & Forms webpage https://www.ksde.org/Default.aspx?tabid=544</p>
<p>4. If you have two parents that live at different addresses do you have to provide parent rights and written notices to both parents? (K.S.A. 72-3430(b)(2),(e); 34 C.F.R. 300.503(a), 300.504(a))</p> <p>[This question is in reference to self-assessment questions 2. and 3.]</p>	<p>YES – The information must go to both parents. Neither the IDEA nor its regulations specifically address the educational rights of divorced or separated parents. However, the parents that have the right to make educational decisions for their children are "parents" under the IDEA. OSEP has stated, "In situations where the parents of a child are divorced, the parental rights established by the Act apply to both parents, unless a court order or State law specifies otherwise" (71 Fed. Reg. 46,568 (2006)). If you do not have an address for one of the parents you must take reasonable steps to acquire an address to provide parents' rights to that parent.</p>	<p>KSDE Special Education Process Handbook, Chapter 1 Section B. https://www.ksde.org/Default.aspx?tabid=598</p>

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<p>5. Notification of both parents - If it's a situation where one parent has custody of the child and the other parent has never contacted the school, do you have to send parents' rights to the non-proactive parent? What if the parent enrolling the child does not indicate that there is another parent or does not list the other parent do we have to notify both parents? (K.S.A. 72-3404(m), 72-3430(b)(2),(e); 34 C.F.R. 300.30, 300.503(a), 300.504(a))</p> <p>[This question is in reference to self-assessment questions 2., 3. and 6.]</p>	<p>YES - See the answer to the previous question above. You must send notices to both parents unless a court order precludes it. If you do not have an address for one of the parents you must take reasonable steps to acquire an address to provide parents' rights to that parent.</p>	<p>KSDE Special Education Process Handbook, Chapter 1 Section B. https://www.ksde.org/Default.aspx?tabid=598</p>
<p>6. What is meant by the requirement that IEP Teams must consider the concerns of the parents when developing the IEP? If an IEP template has a comment section titled "Parent Input" is that sufficient, or how should this be documented? (K.S.A. 72-3429(d)(1); 34 C.F.R. 300.324(a)(1)(ii))</p> <p>[This question is in reference to self-assessment question 4.]</p>	<p>The language in the regulations requires that "the IEP team must consider the concerns of the parents for enhancing the education of their child" (emphasis added).</p> <p>Because the term used in the regulation is "concerns for enhancing the education" a section in an IEP template titled "Parent Input" is likely too broad and insufficient to prompt a tailored discussion about parent concerns for enhancing education. Note that these are not general parent concerns unrelated to the child's education. Also note that the IEP team must consider the parent concerns, not just record them without a response or discussion. When Congress originally added this provision to the IDEA through the 1997 amendments, the purpose was to strengthen the role of the parents and expand opportunities for parents and LEA staff partnership (H. Rep. 105-95, p. 82 (1997); S. Rep. No. 105-17, p. 4 and 5 (1997)).</p> <p>When reviewing IEPs in the past, KSDE staff found parent concern sections/boxes that were blank. If a parent states that they have no concerns about their child's education, that must be noted in the IEP or in the education record. Note that the documentation for parent concerns can be found in the PLAAFP statements, a separate IEP section, meeting notes, or other documentation in the child's education record.</p>	<p>KSDE Special Education Process Handbook, Chapter 1 Section A; Chapter 4 Section E.1. https://www.ksde.org/Default.aspx?tabid=598</p>
<p>7. Can the wording of the self-assessment question 4 ("Did the IEP or the child's education record contain documentation that the IEP team considered parent concerns for enhancing the education of their child?") be changed to say parent "ideas" or "suggestions" instead of "concerns"? Concerns seem to be focusing on the negative. (K.S.A. 72-3429(d)(1); 34 C.F.R. 300.324(a)(1)(ii))</p>	<p>The wording of self-assessment question 4 is taken directly from federal regulation and state statute, so it cannot be changed.</p>	
<p>8. Is it necessary to list the names of people attending the IEP meeting on the Notice of Meeting? (K.A.R. 91-40-17(b)(1); 34 C.F.R. 300.322(b)(1)(i))</p> <p>[This question is in reference to self-assessment question 5.]</p>	<p>Neither the federal nor state regulations require the meeting notice to provide names of people who will attend. The federal regulations at 34 C.F.R. 300.322(b)(1)(i) require that the notice of meeting indicate "who will be in attendance". The Kansas regulations at K.A.R. 91-40-17(b)(1) are more specific and state that the notice of meeting must indicate "the titles or positions". Further, OSEP has stated, "a public agency can satisfy the requirements of notifying parents of 'who will be in attendance' by indicating in the notice of the IEP meeting only the positions, rather than the names" (Letter to Livingston, OSEP 1995, 23 LRP 3415).</p>	<p>KSDE Special Education Process Handbook, Chapter 4, Section B.1. https://www.ksde.org/Default.aspx?tabid=598</p> <p>Sample Notice of Meeting form https://www.ksde.org/Default.aspx?tabid=544#sample</p>

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<p>9. On the IEP meeting notice how specific does the title/position need to be for staff who are interpreting evaluation results (and the other staff attending the meeting)? For example, can the notice say “person who can interpret evaluation results” or does it have to say “school psychologist”? For further example, can the notice say “special education provider” or does it have to say “speech pathologist”? (K.A.R. 91-40-17(b)(1); 34 C.F.R. 300.322(b)(1)(i))</p> <p>[This question is in reference to self-assessment question 5.]</p>	<p>The federal regulations at 34 C.F.R. 300.322(b)(1)(i) require that the notice of meeting indicate “who will be in attendance”. The Kansas regulations at K.A.R. 91-40-17(b)(1) are more specific and state that the notice of meeting must indicate “the titles or positions”. The words “titles” and “positions” are not defined in the Kansas regulations. Thus, this is left to the interpretation and discretion of school personnel.</p> <p>Keep in mind that extremely specific descriptions of titles or positions will limit flexibility when it comes to the people who actually attend the meeting. If you write on the meeting notice that the “school psychologist” will attend (instead of “a person who can interpret evaluation results”), the school psychologist will not be able to designate someone in his/her place in the event of a scheduling conflict (unless there is an excusal by written agreement of the school and parent).</p>	<p>KSDE Special Education Process Handbook, Chapter 4, Section B.1.</p> <p>https://www.ksde.org/Default.aspx?tabid=598</p> <p>Sample Notice of Meeting form</p> <p>https://www.ksde.org/Default.aspx?tabid=544#sample</p>
<p>10. How specific does the location of the IEP team meeting need to be on the Notice of IEP Meeting form? (K.A.R. 91-40-17(b)(1); 34 C.F.R. 300.322(b))</p> <p>[This question is in reference to self-assessment question 5.]</p>	<p>The law does not directly address this question, so there is room for discretion here. If a specific room number is not on the notice, the location information on the Notice of IEP Meeting should be reasonably written to enable a parent to find the meeting. Vague location information could prevent the parent from finding the meeting and hinder the parent’s right to meaningful participation. A notice that said the meeting would be held in Kansas, for example, is clearly not reasonable notice. Even notice that says the meeting will be in a particular building may not be reasonable if it is a large building. On the other hand, overly specific information can be problematic if you need to change the meeting room after you send the notice. Generally, the name and address of the building would most likely enable the parent to find the meeting once they are in the school building, if it is not a large building and staff are there to provide direction. Another option may be to instruct the parent to stop by the front office where staff will direct them to the specific meeting room -- for example, “The meeting will be located at X High School. It is a large building. Please go directly to the front office, Room Y, and show a staff member this notice and you will be directed to the location of the meeting.”</p>	<p>KSDE sample Notice of IEP Meeting form</p> <p>https://www.ksde.org/Default.aspx?tabid=544#sample</p>
<p>11. Can a person on the IEP team serve two different roles? (K.S.A. 72-3404(u); K.A.R. 91-40-17(i); 34 C.F.R. 300.321)</p> <p>[This question is in reference to self-assessment questions 7. through 10.]</p>	<p>State regulations in Kansas specifically provide that, “If qualified to do so, an agency member of the IEP team may serve in the role of two or more required members of a child’s IEP team.” (K.A.R. 91-40-17(i)).</p> <p>The federal regulations provide for the possibility that a single person may play more than one role on an IEP team. See 34 CFR 300.321 (a)(5) (noting that a general education teacher, a special education teacher or provider, a district representative, or another individual with knowledge or special expertise about the child may also be an individual who can interpret the instructional implications of evaluation results); and 34 CFR 300.321 (d) (noting that the district may designate another district member of the IEP team to serve as the district representative, so long as that individual satisfies all of the criteria set forth at 34 CFR 300.321 (a)(4)).</p> <p>However, OSEP has stated that these provisions do not permit the IEP team to consist of only the parent and one other individual (Letter to Anonymous, 57 IDELR 260 (OSEP 2011)).</p> <p>It is important to note that even when it’s possible for one person to serve more than one role on the IEP team, that person must be qualified and able to fulfill each of those roles. For example, just because an LEA representative also has a special education license does not mean he/she is a special education teacher <i>of the child</i>.</p>	<p>KSDE Special Education Process Handbook, Chapter 4 Section A.1.i.</p> <p>https://www.ksde.org/Default.aspx?tabid=598</p>

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<p>12. Does an excusal from an IEP meeting have to be prior to the meeting or can it be during the meeting? (K.A.R. 91-40-17; 34 C.F.R. 300.321(a), 300.321(e))</p> <p>[This question is in reference to self-assessment questions 7-10.]</p>	<p>34 C.F.R. 300.321(e) provides that required IEP Team members may be excused from attending a part of or the whole IEP meeting. The procedure for excusal depends on whether the required IEP Team member’s area of the curriculum or related services is being modified or discussed at the meeting.</p> <p>If the required member’s area <u>is not</u> being modified or discussed, the member may be excused from the meeting if the parent and LEA agree in writing. The regulation does not require that the excusal agreement be made prior to the meeting, nor does it state when the excusal agreement must take place.</p> <p>If the required member’s area <u>is</u> being modified or discussed, the member may be excused from the meeting if the parent and LEA <i>consent</i>* to the excusal in writing. In this instance, the member must also submit, to the parent and IEP Team, written input into the development of the IEP <i>prior to the meeting</i>. The regulation does not require that the excusal consent be provided prior to the meeting, nor does it state when the excusal consent must take place. However, the regulation does require that the member’s written input be submitted prior to the meeting.</p> <p>OSEP has said:</p> <p>The Act [IDEA] does not specify how far in advance of an IEP Team meeting a parent must be notified of an agency’s request to excuse a member from attending an IEP Team meeting or when the parent and LEA must sign a written agreement or provide consent to excuse an IEP Team member. Ideally, public agencies would provide parents with as much notice as possible to request that an IEP Team member be excused from attending an IEP Team meeting, and have agreements or consents signed at a reasonable time prior to the IEP Team meeting. However, this might not always be possible, for example, when a member has an emergency or an unavoidable scheduling conflict...Furthermore, if an LEA requests an excusal at the last minute or a parent needs additional time or information to consider the request, the parent always has the right not to agree or consent to the excusal of the IEP Team member... One commenter requested that the regulations clarify the timeframe in which the written input must be provided to the parent and the IEP Team. The Act does not specify how far in advance of the IEP Team meeting that the written input must be provided to the parent and IEP Team members. For the reasons stated earlier, we do not believe it is appropriate to impose a specific timeframe for matters relating to the excusal of IEP Team members. Parents can always reschedule an IEP Team meeting or request that an IEP Team meeting be reconvened if additional time is needed to consider the written information [emphasis added]. (71 Federal Register, p. 46676, August 14, 2006).</p> <p>*As a side note, it is important to notice here that when a member’s area of the curriculum or related services is being modified or discussed at the meeting, the LEA and parent must <u>consent</u> to the excusal, which is different from agreeing to the excusal. OSEP has stated, “When the IEP Team member’s area is being modified or discussed, § 300.321(e)(2) requires the LEA and parent to provide written informed consent. Consistent with § 300.9, <i>consent</i> means that the parent has been fully informed in his or her native language, or other mode of communication, and understands that the granting of consent is voluntary and may be revoked at any time.” (71 Federal Register, p. 46674, August 14, 2006).</p>	<p>KSDE Special Education Process Handbook, Chapter 4, Section A.2. https://www.ksde.org/Default.aspx?tabid=598</p> <p>Sample IEP Meeting Excusal from Attendance form https://www.ksde.org/Default.aspx?tabid=544#misc</p>

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<p>13. If a SPED teacher and a SPED provider are both at the meeting, can either of them come and go from the meeting instead of staying the whole meeting without written agreement or consent to excuse? Similarly, when a child has more than one general education teacher, can they use a “tag team” approach without written excusal (i.e. gen ed teacher A attends the 1st half of the meeting and gen ed teacher B takes her place for the 2nd half of the meeting)? (K.A.R. 91-40-17; 34 C.F.R. 300.321(a)(3))</p> <p>[This question is in reference to self-assessment questions 7-10.]</p>	<p>The short answer is that the law does not prohibit such approach.</p> <p>The law provides that a <i>required</i> IEP team member, other than the parent, may be excused from attending an IEP meeting in whole or in part if the parent and public agency agree or consent in writing (see 34 C.F.R. 300.321(e)). This means that all <i>required</i> IEP team members must be represented for the entire meeting unless there is a written excusal.</p> <p>However, excusals through written agreement or consent apply only to the <i>required</i> IEP team members (not including the parent). Other members of the team may be excused from the meeting without written agreement or consent. The key here is that required team members other than the parent are 1. <i>not less than one</i> regular education teacher of the child if the child is, or may be, participating in the regular education environment, 2. <i>not less than one</i> special education teacher or special education provider of the child, 3. <i>an</i> LEA representative, and 4. <i>a</i> person who can interpret instructional implications of evaluation results. As long as the required IEP team member role is represented throughout the entire meeting, then the minimum requirements of the law are met. That role can be represented by multiple people successively (tag team) and does not have to be one specific person who stays for the whole meeting.*</p> <p>*Note: Be careful about the contents of the notice of meeting in this situation. Putting specific names of people who will serve as required IEP team members will mean that those specific people are fulfilling those required roles and thus must have a written consent/agreement to be excused (see the answers to questions 8 and 9).</p>	<p>KSDE Special Education Process Handbook, Chapter 4 Section A.2. https://www.ksde.org/Default.aspx?tabid=598 KSDE sample Notice of IEP Meeting form Sample Excusal from IEP Team Meeting form https://www.ksde.org/Default.aspx?tabid=544#sample</p>
<p>14. Can a LEA representative be excused from an IEP meeting? (K.A.R. 91-40-17; 34 C.F.R. 300.321(a)(4))</p> <p>[This question is in reference to self-assessment question 9.]</p>	<p>The law provides that a required IEP team member, other than the parent, may be excused from attending an IEP meeting in whole or in part if the parent and public agency agree in writing (see 34 C.F.R. 300.321(e)). This would include a LEA representative.</p> <p>However, because the LEA representative is the person who knows about and can commit district resources, it is not a good idea to conduct an IEP meeting without this person. It is best practice to have someone in the room who can commit district resources.</p>	<p>KSDE Special Education Process Handbook, Chapter 4 Section A.2. https://www.ksde.org/Default.aspx?tabid=598 Sample Excusal from IEP Team Meeting form https://www.ksde.org/Default.aspx?tabid=544#misc</p>
<p>15. Is there any justification for an IEP team not to determine education placement annually? (K.A.R. 91-40-21(c)(2); 34 CFR 300.116(b)(1))</p> <p>[This question is in reference to self-assessment question 11.]</p>	<p>The law provides NO exceptions.</p>	<p>KSDE Special Education Process Handbook, Chapter 6 Introduction and Section B. https://www.ksde.org/Default.aspx?tabid=598</p>

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<p>16. How often is a school required to provide periodic reports on the child's progress toward meeting the IEP goals? (K.S.A. 72-3429(c)(3); 34 C.F.R. 300.320(a)(3)(ii))</p> <p>[This question is in reference to self-assessment question 18.]</p>	<p>The 1997 IDEA Amendments and implementing regulations (published in 1999) added a requirement that the IEP include "a statement of how the child's parents will be regularly informed at least as often as parents are informed of their nondisabled children's progress." This was in the regulations at 34 C.F.R. 300.347(a)(7). However, in the 2004 IDEA Amendments, Congress changed this provision of the Act and removed this requirement; as a result, the regulations also changed in 2006 and the current regulation is found at 34 C.F.R. 300.320(a)(3)(ii). When the Office of Special Education Programs (OSEP) issued the amended regulations in 2006, OSEP gave guidance on this statutory and regulatory change stating:</p> <p style="padding-left: 40px;">Section 300.320(a)(3)(ii) follows the language in section 614(d)(1)(A)(i)(III) of the Act [IDEA] and requires the IEP to include a description of when periodic reports on the child's progress toward meeting the annual goals will be provided. The Act does not require report cards or quarterly report cards. Report cards and quarterly report cards are used as examples in 300.320(a)(3)(ii) of when periodic reports might be provided. The specific times that progress reports are provided to parents and the specific manner and format in which a child's progress toward meeting the annual goals is reported is best left to State and local officials to determine. [emphasis added] (71 Federal Register, p. 46786, August 14, 2006).</p> <p>The state statute in Kansas, K.S.A. 72-3429(c)(3), follows the language of the IDEA and federal regulations and does not prescribe the frequency or manner of IEP progress reports. So, this is a decision left to school officials.</p>	<p>KSDE Special Education Process Handbook, Chapter 4, Section E.2.d. https://www.ksde.org/Default.aspx?tabid=598</p>
<p>17. Are there any restrictions on what can be changed in an IEP when doing an amendment without a meeting? (K.S.A. 72-3429(b)(4)(A); 34 C.F.R. 300.503(a), 300.324(a)(4))</p> <p>[This question is in reference to self-assessment question 22.]</p>	<p>OSEP has given clarification on this question:</p> <p style="padding-left: 40px;">Section 300.324(a)(4), consistent with section 614(d)(3)(D) of the Act [IDEA], allows a parent and a public agency to agree not to convene an IEP Team meeting to make changes to the child's IEP, and instead, to develop a written document to amend or modify the child's current IEP. The Act does not place any restrictions on the types of changes that may be made, so long as the parent and the public agency agree. [emphasis added] (71 Federal Register, p. 46685, August 14, 2006).</p> <p>Take note that there must always be an annual IEP meeting. An amendment to an IEP cannot take the place of the required annual IEP meeting. 34 C.F.R. 300.324(a)(4)(i) states clearly that an amendment without a meeting is permitted when making changes to an IEP <i>after the annual IEP Team meeting</i>. OSEP has also stated, "We do not believe that an amendment to an IEP can take the place of an annual IEP Team meeting." (71 Federal Register, p. 46685, August 14, 2006).</p>	<p>KSDE Special Education Process Handbook, Chapter 4, Section F.2. https://www.ksde.org/Default.aspx?tabid=598</p>