

**SECTION 614**  
**EVALUATIONS, ELIGIBILITY DETERMINATIONS,**  
**INDIVIDUALIZED EDUCATION PLANS, AND EDUCATIONAL PLACEMENTS**

SECTION	IDEA 2004 LAWS	SUMMARY
<b>PRESENT LEVEL OF EDUCATIONAL PERFORMANCE</b>		
614(d) (1)(A)(i)(I)	<p>The term 'individualized education program' or 'IEP' means a written statement for each child with a disability that is developed, reviewed, and revised in accordance with this section and that includes:</p> <p>(I) a statement of the child's present levels of academic achievement and functional performance, including—</p> <ul style="list-style-type: none"> <li>• (aa) how the child's disability affects the child's involvement and progress in the general education curriculum;</li> <li>• (bb) for preschool children, as appropriate, how the disability affects the child's participation in appropriate activities; and</li> <li>• <b>(cc) for children with disabilities who take alternate assessments aligned to alternate achievement standards, a description of benchmarks or short-term objectives; (SEE IEP 4)</b></li> </ul>	<ul style="list-style-type: none"> <li>• "Present levels of educational performance" (PLEP) is replaced with a statement of the student's "present levels of academic achievement and functional performance". Section 614(d)(1)(A)(i)(I).</li> <li>• A description of benchmarks or short-term objectives must be included in the statement of the student's present levels of academic achievement and functional performance "for children with disabilities who take alternate assessments aligned to alternate achievement standards". Section 614(d)(1)(A)(i)(I)(cc).</li> <li>• <u>Special Note</u>: The MCAS Alternate Assessment is NOT presently aligned to an alternate achievement standard.</li> </ul>
<b>IEP MEASURABLE ANNUAL GOALS</b>		
614(d) (1)(A)(i)(II)	<p>The term 'individualized education program' or 'IEP' means a written statement for each child with a disability that is developed, reviewed, and revised in accordance with this section and that includes:</p> <p>(II) a statement of measurable annual goals, including <b>academic and functional goals</b>, designed to</p> <p>(aa) meet the child's needs that result from the child's disability to enable the child to be involved in and <b>make</b> progress in the general education curriculum; and</p> <p>(bb) meet each of the child's other educational needs that result from the child's disability;</p>	<ul style="list-style-type: none"> <li>• The "statement of measurable annual goals" now includes "academic and functional goals, designed to-", and no longer includes the words "benchmarks or short-term objectives, related to-". Section 614(d)(1)(A)(i)(II).</li> </ul>
614(d) (1)(A)(i)(III)	<p>The term 'individualized education program' or 'IEP' means a written statement for each child with a disability that is developed, reviewed, and revised in accordance with this section and that includes:</p> <p><b>(III) a description of how the child's progress toward meeting the annual goals described in subclause (II) will be measured and when periodic reports on the progress the child is making toward meeting the annual goals (such as through</b></p>	<ul style="list-style-type: none"> <li>• The IEP must now include: a description of how progress towards meeting the annual goals will be measured AND when periodic reports on the progress being made toward meeting the annual goals will be provided.</li> </ul>

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	<p><b>the use of quarterly or other periodic reports, concurrent with the issuance of report cards) will be provided;</b></p>	
<b>SPECIAL EDUCATION AND RELATED SERVICES</b>		
<p>614(d) (1)(A)(i)(IV)</p>	<p>The term 'individualized education program' or 'IEP' means a written statement for each child with a disability that is developed, reviewed, and revised in accordance with this section and that includes:</p> <p>(IV) a statement of the special education and related services and supplementary aids and services, <b>based on peer-reviewed research to the extent practicable</b>, to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided for the child</p> <p>(aa) to advance appropriately toward attaining the annual goals;</p> <p>(bb) to be involved in and <b>make</b> progress in the general education curriculum in accordance with subclause (I) and to participate in extracurricular and other nonacademic activities; and</p> <p>(cc) to be educated and participate with other children with disabilities and nondisabled children in the activities described in this subparagraph</p>	<p>· The IEP must include “a statement of the special education and related services and supplementary aids and services, based on peer reviewed research to the extent practicable...” Section 614(d)(1)(A)(i)(IV).</p>
<b>NON-PARTICIPATION JUSTIFICATION</b>		
<p>614(d) (1)(A)(i)(V)</p>	<p>(V) an explanation of the extent, if any, to which the child will not participate with nondisabled children in the regular class and in the activities described in subclause (IV)(cc);</p>	<p>NO CHANGE</p>
<b>STATE OR DISTRICT-WIDE ASSESSMENT</b>		
<p>614(d) (1)(A)(i)(VI)</p>	<p>(VI)</p> <p>(aa) a statement of any individual <b>appropriate accommodations that are necessary to measure the academic achievement and functional performance of the child on State and districtwide assessments consistent with section 612(a)(16)(A)</b>; and</p> <p>(bb) if the IEP Team determines that the child <b>shall take an alternate assessment</b> on a particular State or districtwide assessment of student achievement, a statement of why</p> <p><b>(AA) the child cannot participate in the regular assessment; and</b></p> <p><b>(BB) the particular alternate assessment selected is appropriate for the child;</b></p>	<p>Accommodations and Alternate Assessments</p> <p>· “Modifications” in the administration of State or districtwide assessments is changed to “accommodations.” Section 614(d)(1)(A)(i)(VI)(aa).</p> <p>· All students must participate in State and districtwide assessments; the IEP Team determines the need for appropriate accommodations or an alternate assessment. Section 614(d)(1)(A)(i)(VI).</p>
<b>SERVICE DELIVERY</b>		
<p>614(d) (1)(A)(i)(VII)</p>	<p>(VII) the projected date for the beginning of the services and modifications described in subclause (IV), and the anticipated frequency, location, and duration of those services and modifications;</p>	<p>NO CHANGE</p>

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<b>SERVICE DELIVERY</b>		
614(d) (1)(A)(i)(VII)	(VII) the projected date for the beginning of the services and modifications described in subclause (IV), and the anticipated frequency, location, and duration of those services and modifications;	NO CHANGE
<b>TRANSITION REQUIREMENTS</b>		
614(d) (1)(A)(i)(VIII)	<p>(VIII)</p> <p>(i) beginning not later than the first IEP to be in effect when the child is 16, and updated annually thereafter—</p> <p><b>(aa) appropriate measurable postsecondary goals based upon age appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills;</b></p> <p><b>(bb) the transition services (including courses of study) needed to assist the child in reaching those goals;</b> and</p> <p>(cc) beginning not later than 1 year before the child reaches the age of majority under State law, a statement that the child has been informed of the child's rights under this title, if any, that will transfer to the child on reaching the age of majority under section 615(m).</p> <p><b>(ii) RULE OF CONSTRUCTION.--Nothing in this section shall be construed to require-- (I) that additional information be included in a child's IEP beyond what is explicitly required in this section; and (II) the IEP Team to include information under 1 component of a child's IEP that is already contained under another component of such IEP.</b></p>	<ul style="list-style-type: none"> <li>· Begins at age 16 (“beginning no later than the first IEP to be in effect when the student is 16”) rather than age 14. The law no longer reads “or younger, if determined appropriate by the IEP Team.” Section 614(d)(1)(A)(i)(VIII).</li> <li>· The IEP must include “appropriate measurable postsecondary goals based upon age appropriate transition assessments related to training, education, employment, and where appropriate, independent living skills.” Section 614(d)(1)(A)(i)(VIII)(aa).</li> <li>· The IEP must include “the transition services (including courses of study) needed to assist the student in reaching those goals.” Section 614(d)(1)(A)(i)(VIII)(bb).</li> </ul>
<b>INDIVIDUALIZED EDUCATION PROGRAM TEAM</b>		
614(d) (1)(B)(i – vii)	<p>(B) INDIVIDUALIZED EDUCATION PROGRAM TEAM- The term 'individualized education program team' or 'IEP Team' means a group of individuals composed of</p> <ul style="list-style-type: none"> <li>(i) the parents of a child with a disability;</li> <li>(ii) <b>not less than 1</b> regular education teacher of such child (if the child is, or may be, participating in the regular education environment);</li> <li>(iii) <b>not less than 1</b> special education teacher, or where appropriate, <b>not less than 1</b> special education provider of such child;</li> <li>(iv) a representative of the local educational agency who</li> </ul>	<p><u>MEMBERSHIP</u></p> <ul style="list-style-type: none"> <li>· Membership remains the same as before with the clarification that there must be “not less than 1” regular education teacher if student is participating in general education environment and “not less than 1” special education teacher or, where appropriate, special education provider. Section 614(d)(1)(B)(ii) and (iii).</li> </ul>

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	<p>(I) is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children with disabilities;</p> <p>(II) is knowledgeable about the general education curriculum; and</p> <p>(III) is knowledgeable about the availability of resources of the local educational agency;</p> <p>(v) an individual who can interpret the instructional implications of evaluation results, who may be a member of the team described in clauses (ii) through (vi);</p> <p>(vi) at the discretion of the parent or the agency, other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate; and</p> <p>(vii) whenever appropriate, the child with a disability.</p>	
<b>IEP TEAM ATTENDANCE</b>		
<p>614(d) (1)(C)(D)</p>	<p><b>(C) IEP TEAM ATTENDANCE</b></p> <p><b>(i) ATTENDANCE NOT NECESSARY.--A member of the IEP Team shall not be required to attend an IEP meeting, in whole or in part, <u>if the parent of a child with a disability and the local educational agency agree that the attendance of such member is not necessary because the member's area of the curriculum or related services is not being modified or discussed in the meeting.</u></b></p> <p><b>(ii) EXCUSAL.--A member of the IEP Team may be excused from attending an IEP meeting, in whole or in part, when the meeting involves a modification to or discussion of the member's area of the curriculum or related services, <u>if--</u></b></p> <p><b>(I) the parent and the local educational agency consent to the excusal; and</b></p> <p><b>(II) the member submits, in writing to the parent and the IEP Team, input into the development of the IEP prior to the meeting.</b></p> <p><b>(iii) WRITTEN AGREEMENT AND CONSENT REQUIRED.--A parent's agreement under clause (i) and consent under clause (ii) shall be in writing.</b></p>	<p><u>ATTENDANCE</u></p> <ul style="list-style-type: none"> <li>· Attendance Not Necessary— A member shall not be required to attend in whole or in part, IF the parent of a student with a disability and the district agree that the attendance of such member is not necessary BECAUSE the member's area of the curriculum or related services is not being modified or discussed in the meeting. Section 614(d)(1)(C)(i).</li> <li>· Excusal— A member may be excused from attending an IEP meeting, in whole or in part, when the meeting involves a modification to or discussion of the member's area of the curriculum or related services, IF the parent and the district consent to the excusal AND the member submits written input to both the parent and the IEP Team, into the development of the IEP prior to the meeting. Section 614(d)(1)(C)(ii).</li> <li>· Agreement or Consent—A parent's agreement that a specific IEP Team member's attendance is not necessary OR a parent's consent to excuse a specific</li> </ul>

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	<p><b>(D) IEP TEAM TRANSITION.--In the case of a child who was previously served under part C, an invitation to the initial IEP meeting shall, at the request of the parent, be sent to the part C service coordinator or other representatives of the part C system to assist with the smooth transition of services.</b></p>	<p>Team member <b>MUST</b> be in writing. Section 614(d)(1)(C)(iii).</p> <p><u>TRANSITION FROM PART C TO B</u>                      · Requires “an invitation to the initial IEP meeting ... at the request of the parent...to the Part C service coordinator or other representatives of the part C system....” Section 614(d)(1)(D).</p>
<b>REQUIREMENT THAT PROGRAM BE IN EFFECT</b>		
<p>614(d) (2)(A)(B)</p>	<p>REQUIREMENT THAT PROGRAM BE IN EFFECT</p> <p>(A) IN GENERAL- (A) IN GENERAL.--At the beginning of each school year, each local educational agency, State educational agency, or other State agency, the case may be, shall have in effect, for each child with a disability in the agency's jurisdiction, an individualized education program, as defined in paragraph (1)(A).</p> <p>(B) PROGRAM FOR CHILD AGED 3 THROUGH 5.--In the case of a child with a disability aged 3 through 5 (or, at the discretion of the State educational agency, a 2-year-old child with a disability who will turn age 3 during the school year), the <b>IEP Team shall consider</b> the individualized family service plan that contains the material described in section 636, and that is developed in accordance with this section, <b>and the individualized family service plan</b> may serve as the IEP of the child if using that plan as the IEP is—</p> <ul style="list-style-type: none"> <li>(i) consistent with State policy; and</li> <li>(ii) agreed to by the agency and the child's parents.</li> </ul> <p><b>(C) PROGRAM FOR CHILDREN WHO TRANSFER SCHOOL DISTRICTS.</b></p> <p><b>(i) IN GENERAL.—</b></p> <p><b>(I) TRANSFER WITHIN THE SAME STATE.--In the case of a child with a disability who transfers school districts within the same academic year, who enrolls in a new school, and who had an IEP that was in effect in the same State, the local educational agency</b></p>	<p><u>REQUIREMENT THAT PROGRAM BE IN EFFECT</u></p> <p>· <u>Transfer within the same State</u>—consistent with state regulations at 603 CMR 28.02.</p>

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	<p>shall provide such child with a free appropriate public education, including services comparable to those described in the previously held IEP, in consultation with the parents until such time as the local educational agency adopts the previously held IEP or develops, adopts, and implements a new IEP that is consistent with Federal and State law.</p> <p><b>(II) TRANSFER OUTSIDE STATE.--In the case of a child with a disability who transfers school districts within the same academic year, who enrolls in a new school, and who had an IEP that was in effect in another State, the local educational agency shall provide such child with a free appropriate public education, including services comparable to those described in the previously held IEP, in consultation with the parents until such time as the local educational agency conducts an evaluation pursuant to subsection (a)(1), if determined to be necessary by such agency, and develops a new IEP, if appropriate, that is consistent with Federal and State law.</b></p> <p><b>(ii) TRANSMITTAL OF RECORDS.--To facilitate the transition for a child described in clause</b></p> <p>(I) the new school in which the child enrolls shall take reasonable steps to promptly obtain the child's records, including the IEP and supporting documents and any other records relating to the provision of special education or related services to the child, from the previous school in which the child was enrolled, pursuant to section 99.31(a)(2) of title 34, Code of Federal Regulations; and</p> <p><b>(II) the previous school in which the child was enrolled shall take reasonable steps to promptly respond to such request from the new school.</b></p>	<p>· Transfer outside State—"...the district shall provide such student with a free appropriate public education, including services comparable to those described in the previously held IEP, in consultation with the parents until such time as the district conducts an evaluation, ... if determined to be necessary, by such agency, and develops a new IEP, if appropriate, that is consistent with Federal and State law." Section 614(d)(2)(C)(i)(II).</p> <p>· Transmittal of Records—the new school must “take reasonable steps to promptly obtain records...” and the previous school must “take reasonable steps to promptly respond...” Section 614(d)(2)(C)(ii).</p>



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	<p><b>supports, and other</b> strategies, and the determination of supplementary aids and services, program modifications, and support for school personnel consistent with paragraph (1)(A)(i)(IV).</p> <p><b>(D) AGREEMENT.--In making changes to a child's IEP after the annual IEP meeting for a school year, the parent of a child with a disability and the local educational agency may agree not to convene an IEP meeting for the purposes of making such changes, and instead may develop a written document to amend or modify the child's current IEP.</b></p> <p><b>(E) CONSOLIDATION OF IEP TEAM MEETINGS.--To the extent possible, the local educational agency shall encourage the consolidation of reevaluation meetings for the child and other IEP Team meetings for the child.</b></p> <p><b>(F) AMENDMENTS.--Changes to the IEP may be made either by the entire IEP Team or, as provided in subparagraph (D), by amending the IEP rather than by redrafting the entire IEP. Upon request, a parent shall be provided with a revised copy of the IEP with the amendments incorporated.</b></p>	<p><u>CHANGING IEPs</u></p> <ul style="list-style-type: none"> <li>· In making changes to a student's IEP by way of either an amendment or an entire redrafting after the annual IEP meeting for a school year, the parent and the district may agree not to convene an IEP meeting and instead may develop a written document together." Section 614(d)(3)(D) and (F).</li> <li>· To the extent possible the district shall encourage consolidation of reevaluation meetings and other IEP meetings. Section 614(d)(3)(E).</li> <li>· Parents to be provided a revised copy of the IEP with amendment(s) incorporated upon parents request. Section 614(d)(3)(F).</li> </ul>
<b>REVIEW AND REVISION OF IEP</b>		
<p>614(d) (4)(A)(B)</p>	<p>REVIEW AND REVISION OF IEP –</p> <p>(A) IN GENERAL - The local educational agency shall ensure that, subject to subparagraph(B), the IEP Team –</p> <ul style="list-style-type: none"> <li>(i) reviews the child's IEP periodically, but not less <b>frequently</b> than annually to determine whether the annual goals for the child are being achieved; and</li> <li>(ii) revises the IEP as appropriate to address –                             <ul style="list-style-type: none"> <li>(I) any lack of expected progress toward the annual goals and in the general curriculum, where appropriate;</li> <li>(II) the results of any reevaluation conducted under this section;</li> <li>(III) information about the child provided to, or by, the parents, as described in subsection (c)(1)(B);</li> <li>(IV) the child's anticipated needs; or</li> <li>(V) other matters.</li> </ul> </li> </ul> <p>(B) REQUIREMENT WITH RESPECT TO REGULAR EDUCATION TEACHER- The</p>	

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	regular education teacher of the child, as a member of the IEP Team, shall, <b>consistent with paragraph (1)(C)</b> to the extent appropriate, participate in the review and revision of the IEP of the child.	
<b>FAILURE TO MEET TRANSITION OBJECTIVES</b>		
614(d) (6)	FAILURE TO MEET TRANSITION OBJECTIVES-- If a participating agency, other than the local educational agency, fails to provide the transition services described in the IEP in accordance with paragraph (1)(A)(i)(VIII), the local educational agency shall reconvene the IEP Team to identify alternative strategies to meet the transition objectives for the child set out in the IEP.	
<b>CHILDREN WITH DISABILITIES IN ADULT PRISONS</b>		
614(d) (7)(A)(B)	<p>CHILDREN WITH DISABILITIES IN ADULT PRISONS</p> <p>(A) IN GENERAL.--The following requirements shall not apply to children with disabilities who are convicted as adults under State law and incarcerated in adult prisons:</p> <p>(i) The requirements contained in section 612(a)(16) and paragraph (1)(A)(i)(VI) (relating to participation of children with disabilities in general assessments).</p> <p>(ii) The requirements of items (aa) and (bb) of paragraph (1)(A)(i)(VIII) (relating to transition planning and transition services), do not apply with respect to <b>such children</b> whose eligibility under this part will end, because of <b>such children's age</b>, before such children will be released from prison.</p> <p>(B) ADDITIONAL REQUIREMENT.--If a child with a disability is convicted as an adult under State law and incarcerated in an adult prison, the child's IEP Team may modify the child's IEP or placement notwithstanding the requirements of sections 612(a)(5)(A) and paragraph (1)(A) if the State has demonstrated a bona fide security or compelling penological interest that cannot otherwise be accommodated.</p>	
<b>EDUCATIONAL PLACEMENTS</b>		
614 (e)(f)	(e) EDUCATIONAL PLACEMENTS.--Each local educational agency or State educational agency shall ensure that the parents of each child with a disability are members of any group that makes decisions on the educational placement of their child.	

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	<p><b>(f) ALTERNATIVE MEANS OF MEETING PARTICIPATION.--When conducting IEP team meetings and placement meetings pursuant to this section, section 615(e), and section 615(f)(1)(B), and carrying out administrative matters under section 615 (such as scheduling, exchange of witness lists, and status conferences), the parent of a child with a disability and a local educational agency may agree to use alternative means of meeting participation, such as video conferences and conference calls.</b></p>	<p><u>ALTERNATIVE MEANS OF MEETING PARTICIPATION</u></p> <ul style="list-style-type: none"> <li>· Parent and district may agree to use videoconferences and conference calls and other alternative means of meeting participation. Section 614(f).</li> </ul>