



Individualized Education Programs and Eligibility for Services

There have been several changes related to the general components and development of the individualized education program (IEP). Four that are of particular importance to speech-language pathologists (SLPs) and audiologists are:

- 1) the change from “performance” to “academic achievement and functional performance;”
- 2) increased emphasis on “academic, nonacademic and extracurricular activities;”
- 3) elimination of the requirement of benchmarks or short-term objectives, except for children with disabilities who take alternate assessments aligned to alternate achievement standards; and
- 4) absence or excusal from IEP team meetings.

Academic Achievement and Functional Performance

What the 2006 IDEA Part B Final Regulations Say

As stated in §300.320(a)(1) of the regulations, the IEP must include a statement of the child’s “present levels of academic achievement and functional performance,” which is expanded from the 1999 regulations’ wording of “present levels of performance.” In addition, §300.320 (a)(2)(i)(A) states that measurable annual goals must include “academic and functional goals.” The change from “performance” to “academic achievement and functional performance” clarifies that services may be provided for reasons other than academic failure. This is also consistent with §300.101(c)(1) which states that a child with a disability is eligible for services even if the child has not failed or been retained in a course or grade, and is advancing from grade-to-grade.

Furthermore, §300.304(b) requires that, when conducting the evaluation, the public agency use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information, implying that eligibility for services is based on factors in addition to academic performance. Finally, §300.324(a)(1) adds “the academic, developmental, and functional needs of the child” to the list of considerations when developing the IEP.

This perspective on eligibility was recently reiterated in a letter of guidance to ASHA from the Office of Special Education Programs (OSEP) of the U.S. Department of Education (ED) (see www.asha.org/about/legislation-advocacy/2007/OSEPIDEALssuesSLP.htm). The letter reaffirms that whether a speech and language impairment adversely affects a child’s educational performance must be determined on a case-by-case basis, depending on the unique needs of a particular child and not based only on discrepancies in age or grade performance in academic subject areas.

Implications for ASHA Members

The practice of some state and local education agencies (LEAs) to deny services because a disability is not reflected in typical ways, such as failing courses or being retained in a grade, is clearly inconsistent with these sections of the regulations. This is most relevant for students who have problems with articulation, fluency, feeding/ swallowing, and minimal and/or unilateral hearing loss, and for children with cochlear implants. In addition, the requirement to use a predetermined battery of standardized tests to determine eligibility is inconsistent with the law.

What ASHA Members Can Do

SLPs and audiologists must individualize the evaluations they conduct in order to ensure that they are assessing the student's academic, developmental, and functional needs in academic, non-academic, and extracurricular settings. This requires multiple forms of assessment, including interviews, observations, review of classroom work, input from teachers and parents, and standardized assessments, as appropriate, for the child's presenting problems.

Academic, Nonacademic, and Extracurricular Settings

What the 2006 IDEA Part B Final Regulations Say

Several sections of the regulations refer to the requirement for the LEAs to provide "nonacademic and extracurricular services," or services in "nonacademic and extracurricular settings" (see §300.42 Supplementary aids and services, §300.43 Transition services, §300.101 FAPE, §300.107 Nonacademic services, §300.111 Child Find, and §300.117 Nonacademic settings). For example, §300.42 refers to "aids, services, and other supports that are provided in regular education classes, other education-related settings, and in extracurricular and nonacademic settings, to enable children with disabilities to be educated with non-disabled children to the maximum extent appropriate." Nonacademic and extracurricular services and activities may include athletics, recreational activities, special interest groups or clubs, meals, and recess (see §300.107 and §300.117 for a complete listing).

Implications for ASHA Members

The references to "functional performance," further repudiate the restricted approach that many state and local education agencies have taken of requiring academic failure in classroom settings in order to receive special education and related services. This has obvious implications when evaluating, determining eligibility, and providing intervention for all students with disabilities, but particularly for those with disabilities that may impede their involvement in extracurricular and nonacademic settings but not be reflected in academic achievement.

What ASHA Members Can Do

First, SLPs and audiologists must individualize the evaluations they conduct in order to ensure that they are assessing the student's academic, developmental, and functional needs in academic, nonacademic, and extracurricular settings. This requires multiple forms of assessment, including interviews, observations, review of classroom work, input from teachers and parents, and standardized assessments, as appropriate, for the

child's presenting problems. Then, when determining eligibility for services, the SLP, audiologist, and other IEP team members must consider the child's ability to be involved in academic, nonacademic, and extracurricular activities. This would include classroom discussions, athletics, recreational activities, special interest groups or clubs, meals, and recess periods; (see §300.107(b) and §300.117).

Benchmarks and Short-Term Objectives

What the 2006 IDEA Part B Final Regulations Say

As stated in §300.320(a)(2)(ii), benchmarks or short-term objectives are now required *only* for children with disabilities who take alternate assessments aligned to alternate achievement standards.

Implications for ASHA Members

It is good practice to identify short-term goals as part of all students' intervention plans in order to monitor progress toward long-term goals, even if those short-term goals are not included in the IEP. As we strive toward improved evidence-based practice in our schools, it is clear that we should maintain documentation of treatment effectiveness for all students receiving services.

What ASHA Members Can Do

SLPs and audiologists should continue to develop and monitor short-term goals as part of all students' intervention plans to determine effectiveness of the intervention and to document student progress.

Attendance at IEP Team Meetings

What the 2006 IDEA Part B Final Regulations Say

There is a new provision in §300.321 that a member of the IEP team is not required to attend an IEP team meeting if that member's area is not being modified or discussed, and the parent and LEA agree to this in writing. Also, a member of the IEP team may be excused from attending the IEP team meeting that includes a modification or discussion of the member's area if the parent and LEA consent to the excusal in writing and the member submits written input prior to the meeting.

Implications for ASHA Members

Although this was added to the law to ease the burden of scheduling IEP team meetings, there is a possibility of misuse related to excessive excusal of team members or problems related to written input.

What ASHA Members Can Do

It is important to monitor this practice to ensure that team members are not excessively excused from meetings and that the requirement for written input does not become an unreasonable burden or impede communication about the student's progress and needs.