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Oct ober 2010
(Updated)

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11. Please verify the letterhead/district identifying information section of the new IEP. In our district, the CSE and CPSE are housed in two different buildings and have two different chairs. In the past, we have each had our own IEPs with our own letterhead/information on t he top. My question is, is it appropriate for us to have two separate IEPs on Clear Track as long as the only difference is the letterhead, or do we need to make a combined letterhead that lists both addresses, etc., so that both the CSE and CPSE are usin g the exact same IEP? (The concern with this is that it might be confusing for some parents.) (Added 4/11)

    The district may insert district-identifying information on school-age and preschool student's IEPs in the manner it deems most appropriate.

12. Can districts bold certain sections of the IEP and/or add a little more space between items of the IEP? For instance , in the Present Level Statements, the introductory statements above each area for Present Levels, Strengths and Needs - bold those? Then, wher e the comment would begin below that, insert an extra line space or two to make it stand out more? (Added 4/11)

    Yes.

13. Will the State's IEP form be translated into other languages? (Added 4/11)

    No. There is no requirement for an IEP to be provided in the parent's native language or other mode of communication. A district must, however, take whatever action is necessary to ensure that the parent understands the proceedings at the meeting of the CSE, including arranging for an interpreter for parents with deafness or whose native language is other than Engli (ageTd [(l)5eW)3 (i)-3 (dun2)7 (s)-513 0 g 0 Tc rncincCdun2 ddfn4E

. The State IEP form does not reference declassification. Where should recommendations upon declassification (including, as appropriate: testing accommodat ions; the student's eligibility for t he diploma "sa fety net; " the student's continued exemption from the requirement; and needed declassification support services to be provided to the student and/or the student's teachers during the first year after the student is declassified) be documented?

The State's model IEP form only includes information that is required by law or regulation to be included in a student's IEP. There is no requirement in law or regulation to include information related to declassification in an IEP. However, the Committee must docum222s teac8aw I

Documentation of each student's present levels of performance in the IEP must include consideration of the results of the initial or most recent individual evaluation of the student

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ACADEMIC, DEVELOPMENTAL AND FUNCTIONAL NEEDS OF THE STUDENT, INCLUDING CONSIDERATION OF STUDENT NEEDS THAT ARE OF CONCERN TO THE PARENT:

Reading decoding skills.
Self-correction strategies.
Self-regulatory skills to more appropriately handle distractions.
Techniques for coping with frustration, particularly with homework (concern of the parent).
Scheduling accommodations for fatigue (concern of the parent).

12. How do districts properly document concerns of the p arent when:
    - discussion with parent has occurred and there are no concerns of the parent in that area; or
    - contact with the parent has been attempted but no contact or discussion has occurred ?

    Is it allowable in the above situations to leave the field blank or should so mething be written? If a statement should be written, can you give an example for each of the above situations?

    A Committee can only consider the parents' concerns if they have been shared by the parents at the meeting, in writing or through other communications. If a parent had no concerns related to his/her child's disability-related needs or chose not to participate in the IEP development process, the Committee could indicate this in the IEP. While the example provided in guidance shows an IEP that provides an explicit statement regarding a parent's concerns as a means to document this required consideration, there is no requirement that the IEP do so.

    It is not appropriate to leave the field blank since the requirement is that the Committee document the present levels of performance and needs of the student. If a student doesn't have needs to be addressed in the IEP related to one or more of the four need areas, then the form could state "not applicable" or "none."

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22. For a student with ADHD who is on medication, is it appropriate to include a statement in the student's IEP such as ***"student tends to do better on medication, but student isn't always on it, which affects his participation in the general education curriculum"?*** (Added 4/11)

In consideration of the student's physical needs, a Committee should consider and document factors that may affect a student's performance, including as appropriate, documented inconsistencies in a student's behavior based on medical factors. However, the statement provided in the question posed ***"student tends to do better on medication, but student isn't always on it, which affects his participation in the general education curriculum"*** does not provide the specificity that may be needed to specifically identify a student's present level of performance. A more appropriate statement might be: *"student's time on task, performance on math and reading tasks and appropriate behavior during unstructured times (e.g., lunch, hall transitions) during the day is better during the days the student is taking his prescribed medications."*

E. STUDENT NEEDS RELATED TO SPECIAL FACTORS

1. Under ***Student Needs Relating to Special Factors,*** after the check- box for ***Assistive Technology Device or Service,*** there's also a check- box for whether the CSE recommended use of the device in the home. What are the criteria for determining whether an assistive technology device is necessary for home use in order to provide a f ree appropriate public education to the student ?

The need for assistive technology is determined on a case-by-case basis, taking into consideration the unique needs of the individual student. If the CPSE or CSE determines that a particular assistive technology item is required for home use in order for a particular child to be provided FAPE, the technology must be provided to implement the IEP. In making a recommendation as to whether a student needs the use of the assistive technology device at home, the CPSE or CSE should consider such factors as whether the student needs the assistive technology device at home to prepare homework assignments or to engage in functional skills at home or in other environments related to his/her instructional program. Additional information and resources to assist school personnel in the consideration, assessment, recommendation, and implementation of assistive technology for students with disabilities can be found in the NYSED policy brief, *Assistive Technology for Students with Disabilities*.

2. In the ***Student Needs Relating to Special Factors*** section of the form, if the answ er to the question, "Does the student need a particular device or service to address his/her needs?" is "No" , what are the valid responses to the su bsequent question, "In the case of a student who is deaf or hard of hearing, does the student need a particu lar device . . . - "No", or "Not Applicable ?"

It depends. If the student is deaf or hard of hearing, but does not need a particular service or service in consideration of the student's language and communication needs, etc., then the form would indicate "no." If the student was not deaf or hard of hearing, then the form would indicate "not applicable."

If the answer to the first question for a student is "No" , can the response to the second question ever be "Yes" ?

No.

3. What might be some special education services to address the language needs of a child who is limited English proficient (LEP)or English language l earner (ELL)?

For all LEP/ELL students with disabilities the Committee must consider how the student's language needs relate to the IEP. Schools must provide a student with LEP with alternative language services to enable him/her to acquire proficiency in English and to provide him/her with meaningful access to the content of the educational curriculum that is available to all students, including special education and related services. The Committee should consider the following questions:

- Has the student been assessed in English as well as his/her native language?
- Did the evaluation of the student with LEP measure the extent to which the student has a disability and needs special education rather than measure the student's English language skills?
- Does the disability impact on the student's involvement and progress in the bilingual education or English as a second language (ESL) program of the general curriculum?
- What language will be used for this student's instruction?
- What language or mode of communication will be used to address parents or family members of the student?
- What accommodations are necessary for instruction and testing?
- What other language services (i.e., ESL, bilingual education) must be provided to ensure meaningful access to general and special education and related services?

Examples of special education services needed to address the student's needs might include, but are not limited to, interpreters, bilingual speech and language therapy, bilingual counseling and bilingual special class.

4. Can a school district attach a behavioral intervention plan (BIP) to a student's IEP?

Yes. A

service to address his/her language needs as they relate to the IEP.

If the Committee determines the student needs strategies/supports to address the

planning for their future. For more information, see the Pacer National Parent Center on Transition and Employment's Person-Centered Planning webpage.

Assistance and training are available on a variety of topics, including transition planning, through the Office of Special Education's Educational Partnership, a coordinated and cohesive professional development and technical assistance network designed to support and empower schools and families in improving equity, access, opportunities, and outcomes for students with disabilities.

2. Other than the State Performance Plan (SPP) Indicator 14, is there a NYSED expectation/plan for districts to regularly measure the achievement of these measurable post-secondary goals?

   No.

3. When would measurable post-secondary goals related to independent living skills not be appropriate?

   Many students with disabilities have the skills, knowledge and supports necessary to live independently as adults. If the Committee determines that there is not a need in this area, then the IEP does not need to include a post-secondary goal for independent living. In making this determination, the Committee should consider the student's level of independent skills in such areas as shopping, managing a budget, renting an apartment, driving or taking public transportation, engaging in community-based recreational activities, etc.

4. How are a student's employment aspirations documented in his/her IEP?

   A student's employment aspirations would be documented in an IEP under the heading of measurable post-secondary goals.

5. Should a student's transition assessment be documented in an IEP?

   Yes. The present levels of performance of the student should include information based on results from age-appropriate transition assessments.

6. Does there need to be a statement regarding transition needs in EACH section of the ***Present Levels of Performance***?

   No.

7. How do we distinguish between instruction and course of study?

   According to federal guidance from November 16, 2006, "Instruction is a component of a transition program that 'the student needs to receive in specific areas to complete

needed courses, succeed in the general curriculum and gain needed skills' (Storms, O'Leary, & Williams, 2000, Transition Requirements: A Guide for States, Districts, Schools, Universities and Families. University of Oregon, Western Regional Resource Center, p.28). Courses of study are 'a multi-year description of coursework (necessary) to achieve the student's desired post-school goals'" (Storms, O'Leary, & Williams, 2000, Transition Requirements, p.8). For example, courses of study could include a specific CTE sequence leading to an industry credential. You can find this guidance at the National Secondary Transition Technical Assistance Center (NSTTAC) website, in the *NSTTAC Indicator 13 Checklist Frequently Asked Questions and Responses*. See question 16.

G. MEASURABLE ANNUAL GOALS

1. Does a district have to include annual goals specifically for a related service? (Revised 3/11)

   The Committee must make a recommendation as to the student's annual goals to address his or her needs as identified under present levels of performance. Once these goals have been identified, then the Committee must discuss and recommend special education program and services, including related services, to be provided for the student to advance appropriately toward attaining the annual goal(s).

2. Who is responsible for developing goals for a preschool child with a disability, the district, provider, or the evaluator?

   The CPSE must develop an IMC /H2 <</MCID 1 EMC /C /H2]TJ 0hTJ 0hTJ 0t 5ar rs (de)16i meno oe01/P h,ecv,ai(,)2004

5. What happens if monitoring of progress toward goals shows that the student is not making the expected/desired progress?

   If a student is not making sufficient progress to achieve his/her annual goals, the Committee must review the goals and services, and as appropriate, revise the IEP to ensure that the student is being provided with the appropriate supports and services to achieve meaningful and appropriate goals.

6. Is the schedule when you review the data collected by method or procedure or when you implement the procedur e?

   Evaluation schedules state the date or intervals of time when the evaluation procedures will be used to measure the student's progress toward the annual goal.

7. Do benchmarks and objectives need to have criteria/method and schedule or are

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The IEP must document <u>when</u> periodic reports on the progress the student is making toward the annual goals will be provided to the student's parent; however, there is no regulatory requirement for the IEP to serve as that progress report to the parent nor was it designed for this purpose. For purposes of reporting progress to the parent, however, the district could copy the annual goal section of the IEP and add a template to report progress. When the IEP is reviewed at least annually, the present levels of performance and/or evaluation results should reflect the progress made during the previous year.

2. Regarding the criteria for goals: how is the "extent of performance" different than the "criteria tha t the goal has been achieved?"

It is unclear from this question where the term "extent of performance" came from. Evaluative criteria are the measures used to determine if annual goals have been achieved. In reporting progress to the parents, the report should identify the extent to which the goal has been achieved in measurable terms. For example, if the annual goal is that a student independently write three-sentence paragraphs using correct sequencing of sentences, the report to the parent in March on the extent to which the student is progressing toward this goal might indicate that the student is writing two-sentence paragraphs when using a graphic organizer.

I. RECOMMENDED SPECIAL EDUCATION PROGRAMS0.015 Tc 0.015 Tw 11.04 -0 0 11 ( )J 0 Tc 0 TwJ 0

For information

14. Where does a recommendation for transitional support services fall within the continuum? Is it considered its own service pursuant to section 200.6(c) of the Regulations of the Commissioner of Education? Procedurally, it does not appear as a drop down on the choic es for special education program services in the new IEP form. Some district s currently list it as such – are they mistaken? Are there

- If CT services are to be provided to an elementary student, the IEP should indicate the subject areas of instruction when the CT would be providing services to the student (e.g., during reading groups; during math instruction).
- If CT services are to be provided to a middle or secondary student, the IEP must specify the class subject(s) where CT will be provided (e.g., English, math, science, art, music).
- If indirect CT services are to be provided, the IEP must indicate the regular (or general) education class being taught by the teacher receiving the consultation.
- If the student is recommended to receive CT services for multil6 (ng)10 (m)7 (at)2 (h i)6 (r

services. Therefore, there is no requirement that the IEP specify separately the frequency and duration of direct versus indirect consultant teacher services.

17. Does the minimum number of hours for CT services include both direct and indirect services?

    Yes. The minimum number of hours for CT services, two hours per week, applies to direct and indirect services, in any combination.

18. May school districts continue to use other terms to identify integrated co - teaching services in a student's IEP?

    No. It is required that all districts use the term “integrated co-teaching”, consistent with the regulatory requirements, so that the level of services to be provided to a student is clear and consistent among school districts. To clarify for parents that a previously recommended service means the same as integrated co-teaching, terms such as collaborative team teaching (CTT)

or supportive services if they are required to assist a student with a disability to benefit from special education in order for the student to receive FAPE.

21. Regarding parent training and education – what is it and where does it go in the IEP? Can parent training and education be as simple as a list of resources? Is it a related service? How would frequency, duration and location be indicated for the services?

    Parent counseling and training is a related service and, if recommended for a student, should be listed in the IEP under the IEP form section *Related Services*. Parent counseling and training means assisting parents in understanding the special needs of their child; providing parents with information about child development; and helping parents to acquire the necessary skills that will allow them to support the implementation of their child's IEP. Examples include, but are not limited to:

    - providing parents with information about cognitive and speech and language development;
    - counseling the parents about how to respond at home to a student's behavior in a manner consistent with the in-school behavior management program;
    - training parents to use the same mode of communication (e.g., sign language) the child would be using at school; and

assistive technology devices are student-owned, it may do so under *Applicable Service Delivery Recommendations*.

23. What is a district's responsibility in the case of a student losing an assistive technology device (with multiple programs on it) between home and school (it had been determined that the student needed the device both at home and school and the district purchased only one device)?

    The school district is responsible to ensure a student's IEP is implemented. If a student's IEP requires that an assistive technology device is needed at home or in other settings in order for the student to receive FAPE, the district must replace the lost device.

24. If specialized reading instruction is required and is provided by a certified reading teacher, what serv ice or program should be listed in the IEP (is it resource room, a supplemental service)?

    For a student with a disability recommended for specialized reading instruction to be provided outside of the general education class, this service could be recommended in the IEP of the student as special class, related service or resource room program. Specially-designed instruction provided to an individual student with a disability or to a group of students with disabilities by a certified special education teacher in the student's general education classroom to aid the student(s) to benefit from the general education class instruction could be recommended in the IEP of the student as direct consultant teacher s28 Tw 24 - (al)-utantnt

the student's IEP will be implemented be indicated in an IEP, except that the provider of July/August special education services must be indicated.

27. Where in the IEP is it indicated that a service (such as audio or autism specialist) for a student in a non- district program is required, but that service is provided by the home district (and not the non- district program)? Does the non- district program have to indicate in the IEP that t he home district is paying for this particular service? (Added 4/11)

An IEP is developed to identify a student's present levels of performance, needs, goals, recommended services and the placement where the IEP will be implemented. Information regarding fiscal responsibility for the provision of services is not included in a student's IEP (with the exception, as appropriate, for transition activities provided by participating agencies). When a student is placed in an approved private school, the approved private school is responsible to implement the student's IEP. If the district agrees to provide particular supports and services to a student other than that to which the approved private school has State approval and responsibility, the district should document this in its agreement with the private school and/or in its prior written notice to the parent.

28. If a Committee recommends special class in multiple subject areas, how should that be documented in the IEP? Can the special education program be listed as special class, 12:1+1, and the service delivery recommendation document that the special class will be provided for English, social studies and math, or should the recommendation for each special class be listed separately? (Added 4/11)

The IEP could indicate each special class by subject area and is recommended to do so whenever the frequency or duration special classes vary by subject area, as follows:

RECOMMENDED SPECIAL EDUCATION PROGRAMS AND SERVICES					
SPECIAL EDUCATION PROGRAM/SERVICES	SERVICE DELIVERY RECOMMENDATIONS*	FREQUENCY	DURATION	LOCATION	PROJECTED BEGINNING / SERVICE DATE(S)
SPECIAL EDUCATION PROGRAM:	12:1+1				
Special Class	English	3 days/ week	40 minutes	Separate class	9/7/10
Special Class	Math	5 days/ week	40 minutes	Separate class	9/7/10
Special Class	Social Studies	2 days/ week	40 minutes	Separate class	9/7/10

RECOMMENDED SPECIAL EDUCATION PROGRAMS AND SERVICES				

30. The district has a special class for students with autism spectrum disorders. Therapists go into the class (speech, psych) and work with the class as a whole for various sessions. This exceeds the group limit of five under the

instructional planning process with the consultant teacher to discuss the objectives and to determine the methods and schedules for such services following the development of the IEP."

33.

37. On the IEP form under the Recommended Special Education Programs section of the IEP, the Service Delivery Recommendations column has an asterisk (*) which references the following statement: "Identify, if applicable, class size (maximum student -to-staff ratio), language if other than English, group or individual services, direct and/or indirect consultant teacher services or other service delivery recommendations." Does that mean this information must be documented in the IEP? (Added 4/11)

This section of the IEP is used to document Committee recommendations, as required and as necessary, to provide clarity for implementation of the student's IEP. If a bilingual service is to be provided, the IEP must include the language. If consultant teacher services are to be provided, the IEP should specify the intensity of such services (i.e., group or individual). The IEP must document class size (maximum student-to-staff ratio) if the student is recommended for a special class. Additionally, if the student is recommended to receive resource room program, the IEP must document the recommended class size for that resource room if the recommendation is for less than the maximum allowed by regulation. Class size could be documented in the Service Delivery Recommendations column or be included, in the available text box, as part of the special education program recommendation in the first column of this section of the IEP.

38. How is location documented in an IEP for a preschool student with a disability? (Added 4/11)

The location of service in the context of a student's IEP generally refers to the type of environment that is the appropriate place where a particular service, program modification or accommodation would be provided.

For a preschool child recommended for a full/half-day, integrated/self-contained special class in an approved special education preschool program, location is "special class classroom."

For a preschool child recommended for a full/half-day, integrated/self-contained special class in an approved special education preschool program, and is also recommended to receive related services while participating in the special class, location as follows:

Location for the special class recommendation is "preschool special education classroom."

Location for related services is where, within that approved special education program, the recommended related service(s) would be provided (e.g., the preschool special education classroom, separate therapy room, on the playground).

For a preschool child recommended for related services only, Special Education Itinerant Teacher services (SEIT) only or a combination of rel

where the child is to receive the recommended service (e.g., early childhood program selected by the parent).

39. Is a pr

If the Committee determines that a student needs a new annual goal to be addressed during July and August, then the Committee must revise the student's IEP accordingly. Annual goals should be documented in the IEP under the section *Measurable Annual Goals*. If the Committee has selected specific goals to be addressed during the July/August program, then the section of the IEP for *12-Month Service and/or Program* could add clarification as to the goals to be addressed through the recommended services.

2. Must the IEP indicate the projected beginning service date for extended school year (ESY) services when those services remain exactly the same as for the 10-month program ?

   No. For a student recommended for the same special education program and/or service during July and August as the rest of the year, the beginning service date would already be documented on the *Recommended Special Education Programs and Services* chart that precedes the *12-month Service and/or Program* chart.

3. Under 12-month services/programs: "For preschool student, reason(s) the child requires services during July and August." What about school-age students ? ?

completed since that is the IEP to be in effect for that school year. If the revised IEP recommends discontinuation of a student's eligibility for 12-month services for the next school year, this recommendation would be included in the IEP to be in effect for the next July and August.

8. For those districts that maintain an Anniversary Date IEP for students:
   a) If the student is newly eligible for special education services when he/she is initially classiial edy c(sii)12 (o)10 (n of)2i( )]TJ -0 (l)2 (<</MCID 0 (y c(sii)1 2f)2 (076 i)2

or a reevaluation), it would be more appropriate to have an alternative to the "Yes/No" response indicating that the determination of ESY would be made at the next annual review meeting. Can such an option be added? (Added 4/11)

While it is not necessary to add information to the IEP form for this purpose, prior written notice to the parent must include the Committee's recommendation to defer its determination of ESY eligibility until the annual review prior to the July/August program. However, for a newly referred student, for example, where the Committee needs additional time and student progress information to determine the student's need for 12-month special education services, it would be acceptable, as determined on a case-by-case basis, for the school district to add a text field to the State's form in this section of the IEP for clarifying statements such as the one indicated above. In this case, the projected date the Committee would meet to make the determination should be indicated in this IEP.

11. The IEP requires a notation as to whether a student who is eligible for ESY will receive the same programs/services as that provided during the school year. If so, the CSE simply checks the corresponding box and is relieved of having to specify the ESY program/services. Can it be eliminated so that the CSEs would list all ESY programs/services, whether or not they are the same as those provided during the school year? (Added 4/11)

No. The State's form may not be modified to eliminate this section.

K. TESTING ACCOMMODATIONS

1.

- Special acoustics (specify manner, e.g., minimal extraneous noises)
- Location with minimal distraction (specify type, e.g., minimal visual distraction)
- Preferential seating

Following is an example of how a recommendation for a flexible setting should be indicated in the IEP.

TESTING ACCOMMODATIONS		
TESTING ACCOMMODATION	CONDITIONS*	IMPLEMENTATION RECOMMENDATIONS**
☐ Special Acoustics		

heading of Recommended Special Education Programs and Services, Special

recommended to receive related services while participating in the special class, there is only one placement recommendation in the IEP. It would be “approved preschool special education program."

A Committee does not recommend a placement setting where a child will receive related services only, SEIT services only or a combination of both,. Therefore, the identification in an IEP of placement for such recommendations is the name of the

school year. However, IEPs in effect for the 2011-12 school year, which begins July 1, 2011, must be on the State form.

3. Can information from an IEP on a district's existing IEP form (not a State IEP form) be transferred onto the State's IEP form for use in the 2011 -12 school year?

   Yes.

4. If a district transfers information onto the State form, does the parent need to receive a copy of the IEP on the State form? If so, is this considered a newly developed or revised IEP?

   If the school district is only transferring information documented in a prior IEP onto the State IEP form, this is not considered a newly developed or revised IEP and the parent would not need to receive a copy. However, to ensure the parent has the same information as school personnel, it is recommended that the parent receive a copy of the IEP on the new form.

5. What should a Committee do if when transferring information from a district IEP form onto the State's IEP form, it does not have documentation for all required sections?

   The State's form includes information required by State law and regulation. Therefore, if in transferring information from a current IEP to the State form, the district does not have documentation for all required sections of the State IEP form, the Committee must meet to revise the student's IEP, using the new IEP form, to ensure a complete and
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   5.

State's form for purposes of developing an IESP could modify it to indicate it is an IESP.

8. NYC IEPs indicate that students with disabilit ies can be eligible for "modified promotional criteria." If a student is eligible for a modified promotion, the IEP indicates the percentage they are required to meet for both English l anguage arts and Math. The c urrent NYS IEP does not require or have an area indicating that students with an IEP are eligible for a modified promotion. What is the procedure to indicate modified promotional criteria for the 201 1-12 school year, starting July 1, 2011 ? (Added 4/11)

   If the Committee determines that the criteria for the student to advance from grade to grade needs to be modified, the IEP would indicate this as a program modification. This information would most appropriately be indicated in the IEP in the "Supplementary Aids and Services/Program Modifications/Accommodations" section of the IEP.

9. Is there a separate section for "follow -up recommendations for further evaluation"? (Added 4/11)

   When a CSE or CPSE has identified that additional data are needed to determine a student's need for a special education program or related service, the Committee must then arrange for the additional tests and/or evaluations to be administered. In order to fully inform the parent about the proposed evaluation and seek written consent from the parent, the district must provide prior written notice to the parent. Once the evaluations are completed, the Committee must meet to consider the results of the evaluation(s) to determine if the student's IEP needs to be revised.

   There is no statutory or regulatory requirement that a recommendation for a reevaluation be documented in the student's IEP, except when a functional vocational evaluation is recommended as a transition services activity. A recommendation for a reevaluation is documented in prior written notice to the parent seeking the parent's consent for the evaluation.

10. Is the name of the provider of recommended special education program or services included in an IEP and can the provider's name be listed next to sections of PLEP or goals? (Added 4/11)

    For students eligible for 12-month service and/or program, the IEP must indicate the identity of the provider of services during the months of July and August. Identifying the provider of services is not otherwise required, nor is it recommended. The present levels of performance statements and annual goals are statements about the student, not the provider. If a provider's name is included in the IEP, any change in provider would require a change to the IEP.