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## **IDEA Fact Sheet #1: Excluding Committee on Special Education (CSE) Members from Attending Individualized Education Program (IEP) Team Meeting and Subsequent Changes to the IEP**

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### **Federal Summary:**

The IDEA provides that a member of the Committee on Special Education (CSE) may be excused from attending an Individualized Education Program (IEP) Team 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 school district and parent **consent in writing** to the excusal; and the excused individual submits to the parent and the CSE written input into the development of the IEP no less than five calendar days prior to the meeting.

In addition, a member of the Committee on Special Education (CSE) may be excused from attending an IEP Team meeting, in whole or in part, if the parent of a child with a disability and the agency, **agree in writing**, that the attendance of the member is not necessary because the member's area of the curriculum or related services is not being modified or discussed in the meeting.

The IDEA also allows changes to be made to a child's IEP after the annual IEP Team meeting for a school year. The parent of a child with a disability and the school district may agree not to convene an IEP Team meeting for the purposes of making those changes, and instead may develop a written document to amend or modify the child's current IEP.

### **New York State's Response**

Chapter 378 of the Laws of 2007 amended State Law to implement the federal requirements listed above with the following changes that are specific to New York State:

- + While, consistent with the federal requirement, parents and school districts can agree in writing to the excusal of a required member of the CSE or obtain written consent of the parent when an excused teacher's curriculum area is discussed...

#### ***Additional protections in New York State law require that parents receive:***

- ***All excusal requests by the district no less than five calendar days prior to the CSE meeting.***

- + As required by federal law and regulation, the parent and school district can agree to change a student's IEP after the annual review without holding CSE meeting however...

#### ***Additional protections in New York State law require that parents receive:***

- ***A written proposal to amend the IEP;***
- ***Information of the right to consult with the child's teacher or related service provider to discuss the proposed changes;***
- ***Prior written notice of any agreed upon IEP changes; and***
- ***A copy of the amended IEP or amended portions of the IEP without needing to request it.***

### **Frequently Asked Questions**

- 1. What is the rationale for excusing IEP Team Members and changing IEPs without CSE meetings?**

The United States Department of Education (USDOE) noted that the provision to excuse CSE members from meetings or change IEPs without a CSE meeting is to provide flexibility on behalf of parents. Touted as evidence of empowering parents in the IDEA, the excusal of members was to avoid delays in holding a meeting when a member cannot attend due to a conflict. USDOE noted that states **must** implement and **may not** restrict any of these provisions.

## **2. What does it mean to “agree in writing” versus to “consent in writing” that a CSE member can be excused from attending a meeting?**

Federal guidance is limited on this topic, but generally “agreement” is an understanding between a parent and a school district. According to guidance, State and local officials determine the format and content of the written agreement. It is important to remember that this flexibility is only permissible when the CSE member’s attendance is **not** necessary because the member’s area of curriculum or related services is **not** being discussed or modified in the meeting.

Providing consent is a more formal process with legal implications. It means that the parent has been fully informed in his or her native language or other mode of communication. The parent must also understand that granting consent is voluntary and can be revoked at any time. Obtaining parental consent is applicable only when the CSE meeting will involve a modification to the CSE member’s area of curriculum or related services. When a member is excused from such a meeting, he/she must submit written input into the development of the IEP to the parent prior to the meeting.

## **3. How is “written input” into the development of the IEP defined?**

IDEA does not indicate how far in advance of the CSE meeting that the written input must be provided to the parent and CSE members. In addition, IDEA does not specify the format or content to be included in the written input provided by an excused member of the CSE, as well as the method(s) the written input is provided to the parent and CSE. USDOE guidance notes that these questions are left to school district officials to determine based on the circumstances and needs of the child, parent, and CSE.

### **Advice to Local Leaders**

- Local leaders should educate their members in regard to their potential excusal from CSE meetings or participation in IEP changes. Local leaders should stress the benefits of the partnership between parents and teachers. Several of these benefits are described below:
  - IEP meetings are often the only time that parents, teachers and service providers meet to collaboratively discuss the student’s learning and behavioral needs.
  - The attendance of teachers at meetings when their curriculum is being discussed will ensure that student needs are being appropriately addressed.
  - Teachers, school psychologists and other service providers who know the student and the curriculum are vital to the collaborative planning that occurs at IEP meetings.
- Local leaders should urge school district administrators to use the excusal provisions only under certain situations when an CSE member cannot attend the meeting because of an emergency and it is not possible to reschedule the meeting given special education timelines.
- Local leaders should provide parent groups such as the PTA, as well as disability advocacy groups with copies of this Fact Sheet to make them aware of this IDEA change and the impact it may have on the provision of appropriate special education programs and services for their children.
- Local leaders should examine their collective bargaining contracts to determine whether the submission of written information prior to the CSE meeting would constitute changes in terms and conditions of employment.
- For more information on this topic, see NYSUT Information Bulletin on The Reauthorized IDEA and Recent Changes in New York State Law.

**NYSUT is currently collecting information on the implementation of the recent IDEA changes through a web-based IDEA Feedback Survey. Please take a few minutes to share how these changes have impacted you and the special education students in your district by visiting [www.nysut.org/outreach](http://www.nysut.org/outreach). The Survey data will be used to support NYSUT’s special education advocacy and legislative efforts at both the federal and state levels.**

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