

Discussion: We do not agree with the changes recommended by the commenters. Section 300.322(a) already requires each public agency to take steps to ensure that one or both parents are present at each meeting, including notifying parents of the meeting early enough to ensure that they have an opportunity to attend, and scheduling the meeting at a mutually agreed on time and place. We believe that these requirements are sufficient to ensure that parents are provided the opportunity to participate in meetings. We also believe that State and local officials are in the best position to determine how far in advance parents must be notified of a meeting, as this will vary based on a number of factors, including, for example, the distance parents typically have to travel to the meeting location and the availability of childcare. ★

Changes: None.

Information Provided to Parents (§ 300.322(b))

Comment: Several comments were received requesting that additional information be provided to parents when the public agency notifies parents about an IEP Team meeting. One commenter recommended informing parents that they can request an IEP Team meeting at any time. Other commenters recommended that the notice include any agency requests to excuse an IEP Team member from attending the meeting, and any written input from an IEP Team member who is excused from the meeting. Another commenter recommended that parents receive all evaluation reports before an IEP Team meeting. A few commenters recommended that parents receive a draft IEP so that they have time to examine the child's present levels of performance; prepare measurable goals; and consider appropriate programs, services, and placements.

Discussion: The purpose of the notice requirement in § 300.322 is to inform parents about the IEP Team meeting and provide them with relevant information (e.g., the purpose, time, and place of the meeting, and who will be in attendance). This is not the same as the procedural safeguards notice that informs parents of their rights under the Act.

If, at the time the IEP Team meeting notice is sent, a public agency is aware of the need to request that an IEP Team member be excused from the IEP Team meeting, the public agency could include this request with the meeting notice. We do not believe that it is appropriate to require that the request to excuse an IEP Team member from an

IEP Team meeting be included in the meeting notice, because the public agency may not be aware of the need to request an excusal of a member at the time the IEP Team meeting notice is sent. For similar reasons, it is not appropriate to require that the IEP Team meeting notice include any written input from an IEP Team member who may be excused from the IEP Team meeting.

As noted in § 300.306(a)(2), the public agency must provide a copy of an evaluation report and the documentation of determination of eligibility at no cost to the parent. Whether parents receive all evaluation reports before an IEP Team meeting, however, is a decision that is best left to State and local officials to determine.

With respect to a draft IEP, we encourage public agency staff to come to an IEP Team meeting prepared to discuss evaluation findings and preliminary recommendations. Likewise, parents have the right to bring questions, concerns, and preliminary recommendations to the IEP Team meeting as part of a full discussion of the child's needs and the services to be provided to meet those needs. We do not encourage public agencies to prepare a draft IEP prior to the IEP Team meeting, particularly if doing so would inhibit a full discussion of the child's needs. However, if a public agency develops a draft IEP prior to the IEP Team meeting, the agency should make it clear to the parents at the outset of the meeting that the services proposed by the agency are preliminary recommendations for review and discussion with the parents. The public agency also should provide the parents with a copy of its draft proposals, if the agency has developed them, prior to the IEP Team meeting so as to give the parents an opportunity to review the recommendations of the public agency prior to the IEP Team meeting, and be better able to engage in a full discussion of the proposals for the IEP. It is not permissible for an agency to have the final IEP completed before an IEP Team meeting begins.

Changes: None.

Other Methods To Ensure Parent Participation (§ 300.322(c))

Comment: One commenter recommended that the regulations permit parents to provide input through a written report in order to document that the parents provided input into their child's education.

Discussion: Parents are free to provide input into their child's IEP through a written report if they so choose.

Therefore, we do not believe that a change is needed.

Changes: None.

Conducting an IEP Team Meeting Without a Parent in Attendance (§ 300.322(d))

Comment: Many commenters recommended that § 300.322(d) retain paragraphs (d)(1) through (d)(3) in current § 300.345, which provide examples of the types of records a public agency may keep to document its attempts to arrange a mutually agreed upon time and place for an IEP Team meeting. These examples include detailed records of telephone calls made or attempted and the results of those calls; copies of correspondence sent to the parents and any responses received; and detailed records of visits made to the parent's home or place of employment and the results of those visits. A few commenters stated that removing these provisions violates section 607(b) of the Act.

Discussion: We agree that these provisions are important to encourage parent participation in the IEP process, which is an important safeguard for ensuring FAPE under the Act. We will, therefore, add the requirements in current § 300.345(d)(1) through (d)(3) to § 300.322(d).

Changes: We have added the requirements in current § 300.345(d)(1) through (d)(3) to § 300.322(d).

Comment: One commenter stated that parents who do not participate in IEP Team meetings when the school has made good-faith efforts to include them should be sanctioned.

Discussion: There is nothing in the Act that would permit sanctioning a parent who does not participate in an IEP Team meeting, nor do we believe that it would be appropriate or helpful to do so. Sanctioning a parent is unlikely to engender the type of active participation at IEP Team meetings that would be desirable or helpful in developing, reviewing, or revising a child's IEP.

Changes: None.

Comment: One commenter recommended that the regulations make explicit that the LEA can move forward and hold an IEP Team meeting without the parent, if notice has been provided consistent with § 300.322(a)(1) and (b)(1), and the parent does not participate. The commenter recommended that this requirement be consistent with the parent participation requirements for placement meetings in § 300.501(c)(3) and (c)(4).

Discussion: Section 300.322(d) explicitly allows a meeting to be conducted without a parent if the public