

Inviting Participating Agencies Clarification

(Applies to the April 2019 data collection period for B-13)

34 CFR §300.321 (b)(3) states: To the extent appropriate, with the consent of the parents or a child who has reached the age of majority, in implementing the requirements of paragraph (b)(1) of this section, the public agency **must invite** a representative of any participating agency that is likely to be responsible for providing or paying for transition services.

Therefore, the district must “invite” the participating agency if it is likely that the agency may be responsible for providing or paying for transition services.

1. What constitutes an “invitation”? There are a variety of ways a district can invite a participating agency, including but not limited to the following:

- A separate letter of invitation with the agency’s representative listed in the “salutation”.
- The representative from the agency is listed in the salutation on the letter of invitation to the student and/or parent.
- Copy of an email invitation that includes the date when the email was sent, the date and time of the meeting, the purpose of the meeting, location of the meeting, and who’s IEP meeting it is.
- A written log of when a verbal invitation occurred that includes the date of the verbal invitation and who made the contact to the representative of the agency.

2. What is the timeline for “providing or paying for transition services”?

The law does not define when services are to be delivered or paid (such as, within the IEP year, 2 years out, 4 years, etc.). It simply states “if it is likely” that the outside agency will provide or pay for service – but not when. So, some interpret this to mean if the IEP Team decides that MRS is needed (at any time in the student’s high school career) then they should be invited. Others interpret this to mean within the IEP year. Without a clearly defined timeline, we are leaving it to the IEP team to determine if an outside agency is likely to pay for or provide services. However, the IEP Team must be careful. If the Team indicates on the IEP that an agency is likely to provide or pay for services, they cannot defer it to a later date/time. Once it is established that an agency is likely to provide or pay for transition services, then they must be invited to the meeting.

The intent behind this requirement is to involve the participating agency early in the planning process so that they can be a meaningful participant in the planning. For example, an agency is invited to the IEP Team meeting of a student who just turned 16 years. The agency attends the meeting and explains their services and

what they can do for the student and participates in the transition planning. The Team may decide at that time that services will not be provided during the current school year, but the agency may have suggestions as to what skills and activities the student and school should work on to prepare for when those services would be appropriate, as opposed to not attending the IEPT meeting until the student is a certain age.

3. Related Questions:

Q. The student will not be receiving services this school year but will when they are a senior. Should the agency be invited?

A. The IEP team needs to decide if the agency should be invited so that they can participate in planning early or if, since the agency will not be providing or paying for services this IEP year, to wait and invite them at the point that they will be providing or paying for transition services.

However, if the IEP team indicates in the IEP plan that services are needed but they will either,

- a. Wait until the student's senior year to invite the agency, or
- b. Have the student meet with the agency separately at a later time,

the IEP would not be deemed compliant since the need and expectation that the agency is likely to pay for or provide transition services has been established. The law is in place to ensure that the IEP team and other providers of transition services are working together to "coordinate" activities of transition for better student outcomes.

Q. If we are required to provide a separate invitation to the participating agency, are we required to provide a separate invitation to the other members of the team?

A. §300.321 defines who is required to be on the IEP team. It is the responsibility of the public agency (district) to ensure that these members are part of the IEP team for every student with an IEP.

§300.321(b) specifies that the public agency must invite the child with a disability to attend the IEP team meeting if a purpose of the meeting will be the consideration of the child's postsecondary goals and transition services.

In addition, §300.321(b)(3) states that the public agency must invite a representative of any participating agency that is likely to be responsible for providing or paying for transition services.

Therefore, the only instance in which the law clearly states that the district must “invite” a participant is listed above.

§300.322 describes the district’s responsibility for ensuring that one or both parents of a child with a disability are present at each IEP Team meeting or are afforded the opportunity to participate. This includes:

- Notifying the parent early enough to ensure that they will have an opportunity to attend.
- Scheduling the meeting at a mutually agreed on time and place.
- Ensuring that the notice to the parent(s) indicate the purpose, time, and location of the meeting and who will be in attendance.