



The Individuals with Disabilities Education Act  
(IDEA) 92 NAC 51 (Rule 51)

5-Year-Old Preschool IEP Guidance Document

January 2017



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## Purpose

Districts have requested guidance regarding the procedures and documentation that IEP Teams must consider when serving kindergarten-age-eligible five-year-olds (who will not turn six before January 1st of the kindergarten school year) in a preschool setting instead of attending kindergarten with their same-age peers.

## Procedure Guidance

- 1) IEP Teams may consider an additional year of preschool for five-year-olds who have an IEP, but such placements must be based upon the individual educational needs of the student.
- 2) When the IEP Team convenes to discuss the most appropriate placement for a five-year-old with an IEP, they must **first** discuss the accommodations and modifications that would be necessary for the child's successful participation and progress in kindergarten.
  - a. Parent desire to delay kindergarten entrance is not a justifiable reason for preschool placement.
  - b. Nebraska is a 'come as you are' state. Issues such as toileting or a child's need for rest breaks would not be justifiable reasons to necessitate a preschool placement for a child.
  - c. Children with fragile medical conditions could still be placed in a kindergarten setting where accommodations are made for frequent rest/medical breaks, and the length of the school day or curriculum items can be modified through their IEP as needed.
  - d. Cost of needed accommodations, modifications, and supports is not allowable as a justification to delay entry into kindergarten.
- 3) Once an IEP Team has discussed a student's needed accommodations and modifications for kindergarten participation and attendance, and the team decides that the child's best placement would be a third year of preschool, the IEP Team must document this decision on the child's IEP. In the Present Levels of Performance, or some other appropriate location in the IEP, the team must document the following:
  - a. A description of all the kindergarten accommodations and modifications that were considered/discussed.
  - b. An explanation of why the preschool placement has been determined to be a better placement than kindergarten.
- 4) If the IEP Team determines that the child should, with all appropriate accommodations and modifications, attend kindergarten, but the child's family does not wish for the child to attend kindergarten, then the family has the following options:
  - a. The family may choose to keep their child at home for the school year and bring the child to school to receive their special education services

and supports.

- b. The family may choose to withdraw their consent for services for the school year and request a new MDT referral to establish the child's eligibility for special education services upon their enrollment in kindergarten.

## Contact Information

**If you have any questions about any of these items, our team is available to assist you:**

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