



# IEP AND THE POWER OF THREE

**You, Your Child, Your  
Knowledge**



Disability  
Rights  
Arkansas

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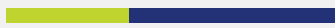
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# GENERAL OVERVIEW

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This resource is intended to give parents, guardians, and caregivers of school-age children a strong foundation of knowledge about the special education system and the Individualized Education Program (IEP). We aim to help you be proactive in setting your child up to succeed and not be reactive when struggles arise. This resource is not intended to offer legal advice but to give you the tools you need to be an active participant in the special education process and to advocate for the person you love.

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Its contents are solely the responsibility of the authors and do not necessarily represent the official views of the GCDD.

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This guide is not intended to instruct schools regarding their obligations to provide students with a free, appropriate public education. It should not be relied upon by educators in determining whether any action or inaction complies with the IDEA or other laws and regulations governing the education of children.

This guide is not intended to reflect the position of Disability Rights Arkansas, Inc. with respect to advocacy or representation of a specific individual and is not an official endorsement of any of the methods or services described herein. Instead, this guide is intended to supply information that might be helpful to children with disabilities, their parents, and their advocates.

# THE HISTORY OF **SPECIAL EDUCATION**

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To understand Special Education and how it impacts children and parents, it is important to know how it started. Students with disabilities have the right to a free appropriate public education (FAPE). This includes a meaningful opportunity to learn beside their non-disabled peers with accommodations and modifications to help them reach ambitious educational goals.

Before the passage of specific laws, parents of children with disabilities had few choices for quality education. Unfortunately, from early on, children with disabilities consistently fell through the cracks in the educational system. These students were subject to segregated placements lacking education and other services. This practice of segregation was often vigorously supported by teachers, physicians, psychologists, and others.

Before 1975, many states allowed school districts to deny children with disabilities access to education. One compelling example described by the U.S. Department of Education is a child named Allan. In the 1940s, baby Allan was left on the front steps of an institution where he lived for decades. Thirty-five years later, Allan's face was heavily calloused. He was blind and considered to have an intellectual disability. He spent most of his days rocking in a corner. When Allan became an adult, evaluations revealed that he had average intelligence. His blindness resulted from self-harming behavior learned from other residents.

The assessors believe that Allan could have thrived with proper interventions and would likely not have lost his sight. Allan's story was not unique. Due to a lack of appropriate evaluations and interventions, many individuals with disabilities missed the opportunity to reach their maximum potential.

While some jurisdictions recognized the rights of children with disabilities to access FAPE based on the United States Constitution prior to 1975, the passage of the Education for All Handicapped Children Act of 1975 (EHC) extended this right to all children with disabilities. In passing the EHC, Congress found that there are approximately 8 million children with disabilities in the United States. More than half of those children were not receiving appropriate educational services, with more than one million excluded entirely from the public school system. After the passage of the EHC, eligible students with disabilities were entitled to receive free, individualized, and tailored education services with the opportunity to learn alongside their non-disabled peers in the least restrictive environment.

The EHC was reauthorized in 1990, becoming The Individuals with Disabilities Education Act (IDEA). The law was last re-authorized in 2004 and has undergone many changes. At its core, the IDEA is a federal law that guarantees children with disabilities will receive a free appropriate public education alongside their non-disabled peers to the extent possible.

FAPE requires education to be appropriate. In 1982, the U.S. Supreme Court heard the case *Hendrick Hudson District of Education v. Rowley*. In this case, students were considered to have received an "appropriate education" if they received "some educational benefit." Several jurisdictions considered "some educational benefit" to mean slightly more than the bare minimum.

The U.S. Supreme Court addressed the issue again in 2017 in *Endrew F. v. Douglas County School District*. In this case, the U.S. Supreme Court clarified its ruling, requiring that education plans must be, "appropriately ambitious in light of the child's circumstances." Now, every student with a disability must have the opportunity to meet challenging objectives that are appropriate for their specific needs.

# INTRODUCTION TO BASIC CONCEPTS & TERMS

- The **Individuals with Disabilities Education Act (IDEA)** governs all of special education and related services provided to a child with a disability. It is a federal law, which means it applies to all states who receive federal funds for special education. If a state participates, the IDEA supersedes any state law that contradicts it. A state may provide more protections and higher standards, but a state can do no less.
- **Special Education** is specially designed instruction that is individually tailored to address all of the needs of a child with a disability. It requires, if appropriate, modifying the content, methodology, or delivery of instruction in a way that will meet a child's needs and enable them to access the general curriculum. It must be provided at no cost to the parents, unless the cost is a fee charged to nondisabled students as part of a typical education program.
- **Related Services** describes a broad array of services that are not educational in nature but are necessary to allow students to access education. Traditionally, this includes therapies, such as speech therapy, occupational therapy, or physical therapy. It can also include numerous other services, including but not limited to: interpreting services, orientation and mobility services, counseling, medical diagnostic or evaluation services, nursing services, or even services to parents to assist in understanding a child's needs.

- **Child with a disability** is specifically defined in the IDEA. After a child is evaluated, a school must consider whether a child has one of the following categories of disabilities: (1) Autism; (2) Hearing Impairment; (3) Visual Impairment; (4) Intellectual Disability; (5) Emotional Disturbance; (6) Orthopedic Impairment; (7) Traumatic Brain Injury; (8) Other Health Impairment; (9) Specific Learning Disability; or (10) Multiple Disabilities. For children aged three through nine, a child may also have developmental delays and meet the categorical requirement. If a child meets the criteria for one of the specific categories of disabilities and also requires special education and related services to access their education, then the child is a child with a disability according to the IDEA.
- In order to determine if a child is a child with a disability, a school must conduct an **Evaluation** of the child. Evaluations consist of a variety of assessments that are designed to gather relevant academic, functional, and developmental information about a child. It is used to determine whether a child has a disability, what barriers exist for the child to access education, and how a child can be assisted to remove those barriers.
- **Individualized Education Program (IEP)** describes the written plan to provide special education and related services to a child with a disability. Among several other requirements, an IEP must have the following: (1) the academic and functional performance of the child at the time the IEP is written; (2) measurable goals for the child to meet by the end of each academic year; (3) a statement of what modifications, services, and supports are necessary for the child to access their education.

- An IEP is not written by a single person or the school alone. Any decision regarding the modification of whether or how a school will deliver special education and related services is made by an **IEP Team**. The team consists of specific personnel from the school, along with the parent and any individual who the parent would like to attend who has knowledge of the child.
- Through the delivery of special education and related services, the IDEA requires a school to provide a **Free Appropriate Public Education (FAPE)** to a child with a disability. FAPE is the backbone of our nation's special education laws. FAPE guarantees the right of students with disabilities to receive a free meaningful public education tailored to meet their unique needs while learning alongside their non-disabled peers in the least restrictive environment.
- The IDEA requires schools to ensure that children with disabilities are educated in the **Least Restrictive Environment (LRE)**. Accordingly, schools must, to the maximum extent appropriate, ensure that children with disabilities are educated alongside non-disabled peers. Schools must commit significant supports to enable a child to be among non-disabled peers before considering special classes or other forms of segregation.
- **Parent** is a term used throughout and it is expressly defined by the IDEA and not exclusive to biological parents. It can mean a natural, adoptive, or foster parent, a guardian, an individual acting in the place of a natural or adoptive parent with whom the child lives, an individual who is legally responsible for the child's welfare, or a surrogate parent officially established by the school. Further, when a child reaches the age of majority, the child has all the rights and responsibilities of a parent regarding their own education.

## Other Laws

Though the focus of this curriculum is on IEPs through the IDEA, other laws affect a child's right to an appropriate education, such as:

- **Section 504 of the Rehabilitation Act of 1973 (Section 504)** prohibits discrimination based on disability in programs receiving federal funding. Some students who do not qualify for special education services under the IDEA may still receive services under Section 504 if they are considered a “qualified individual with a disability.” The student must have a physical or mental impairment that substantially limits one or more major life activities. This might include reading, playing, moving between classes, or a condition that requires medication, such as diabetes; having a record of such impairment, or being regarded as having such impairment to qualify. Section 504 requires that all qualified students have an equal opportunity to participate in activities and services at school, including school clubs, after-school programs, sports, and other extracurricular activities.
- **Title II of the Americans with Disabilities Act (ADA)** protects qualified individuals with disabilities from discrimination based on disability in all state and local government services, programs, or activities. The anti-discrimination prohibition extends to all activities of state and local governments, including those that do not receive federal financial assistance. All public schools must comply with Title II of the ADA.
- **Every Student Succeeds Act (ESSA)** is a federal law signed in 2015 and represents the new version of the No Child Left Behind Act (NCLB). ESSA aims to further ensure the success of students and schools by upholding protections for students, requiring that all students be taught high academic standards to prepare them for college and careers, and stressing the importance of accountability standards.



- **Family Educational Rights and Privacy Act (FERPA)** is a federal law that protects the privacy of student educational records. The law applies to all schools that receive federal funds. FERPA gives parents certain rights to their children's educational records, which transfer to the student once they turn 18. Parents or eligible students have the right to inspect and review the student's educational records and the right to correct inaccurate or misleading information contained in educational records. Generally, schools must have written permission from the parent or eligible student to release information from a student's files.

## Procedural Safeguards

Procedural Safeguards describes one of the laws within the IDEA. It is designed to provide protections to students with disabilities and their parents. The protections broadly ensure parents have a right to access educational records, meaningfully participate in meetings regarding their child's education and to obtain an independent evaluation of their child. It requires schools to deliver written notice to a parent when it wants to change or refuses to change nearly any aspect of a child's access to special education. This law outlines how parents and schools may resolve a dispute regarding a child's education. Finally, a significant section of this law is devoted to protections for children subject to discipline.

- **Prior written notice** – When a school wants to (or refuses to) change something about how it provides special education and related services to a child, the school must provide the parent or legal guardian with written notice in understandable language. The notice must explain what the school wants (or refuses) to do, an explanation of why, and a description of anything it used to aid its proposed decision. The notice must describe all of the other options the IEP team considered but ultimately rejected, along with the factors used in its decision. Finally, the notice must also inform the parent of resources available to help them understand and how to obtain a copy of the procedural safeguards.

- **Access to educational records** – A parent has the right to review their child's educational records. This includes a the right to an explanation of the records and the right to have a representative review the records. Parents have the right to request a copy of the records if they are not able to effectively review the records without a copy.
- **Amendment of records** – Parents or eligible students have the right to request that a school correct any record they believe to be inaccurate or misleading. If the school refuses to amend the record, the parent or eligible student has the right to request a hearing.
- **Independent Evaluation** – If a parent disagrees with a school's evaluation they have a right to obtain an independent evaluation of their child, and the IEP team must consider it if it meets the school's criteria for an evaluation. A parent has the right to request that an independent evaluation be at public expense, which the school must either provide or request a hearing to defend its evaluation. If a hearing officer agrees that the school's evaluation was sufficient, a parent may still obtain an independent evaluation at private expense.
- **Confidentiality** – Generally, schools must have written permission from the parent or eligible student to release any information from a student's education record.
  - However, schools may disclose records, without consent, to the following parties or under the following conditions:
    - School officials with legitimate educational interests; Other schools to which a student is transferring; Specified officials for audit or evaluation purposes;
    - Appropriate parties in connection with financial aid to a student; Organizations conducting certain studies for or on behalf of the school; Accrediting organizations;

- To comply with a judicial order or lawfully issued subpoena; Appropriate officials in cases of health and safety emergencies; and State and local authorities within a juvenile justice system, according to specific state law.
- Schools may disclose "directory" information such as a student's name, address, telephone number, date and place of birth, honors and awards, and dates of attendance without permission from a parent or eligible student. However, schools must inform parents and eligible students of directory information and allow parents and eligible students a reasonable amount of time to request that the school not disclose directory information about them.
- **Dispute Resolution** – Another right and procedural safeguard for children with disabilities is the right to a dispute resolution process. There are many different routes a parent or guardian can pursue. The first two are voluntary and are intended to produce an agreement between the parent and the school. The final two require a third party to resolve the dispute.
  - A **Facilitated IEP (FIEP)** is a process in which a facilitator joins the IEP team and works with the team to identify the issues and establish common objectives. The facilitator helps guide the team and ensures the team stays on track.
  - **Mediation** is a dispute resolution process in which an independent third party helps members discuss the issues while working towards finding solutions on which team members can agree. If necessary for progress, a mediator may meet with the parent and the school in separate rooms. Nobody is required to agree to any outcome of a mediation.

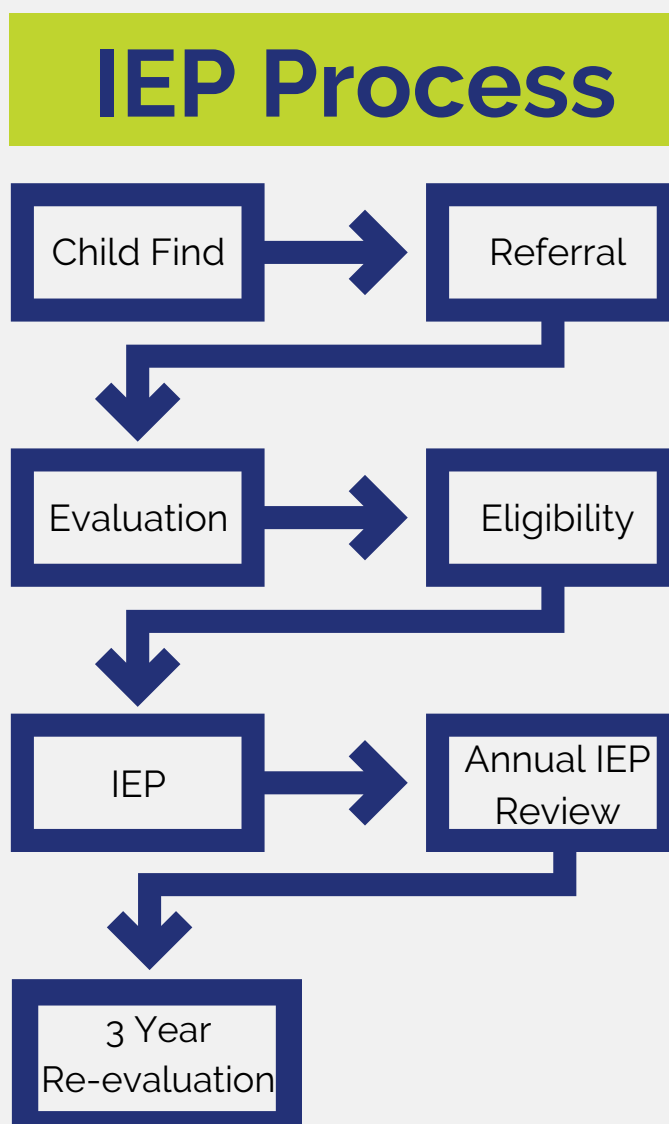
- A parent can make a written complaint to their state's Department of Education if they believe a school has violated the IDEA. This is known as a **State Complaint**. Through this process the state will investigate a parent's claim, review records, interview the parent and school personnel, and render a written decision of whether the school failed to meet its obligations. If necessary, the state Department of Education may order remedies such as compensatory education or services and training to school personnel.
- A **due process hearing** is an administrative proceeding. A hearing officer, who is an individual with specialized knowledge of special education laws, presides over the hearing. During a due process hearing, both the parent and the school may present evidence supporting their respective positions. The parent and the school may present and question witnesses, provide testimony, submit written evidence and offer legal arguments. The hearing officer will consider the evidence to make an impartial decision. If the parent or school district disagrees with the outcome of a due process hearing, they may appeal the decision to a state or federal court.

# BASICS OF THE IEP PROCESS

Schools are required to identify, locate, and evaluate all children with disabilities in their districts. This process is known as “**child find.**” It can consist of public information events, outreach to community programs, and consultation with private schools.

Anyone who suspects a child might need special education services can request the student be evaluated. This is called a referral. That includes the child, the parent, family members, doctors, childcare providers, and advocates, as long as the individual has relevant knowledge of the child.

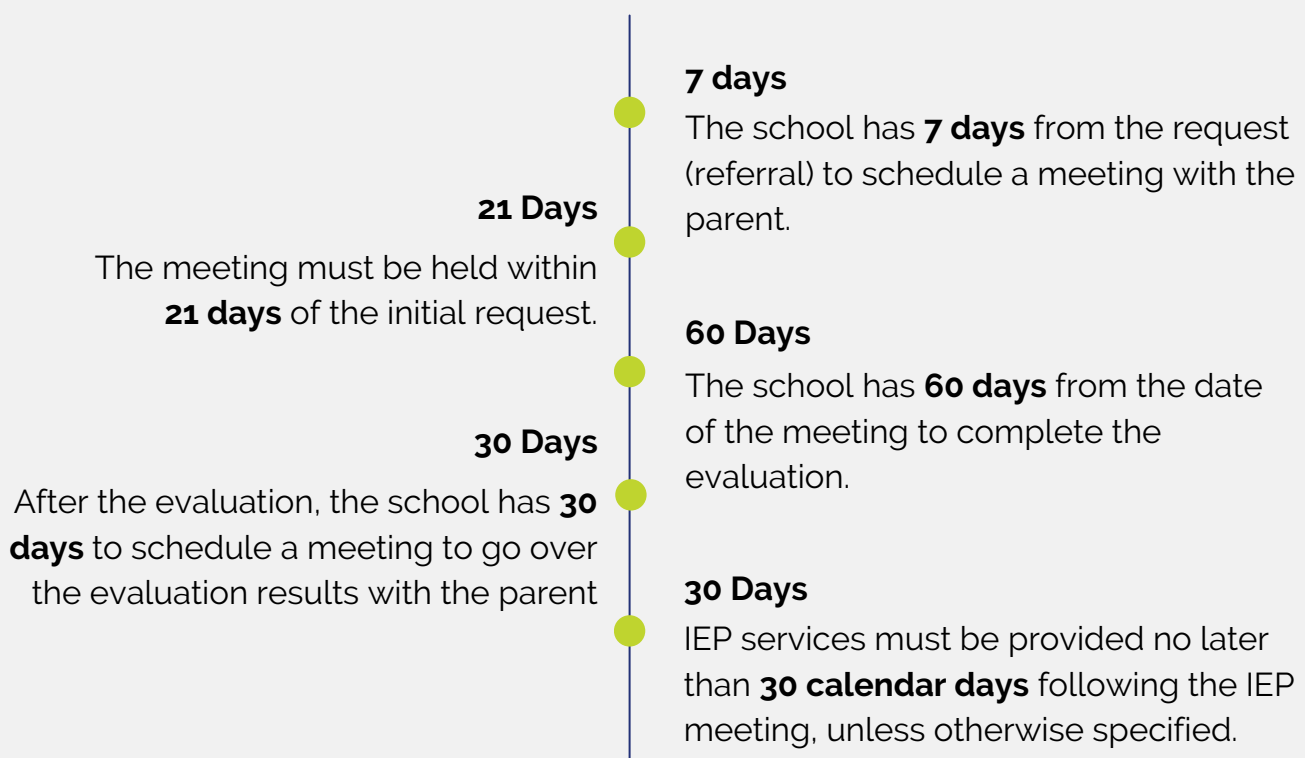
Within seven days of a referral the school must schedule a referral conference to consider whether to evaluate the child after reviewing any existing information. The meeting should occur within twenty-one days of an initial referral.



A school must obtain a parent's written permission to perform an evaluation. If the parent does not consent or respond to the requests made by the school, the school may file a due process complaint to get permission from a hearing officer without the parent's consent. A parent should always communicate their concerns to the school district in writing, including the date, a signature, and contact information.

Once the school receives consent, the school has up to 60 days to complete the evaluation process. School districts are required to evaluate students for all suspected disabilities.

## IEP Timeline



Once an IEP is drafted, the IEP team will meet at least once a year to review the IEP. Every three years the child is re-evaluated for special education services.

# ELIGIBILITY

If someone suspects a child has a disability and may require special education, the first step is to submit a referral for an evaluation. Any person with relevant knowledge of a child may submit a referral. Referrals may be made at any time and should be submitted in writing to ensure a record of the request. If a parent wants to begin the referral process, they should submit a letter or e-mail to the principal of the student's school or the special education director for the child's school district requesting that the student be evaluated for Special Education. This letter should also include a request for a meeting and provide any records or other information that describes the problems or disabilities that interfere with their learning. Helpful information could include: hearing and vision screenings; home or classroom behavior checklists; existing medical records, social or educational data; the need for assistive technology devices and services; examples of the child's academic work; and any diagnostic or screening data.

## Referral Conference

Upon referral, the district must contact the parent within seven days to schedule a referral conference. The conference must be held within twenty-one days of the referral, including but not limited to hearing and vision screenings; home or classroom behavior checklists; existing medical records, social or educational data; the need for assistive technology devices and services; examples of the child's academic work; and any diagnostic or screening data.

Prior to the conference, the school must provide a written notice to the parent that must include the referral conference's date, location, and time. A team of at least three people is required to attend a referral conference: the principal or designee, the teacher directly involved with the student's education, and the parent. Other people with relevant information regarding the student may also attend the referral conference, including the child. During the referral conference, the team will review all available data related to the child.

Once the team reviews and discusses the existing data, the team will decide if more information is needed. If the parent or other team members think the student requires specialized testing, they should request it at the referral conference.

During the referral conference, the school must go over the procedural safeguards, also known as parent's rights. Among the safeguards previously discussed, the school must notify the parent in writing prior to changing the child's identification as a student with a disability, conducting an evaluation, or modifying the student's placement. The school must similarly notify the parent of any changes to the student's academic program.

The parent must also be notified if the district refuses to evaluate the child or denies the child special education services. The notice must fully explain to the parent what the district is doing or not doing, and why. This notice must also provide a description of any other options considered and the reasons they were rejected. Finally, the notice should describe the information the school used to reach its conclusion.

## Evaluation

If the team determines a student needs an evaluation, the district must complete all required assessments and data-gathering within 60 days of the parent's written consent. The purpose of the evaluation is to provide more information to help the team determine whether a student is eligible for special education services, as well as which services and supports they need.

The evaluation must be able to answer two of the following questions:

- Does the student have a disability?
- If yes, what are the student's educational needs resulting from the disability?

The district must conduct a complete and individual initial evaluation to determine if the student has a disability and needs special education services. The district might refer to this as "comprehensive" or "psychoeducational." An evaluation is a set of activities, not a single test. An initial evaluation will likely measure the student's intelligence, academic progress, and behavior. However, the student must be evaluated for **all** suspected disabilities.

Following the completion of an evaluation, the school must with the parent and the IEP team to go over the evaluation and determine whether the student is a "child with a disability" and eligible for special education and related services. This meeting must occur within 30 days after the completion of the evaluation. Finally, the IEP team must meet and develop an IEP for the student, if eligible. Typically, this meeting will occur at the time eligibility is established. In any case, a school must implement an IEP within 30 days after establishing a student's eligibility for special education and related services.

Each assessment or tool used in an evaluation might require particular expertise. Trained and knowledgeable professionals must administer the separate assessments that constitute an evaluation. However, the parent should be prepared to provide their own information to ensure more accurate evaluation results for the child. The school must ensure that the evaluation is administered in the student's primary language and in a way that is not racially or culturally discriminatory. The evaluation will include various tools, formal and informal assessments, and information from multiple sources.

## Evaluation/Programming Conference

The school must hold an evaluation/programming conference within 30 calendar days of completing the evaluation. Not only is the parent entitled to receive a copy of the written evaluation report, but the school must supply a copy prior to the conference if requested by the parent.

To prepare for the meeting, the parent should review these reports and write down any questions regarding the reports. There should be no surprises in an IEP meeting.

The conference must include one or more individuals who are qualified to help parents and other team members understand the evaluation and its components. Having the evaluation explained in the conference not only identifies whether a child has a disability and needs special education, but also helps build an IEP for the child.

## Eligibility Determination

Evaluations, by themselves, do not determine whether a child is eligible for special education and related services.

At the conference, the IEP team must determine whether the evaluations provided enough information to establish eligibility or ineligibility or whether the team needs more information. The team must first consider whether the child has one of the following categories of disabilities:

- Autism
- Hearing Impairment
- Visual Impairment
- Intellectual Disability
- Emotional Disturbance
- Orthopedic Impairment
- Traumatic Brain Injury
- Other Health Impairment
- Specific Learning Disability
- Multiple Disabilities

Some of the categories are specifically tied to a definition that might require a diagnosis from a specific professional (e.g., a physician or psychologist) or might rely on a specific standardized test. If a child is suspected of having a disability, the school must always ensure that a child is evaluated for that disability, even if it does not have the personnel to do so. For example, a child with a serious mental illness might meet the definition of “emotional disturbance.” However, most members of an IEP team are not qualified to diagnose a child with a serious mental illness. As a result, a team must consider what other professionals could provide information helpful to determine eligibility, even if the school must contract with an independent professional.

Once the team is satisfied that it has enough information to determine that the child meets one of the categories of disability, it must consider whether the child needs special education and related services.

If the child requires specially designed instruction, which includes adapting the content, methodology, or delivery of instruction in order to address their unique needs and to ensure they can access the general curriculum, then the child requires special education. Such specially designed instruction might be required due to a number of reasons, such as impairments of learning, deficits in communication, or difficulties with behavior related to a disability.

The team must not “try a 504 plan” to see if a student may be accommodated. A 504 plan refers to Section 504 of the Rehabilitation Act (separate from the IDEA) and requires schools to provide supports and services to ensure children with disabilities have access to public education. However, a school cannot simply choose which statute it prefers. If a student is eligible for special education and related services, then the student must have an IEP, regardless of whether the student is also eligible through Section 504.

## Meaningful Parental Participation

The parent must understand the evaluation, so they can be an active members of the conference. During the conference, schools must use accessible language that each person can understand when reviewing data and explaining its meaning. If the evaluation or its explanation uses unfamiliar words or academic language that the parent does not understand, the parent should feel comfortable requesting more explanation or simplification .

## Consent

A parent's consent for evaluation is not the same as consent for the child to receive special education services. In some very limited circumstances, a school may evaluate a child without parental consent. However, a parent must always give written permission for the school district to provide special education and related services.

The parent can consent at a later date. If too much time passes, the school may require re-evaluation. The team must develop the child's initial IEP within 30 days of deciding that the child is eligible for special education services.

## Re-evaluations

When it is time to re-evaluate the student, the school district must get the parent's written consent. If there is no response from the parent, the school must make multiple, documented attempts to contact the parent, including visits to a parent's home or workplace. If the school takes reasonable steps to obtain consent and does not receive a response, it can conduct a re-evaluation without the consent of the parent. A re-evaluation may occur no more than once per year. However, it must be conducted at least every three years for special education students, with limited exceptions.

## Independent Evaluation

If the parent believes that an evaluation does not accurately represent the student's abilities and deficits, they have a right to obtain an independent evaluation at the school's expense. The parent may ask the school how and where to get an independent evaluation, and the district must provide a list of providers. The parent may also arrange for an independent evaluation from someone not recommended by the school; however, the evaluator must be a qualified professional.

If the parent asks the school to pay for an independent evaluation, the school district must do so unless it asks for a due process hearing to determine whether its evaluation was appropriate. For the school district to pay for the independent evaluation, the testing must meet the specific criteria the school uses.

If a parent or guardian provides the team with an independent evaluation, the IEP team must discuss and consider the evaluation. However, the team is not required to accept all or any of the evaluator's recommendations.

# WHAT TO EXPECT

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The IDEA promotes collaboration among people who know the student best. The team responsible for this collaboration is commonly known as the IEP team. They develop the IEP to ensure the student has what they need to access an appropriate education.

The IEP team includes a parent, a general education teacher if applicable, one special education teacher or service provider, a school district representative with sufficient qualifications, and an individual who conducted an assessment of the student or is knowledgeable and qualified to interpret the results. When deciding if a child has a specific disability, the team must include a general education teacher and a person qualified to conduct formal assessments, such as a psychologist or speech therapist.

## Scheduling An IEP Meeting

The IEP meeting must be scheduled at a mutually agreed-upon time and place. The parent will be notified of the IEP meeting with a notice of conference sent via mail or email at least 14 days before the meeting. However, parents and the school can agree to a meeting date that bypasses the 14-day requirement. The school must ensure that one or more parents of the student can attend the IEP meeting.

The school must notify the parent about the IEP meeting early enough to ensure they can attend, as well as the purpose, time, location, and expected participants. In addition, the school must notify the parent of their right to invite others with knowledge or special expertise regarding the child to the meeting.

Suppose no parent can attend the IEP meeting. In that case, the school should either reschedule the meeting or use other methods to ensure that the parent can participate in the meeting, such as virtual or conference calls. Before the school can hold an IEP meeting without a parent, it must show that the district provided opportunities for the parent to attend. However, the IEP team can meet without the parent if they do not change the IEP and/or implement any decisions made without the parent's consent.

Each team member will have a designated area of expertise during the meeting. If a team member's area of expertise will be discussed or changed at the meeting and they cannot attend, the school and the parent can agree in writing that the specific member does not have to attend. The absent team member must provide their input in writing to the IEP team, including the parent, before the IEP meeting.

In some cases, a parent may request a meeting that includes the supervisor of the special education department and another school administrator, such as a principal, so there is knowledge of the special education and general education resources available to the student. At either the parent's or school's request, other people with specific expertise or knowledge can attend the IEP meeting, including the student.

During the IEP meeting, the student should always be the focus. The parent has the right to contact the school before the IEP meeting and request a copy of any drafted goals, data, and reports that will be discussed. The school should send this before the meeting. School districts must provide the parent with records within a reasonable time frame. All documents, including drafted goals, data, and reports, must be shared with the entire team (including the parent).

## Developing an IEP

Each IEP will include the following:

- An updated statement of the student's present level of educational performance, including how the child's disability impacts the child's involvement in and progress in the general curriculum;
- Measurable annual goals;
- Statement of specific special education services, related services, supplementary aids and services, program modifications, and supports for school personnel;
- An explanation of the extent, if any, the child will not participate in general education classes;
- Date for the initiation and the anticipated duration, frequency, and location of the services and modifications included in the IEP;
- Modifications in the administration of state or district-wide tests;
- Objective criteria for determining whether the measurable goals are being achieved;
- A description of the type of placement needed to implement the IEP in the least restrictive environment; and
- Parent input statement

## Present Level of Performance (PLOP)

An essential first step in developing the IEP is the present level of performance (PLOP). This describes the current skills and abilities of the child, which serves as a baseline for setting their goals for the year. The PLOP should be updated yearly and include a detailed description of the student's abilities, strengths, and weaknesses, and how their current skills impact their education. The PLOP should consist of academic and intellectual skills, existing physical and behavioral conditions, social performance, and deficits with independence.

Every goal, accommodation, modification, and therapy service should reflect the student's present performance. The team cannot realistically develop goals without understanding how a child is currently performing. Therefore, a complete and accurate PLOP is vital to the IEP process.

Teachers and therapists should contribute to the PLOP based on their observations in all school settings. Parents' input and concerns should also be included. The PLOP should be discussed at the IEP meeting to ensure that the parents and teachers have a similar understanding of the current skills and abilities of the child, as differences at this starting point can lead to misunderstandings or disagreements during the process.

A typical outline of a PLOP describes the child's strengths and weaknesses and provides objective data from evaluation results. Areas to consider in the PLOP as a strength or weakness include learning style, attention, organizational skills, social skills, creative thinking, logical reasoning, physical abilities, and academic skills.

## Goals & Data

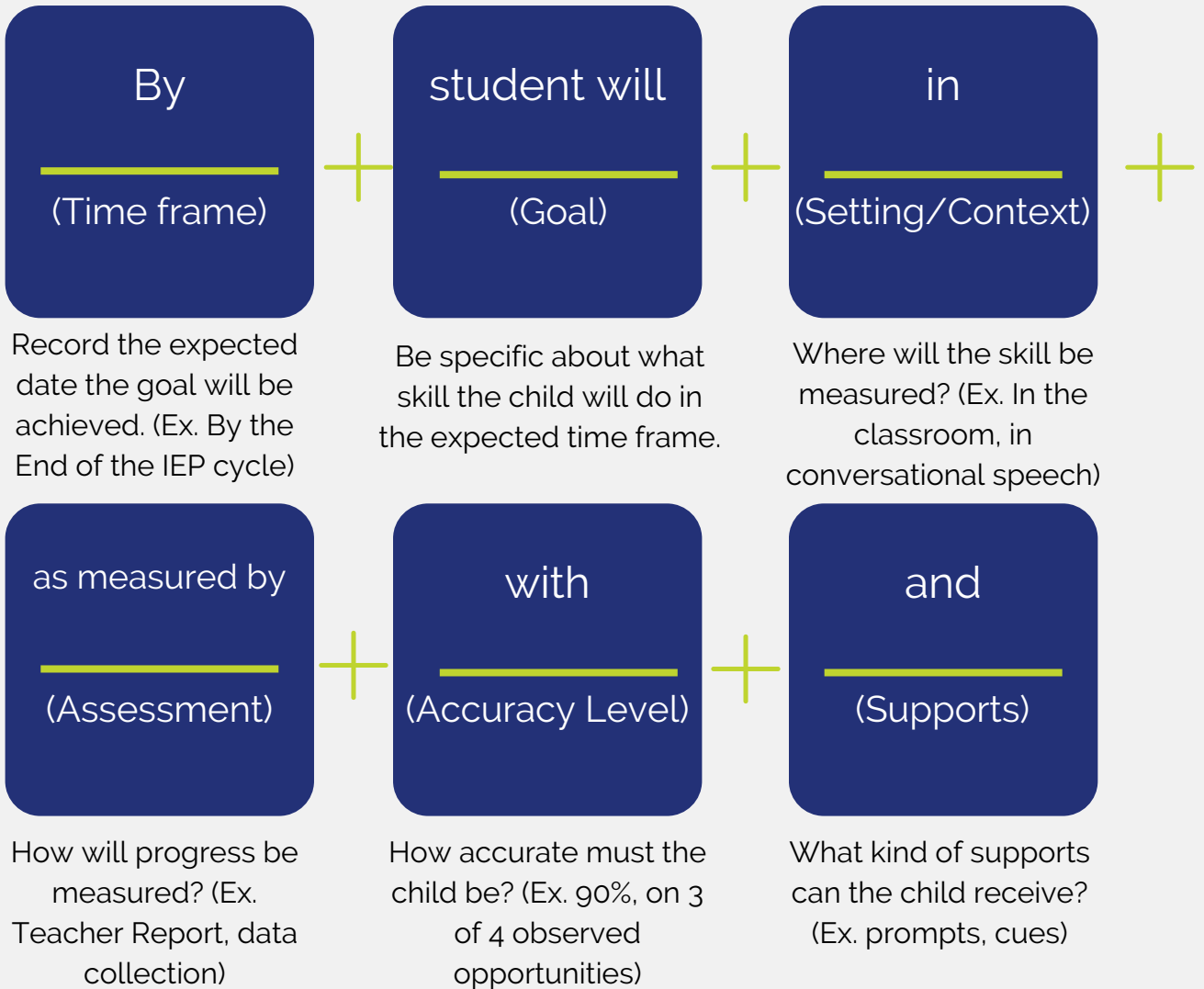
During the IEP meeting, parents and guardians will hear words like goals and data. Goals play a significant role in the IEP as they give the educators clear direction for educating the student. However, data is just as essential, as it shows if the student is achieving, or if the team should consider changes to the goals or approaches. In addition, data allows educators to assess the student's abilities periodically so they can evaluate the time, support, and services the student needs.

IEP goals drive the student's education throughout the year. IEP teams should consider using the SMART acronym to develop goals that are Specific, Measurable, Attainable, Results-oriented, and Time-bound.

- **Specific** - The goal must be clear in the skill or subject area and the targeted result. For example, a goal that is not specific might read, "Susan will read better." This is not a SMART goal because it fails to provide any details.
- **Measurable** - The team should be able to measure the goal using standardized tests, curriculum-based measurements, work samples, or even teacher-tracked data. For example, a goal that is not measurable might read, "Lucy will get better at solving math problems."
- **Attainable** - A goal that is not attainable can discourage the teacher and the student. If a child has consistently struggled to meet a goal, the team should discuss putting the goal on the back burner for the time being. The team can always revisit a goal.
- **Results-oriented** - It should be clear what the goal and expected result will be.
- **Time-bound** - The goal needs to have a specific expected timeline of when the student should meet the goal.

Goals are a required component of the IEP. Therefore, an IEP cannot be complete without setting appropriate goals. There is no limit on how many goals there should be in an IEP. IEPs are needs-driven, and goals help provide an "appropriate" education for the child by starting the framework of progress. The IDEA requires every IEP to include a statement of measurable annual goals, including academic and functional goals, and goals to address behavior that can be a barrier to accessing education. The parent can and should be involved in creating well-rounded and thoughtful IEP goals.

# IEP Goal Formula



By \_\_\_\_\_ (Time Frame), student will \_\_\_\_\_ (Goal), in \_\_\_\_\_ (Setting/Context), as measured by \_\_\_\_\_ (Assessment), with \_\_\_\_\_ (Accuracy Level), and \_\_\_\_\_ (Supports).

The most important goal that the child is working on should be brought to the front, especially if that goal will contribute to achieving other goals. If a student is struggling with one of their IEP goals, consider putting that IEP goal on the back burner. Parents should ask questions like:

- What are two reasons as an adult that this skill is needed (counting change, analog clocks, etc.)?
- Where did this information come from or what does it mean?
- Does this goal focus on the most crucial goals of preparing a child for further education, employment, and independent living?
- Can the method of working on this goal be changed, instead of eliminating the goal?

The IEP team needs to ensure that the student's present levels of performance are accurate before using them to determine what goals are necessary. Collecting data such as the information found in a student's present levels of performance is crucial before, during, and after goal development. Existing data includes evaluations and information provided by the parent, current classroom-based assessments, observations, and teacher and related service providers' observations. Data is helpful to provide contextual information, inform instruction, and drive progress monitoring. It also helps the team make informed, data-driven placement and accommodations decisions. Data is not a choice; it is a necessity.

No one can do anything 100% accurately – 100% of the time. No one should expect that from a student. The goals should be appropriately based upon realistic progress in a year. If a student has not made the expected progress on the goals set, the team should consider whether factors like illness, attendance, placement, and behavior impacted progress and adjust expectations accordingly. The IEP should also specify how progress measured and how often.

This could be informally collected through teacher observations, accumulated by work samples from class, periodically assessed curriculum-based measures, or other assessments used to track student growth.

Goals are not just an activity for the IEP meeting. They must be written into the IEP in full detail. The timing and frequency of progress monitoring should also be clearly defined in the child's IEP. It should list when parents can expect to receive reports. Grades and IEP goals are two different things; data progress reports do not necessarily correspond with a report card.

## Self-Advocacy

Self-advocacy is the ability to recognize one's own needs, identify solutions, and stand up for oneself. It is essential to help students develop this skill. The IEP meeting is an opportunity for the student to develop and demonstrate self-advocacy skills. Students should be encouraged to state their wants and needs freely, without fear of being blamed, shamed, or ignored. Questions to ask the student would include:

- What do you like about school?
- What makes school difficult?
- What do you want to do after high school?
- What do you need to do to get there?

Once these questions are answered, the team can start developing the skills, knowledge, and tools the student needs.

## Accommodations & Modifications

The "I" in IEP stands for individualized. This means the plan is written specifically for one student. A section of the IEP describes the accommodations and modifications in the program written specifically for the student.

Accommodations and modifications are tools used by the team to give the student every opportunity to be educated alongside their peers. Accommodations and modifications do not make things easier for students with disabilities; they make things possible.

Accommodations allow the student to complete the same tasks as their non-disabled peers but with some variation in time, format, setting, and/or presentation. Accommodations provide students equal access to learning and the opportunity to show what they know and what they can do.

There are at least four categories of accommodations:

- altering the time allotted for learning, task completion, or testing;
- adjusting the way instruction is delivered;
- adapting how a student can respond to instruction; and
- changing the number of items that the student is expected to complete.

Unlike accommodations, which do not change the instructional level, content, or performance criteria, modifications alter one or more of those elements on a given assignment. Modifications are changes in what the student is expected to learn based on their abilities.

General modifications could include:

- Alternative books
- A pass/no pass grading option
- Reformatting assignments
- Replacing a test with a project

The team should always consider consulting with the child with a disability when evaluating whether an accommodation or modification is necessary or helpful. Otherwise, the team might not fully identify the barriers or difficulties that would require accommodation or modification. If proceeding without the child with a disability, consider whether the child can fully participate in activities the same as their non-disabled peers. If not, the team must develop any accommodations or modifications to ensure as full participation as appropriate for that child. When accommodations and modifications are in an IEP, it means that the team considers them essential to enable a child to access education, so they must be followed.

## Related Services

Related services are support services a student may require to benefit from their special education program. While not necessarily educational in nature, the services provide assistance with functional, developmental and other deficits that can also impact access to education. The services include but are not limited to:

- Transportation
- Speech-language therapy
- Audiology
- Psychological services
- Physical and occupational therapy
- Recreation
- Social work services
- Orientation and mobility services

- Counseling
- Medical services for diagnostic purposes
- Health and nursing services, and
- Parent counseling and training

One common area of confusion regarding related services is why a student may qualify for private or clinical therapies but not qualify for similar services at school. Related services are provided by schools only when it is related to a student's educational needs. The need for therapy must impact the child's full access to and participation in their education.

Under the IDEA, students can only receive related services if they have been found eligible for special education (although in some circumstances a student may receive related services through a 504 Plan). The IEP team decides whether a student is eligible for each related service. The decision should be based on written reports, assessments, and recommendations from related service professionals and information provided by the parent.

Every related service the IEP team determines a student should receive must be written into the IEP and should include:

- how often the services will be provided;
- how long each session of the service will last;
- The type of related service professional needed; and
- when the services will begin and end.

Lack of funding or personnel cannot be used to deny the child with a disability any related services they need to benefit from their educational program. Schools can contract with outside professionals to provide related services if the district lacks the necessary personnel.

Schools may generally request the parent to consent to use the child's medical insurance to cover the cost of related services; however, such consent or the use of insurance cannot prevent a school from providing a necessary related service. Allowing a school to seek private insurance or Medicaid services could impact access to after-school, medical, and outpatient therapies and services.

When a child receives services during their school day, it should not occur during lunch, recess, or elective classes (art, music, etc.), if possible. This will help the student have as much time with non-disabled peers. When considering the location where services are provided, the IEP team should always consider practicability for the student. For example, can physical therapy be administered during the physical education class if the student is struggling in the gym? A room's physical layout should also be considered, applying what the student has learned during the school day, how the student transitions back to class, and how the personnel are tracking data.

Some selected related services are described below to help understand not only the meaning of the service, but also what the service provides to a student and how the service may be used to implement or augment the student's programming.

## Counseling Services

A student with a disability might benefit from direct counseling services through a school-based mental health provider, psychologist, or qualified social worker. Counseling can also provide insight for an IEP team in developing strategies to support a student's behavior. Often, a student might have a private therapist who is funded through health insurance.

Typically, students would not have more than one counselor for mental health services to ensure consistency. When counselors are not associated with the school, parents cannot require their attendance at IEP meetings; however, any willing provider who the parent requests may attend.

## Psychological Services

In addition to direct services, a school must consider whether a child requires indirect psychological services. This service does not include psychotherapy, but instead provides consultation to the school personnel. The professional may administer and interpret psychological, educational, and behavioral tests and assessments. They may consult with the team and school personnel in the planning or managing of school programming, psychological services, or behavior intervention strategies. This related service is imperative for children who are experiencing challenging behavior, as it ensures that trained professionals are available to guide the team in supporting the student.

## Transportation

Transportation is a related service when required for a student to benefit from special education. The IEP team must consider how the child's disability affects the child's need for transportation, including whether the child's disability prevents them from getting to or from school in the same manner as their non-disabled peers.

However, the IEP team should only consider placing a child on a "special education bus" when the child's circumstances require that placement, not simply because they receive special education services. Commonly, physical characteristics of school buses might limit accessibility. Even so, to the greatest extent possible, a child with a disability should travel with their non-disabled peers, using the same transportation or bus, even if they require assistance.

## Assistive Technology

Assistive technology means a device, item, equipment, or product used to increase, maintain, or improve the function of a student with a disability. Assistive technology for students with disabilities can include seating and positioning devices, mobility aids, augmentative communication, computer access and instruction, environmental control, adaptive toys and games, visual and listening aids, and self-care equipment.

Assistive technology services (including training) assist students with disabilities in selecting, acquiring, or using an assistive technology. If a parent feels that an assistive technology device may assist the child in learning, the parent has a right to request an assessment from the school district. This request should be made in writing. The assessment is used by the IEP team in determining if an assistive technology device or service is necessary to ensure the student will benefit from special education services.

As with other related services, assistive technology must be documented in the IEP, including the training needs for the student, school personnel, and family associated with the technology.

The school may permit the child to use school-purchased assistive technology devices at home or in other settings if the IEP team determines that the child needs access to those devices in non-school settings to progress. If the student is using a school-purchased device and the device is damaged, the school can only hold the parent or guardian financially responsible if the damage to the device was intentional. Parents cannot be charged for general wear and tear.

## Parent Input Statement

The parent is typically the only person who attends every IEP meeting throughout a student's educational experience. In most scenarios, a child's IEP team will change as the student grows, but the parent will remain a constant advocate. Further, a parent has the most insight and experience with their child, making the parent a vital member of the IEP team.

Most IEP team members have a dedicated role or section of the IEP to update the rest of the members on concerns, progress, and developments, giving an overall picture of the student's day-to-day behavior and emotional and social well-being. Parents are equal participants on the IEP team, and it would not be acceptable for any of the team members to neglect to add input, feedback, or updates. As a team member, the parent should never leave this blank.

The parent input statement should be a leading component that drives the goals and services of the student's IEP. This section is not to be used for accusations or criticism. It should be a place for concerns and desired outcomes to be submitted to the IEP team to facilitate the child's learning experience and support them in reaching the next milestone of education, independence, and employment. When writing parental input, the parent should organize their statement by tracking the sections of the IEP. Following the order of the student's IEP will assist parents in not overlooking anything they want to address.

When writing the parent input statement, the parent or guardian should keep the statement at a reasonable length and maintain a respectful and professional tone. It is helpful, if not essential, to always ask for all evaluation reports and data 3-5 days before the IEP meeting to ensure the parent can come to the meeting knowledgeable and prepared.

The parent input statement should be written before the IEP meeting to give the parent time to prepare a thoughtful statement and time to be present during the IEP meeting. If anything comes up during the meeting that needs to be added to the statement, it can always be added before it is submitted.

Things to consider when writing a Parent Input Statement:

- Communication
- Safety
- Academic goals
- Accommodations & Modifications
- Independence
- Socialization
- Advocacy skills
- Functional goals
- Self-Regulation
- Sensory needs
- Inclusion
- Discipline
- Transition
- Students' goals for themselves
- Steps to achieve goals
- Data collection

## Parent Input Statement Examples

### SAMPLE #1

Dear Team,

I look forward to working with you to develop a plan to provide an appropriate, inclusive education for Nick for the upcoming school year. We saw such an improvement last year after implementing the IEP. His academic struggles and his attitude towards going to school have shifted most positively.

We are looking forward to continuing to build on that success this year. Below are parental concerns and input on potential modifications and goals.

### Current Strengths/Needs

Nick is a bright, inventive child who excels in academics. He is at or above grade level in all subjects. However, he still needs to work on staying on task and focusing, especially in louder environments like the dining room or music. Nick is a rule follower and wants to do well for all his teachers. He still struggles with social peer interactions and appropriate behavior in the classroom, mainly talking out of turn, especially about one of his special interests, like the Chicago Cubs.

### Goals/Accommodations/Modifications

Nick met many speech goals last year but still struggles with a few sounds. Therefore, we recommend that he continues Speech Therapy once a week and those pragmatic speech goals be added to the IEP. For in-classroom behavior, preferential seating, sensory breaks, and fidgets have been effective accommodations to reduce disruptive incidents. Other accommodations we believe would be beneficial would be a positive behavioral intervention plan to encourage appropriate behavior instead of just decreasing negative behavior.

## **Testing**

This will be the first year Nick will be required to complete state assessments. Nick struggles with following directions and staying on task, especially for extended periods. Therefore, we believe Nick should be allowed extra time on the state tests and all verbal and written instructions.

## **Other Concerns**

Nick has difficulty reading social cues and understanding his peers. As a result, he struggles to make and retain friendships with classmates. We are concerned that the lack of socialization impacts his education. As he progresses in school, he will be required to participate in more group projects. He will need those social skills to perform in school and after graduation. We look to the school for guidance on how they will support Nick with his social struggles and help Nick's peers form friendships with their classmates with disabilities.

## **SAMPLE #2**

Dear Team,

I appreciate your commitment to helping Jessica grow and succeed in the coming school year. We are excited to get to know the team better and look forward to participating in the development of her IEP.

### **Academics**

Jessica is a very bright and creative little girl. She excels in Art and Music but struggles with reading. Currently, she is below grade level and is further behind compared to the previous assessment. This is a significant concern because being behind in reading will soon affect other academic subjects, especially science and history. We believe reading interventions need to be increased to two or three times per week, preferably push-in. We would also like her to be screened for dyslexia and auditory processing.

### **Communication**

Jessica has good oral communication skills; however, she struggles with writing. She often complains of her hand hurting or being tired. We believe she needs OT therapy to address her writing and penmanship deficiencies.

### **Social**

Jessica is a quiet child and has a small group of friends. However, she experienced bullying regarding her reading difficulties multiple times. This has caused her to be more withdrawn and less interactive with peers. We think giving Jessica preferential seating near the teacher where they could overhear and quickly intervene, would be effective in helping reduce these harmful incidents.

## **Advocacy Skills**

Jessica struggles with self-advocacy. She often will not speak up to ask a question or state she needs something. She fears getting in trouble and doesn't want to inconvenience others. Also, she hesitates to ask questions because she does not want to appear like she is not keeping up in class. Having the teacher check for understanding would be very beneficial for Jessica. We would also like to request that her teachers ask Jessica to ask them questions. We feel this will prompt Jessica to be more comfortable bringing questions forth.

Thank you for considering our concerns. We look forward to being an active part of the team and working together to address them in the development of the IEP.

## Least Restrictive Environment

After the IEP team drafts a program of services, the next step is to determine where the special education and related services will be provided. This is generally referred to as the "placement decision." A parent must be a part of any decision regarding the child's educational placement.

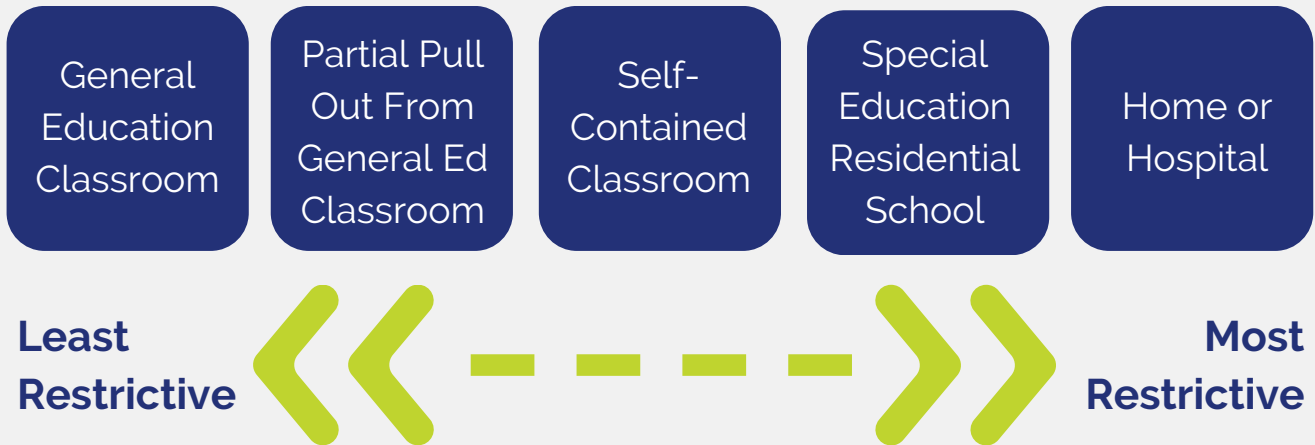
When a parent thinks about the full continuum of placement, it is important to consider the following:

- Classroom student-to-staff ratio
- The student and staff activities within the classroom and school
- The specific therapies that are needed for the student to be successful
- Where bathrooms are located and whether there are any adaptive needs
- If there are any before and after-school needs
- Where the child's specific and unique needs can be met

If the IEP team determines that a more restrictive environment is needed, they must justify that determination. The team must consider special education services, related services, accommodations, modifications, and any assistive technology that could allow the child to remain in a lesser restrictive environment. Schools must make a continuum of placement available to students with disabilities, from least to most restrictive. A continuum of placement outlines all placements available in the district. These options often include the general education classroom, the special education classroom, a private school, a residential school, home instruction, or even a hospital.

Placement decisions must be made at least once a year based on the student's needs. The decision is based on evaluation information, not disability labels or staff convenience. It is initially presumed that the child will attend their neighborhood school.

## Continuum of Services



If the neighborhood school is not appropriate, the placement must be as close to home as possible.

Least Restrictive Environment (LRE) plays a critical role in determining where a student will spend their time in school and how special education services will be provided to the student. Therefore, schools must provide supplementary aids and services for that student to succeed in the LRE. The support provided could include assistive technology or staff assistance that compensates for limitations in functioning and allows students to perform educational and social activities in a general education environment.

LRE is the idea that ensures a child with disabilities are educated alongside their peers whenever appropriate. The IDEA requires that: "to the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are nondisabled," and "special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only if the nature or severity of the disability is such that education in regular education classes with the use of supplementary aids and services cannot be achieved satisfactorily."

## Inclusion

Every child should have inclusive education, including children with disabilities. An education system that includes all students welcomes and supports them to learn, regardless of their abilities or needs. This means ensuring that the physical characteristics of school buildings, classrooms, play areas, transport, and bathrooms are appropriate and accessible for all children. It also means that other characteristics of education, such as teaching, curriculum, and extracurricular activities or events are inclusive. In inclusive education, all students should be educated together.

Inclusion improves learning for all children, both those with and without disabilities. It promotes understanding and empathy, reduces prejudice, and strengthens social integration. Inclusion will give children with disabilities the skills they need to live, work, and participate in their local communities.

The right to an education is a fundamental human right; however, it is impossible to provide an effective education if other rights aren't recognized. Inclusion requires non-discrimination. Every child should have the opportunity to be prepared for life within their community. Inclusion promotes participation in community involvement, employment, and independent living. In schools, inclusion could be as simple as ensuring that the child can access the same rooms and activities as their peers.

Disability awareness should be taught as a part of the school's curriculum. Schools should discuss disability history, which can include learning about disability advocates like Ed Roberts, who was the first wheelchair-user to attend the University of California, Berkeley.

## Transition Plan

Transition services create a smooth pathway for a young person to move from high school to a successful adult life. These services are available to students eligible for special education and 504 services. Transition services can include work-based learning, internships, career exploration, self-assessments, workplace readiness, and counseling.

Transition planning confirms a plan is in place for taking the next step. These services help students with disabilities and their families think about life after high school. What does the student visualize for their future? Do they want to attend college or post-secondary education? Do they plan to live independently? Transition services focus on the student's post-graduation goals and are designed to get them there.

Transition services are provided in Arkansas through schools and with vocational rehabilitation services such as Arkansas Rehabilitation Services (ARS) and the Division of Services for the Blind (DSB). Additionally, similar services are available through some types of Medicaid. All entities collaborate to provide transition services to the student.

To request a transition meeting, the parent should reach out to the student's case manager or the special education director to request a team meeting. If the student has an established IEP and is between the ages of 14 and 21, the parent or guardian can contact the student's school, ARS, or DSB about setting up transition services. If the student has a 504 plan or has a disability but does not have an IEP, the parent can contact ARS or DSB directly.

As with inviting any other non-school personnel, the school must first obtain parental consent. Federal regulations require the school to invite a public agency representative (ARS/DSB) if the public agency is responsible for providing or paying for transition services. 34 C.F.R. § 300.321(b)(3)(b)(1).

The student should be a part of their transition team; after all, it should be focused on their hopes, dreams, and plans for the future. Students should help identify their own strengths, interests, preferences, and needs. Vocational rehabilitation services providers collaborate with the parents, student, and school to determine the next steps for transition. The transition plan must have age-appropriate goals related to training, education, employment, independent living skills, and self-advocacy.

Pre-employment transition services are provided to students with disabilities who have IEPs and are still in high school. These services may include:

- Job exploration counseling
- Work-based learning experiences may include in-school or after-school opportunities or experience outside the traditional school setting (including internships) that are provided in an integrated environment in the community to the maximum extent possible.
- Counseling on opportunities for enrollment in postsecondary educational programs at college.
- Workplace readiness training to develop social skills.
- Develop independent living skills resources.
- Instruction in self-advocacy.



Pre-employment transition services do not include training or education for an employment goal. That would require the completion of an Individualized Plan for Employment (IPE) through ARS or DSB.

Students can continue to receive transition services until they earn their high school diploma or through the end of the school year in which they turn 21. The IEP team must discuss the types of transition services needed and how long those services will be provided.

A school must review a student's Transition services at least once a year at their IEP meeting. These services must be based on the student's needs and not just currently available school programs. A Transition plan should be in writing. Involving a transition-ready student in developing their IEP and transition plan as early as possible is best. This is especially beneficial for students with significant disabilities and students who are at risk of dropping out.

## Extended School Year

Students with disabilities may experience a loss of skills over an extended school break, such as summer vacation, called regression. While some regression is expected, recoupment, or the recovery of skills lost, might impair a student's ability to progress toward school-year goals. **Extended School Year (ESY)** services ensure that extended breaks do not cause a child to regress so much that relearning old skills will unreasonably stall learning new skills. Generally, a reasonable recoupment period is five days of school for every two weeks of a break; however, as with many other elements of an IEP, the program and the evaluation must be individualized – every child is different.

ESY is not limited to academics. For example, a student might lose skills related to math computation and skills learned through related services, like speech therapy. A child can be eligible for related services during ESY only if the child also needs ESY for special education instruction.

A student's IEP team will typically consider whether ESY services are necessary during the annual review of the IEP when they discuss the student's progress.

During the meeting, the school will likely calculate expected regression based on data. The analysis of expected regression is not the only factor determining eligibility, or need, for ESY.

The team must also consider several other factors, including:

- the nature or severity of the student's impairment;
- the regression and recoupment the student experienced over the current school year or previously extended breaks;
- the ability of the parent to provide educational structure at home;
- the student's rate of progress;
- the student's physical or behavioral problems;
- the availability of alternative resources;
- much more, including any other factors the IEP team considers relevant

The IEP team should base the amount or duration of ESY services on the individual student's needs. While the school may determine the length of the school day based on the combined needs of its ESY-eligible students, the school must ensure that each individual student's ESY services are adequate. Finally, the school personnel teaching or otherwise providing services during ESY must meet the same qualifications required of personnel during the school year..

# COMMUNICATION

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Communicating with schools can feel overwhelming. Therefore, parents and guardians should always strive to record everything in writing. Collecting records, evaluations, reports, and communication logs in an organized folder or binder helps parents quickly locate and review important information. When a parent calls the school about an issue, following up via e-mail can help both a parent and the school have mutual understanding of concerns. Communication logs are essential to ensure accountability with both oneself and the school.

When communicating, parents should always strive to remain objective and not allow emotions to distract from advocacy. Emotions are both natural and important; however, IEPs are not created by emotion. Parents are team members who must bring facts to meetings and conversations as any professional would. Further, parents should avoid assumptions about other team members' motivations. Allowing time for explanation will help gather facts and avoid misunderstandings.

Parents should request a home-to-school communication plan in the IEP. When identifying the type of communication plan, establish both the contact person and the methods of communication.

Doing so will ensure each person understands their role within the communication plan and prevent information from slipping through the cracks. As with all components of an IEP, a communication plan should be detailed and written into the IEP.

# BEHAVIOR

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Behaviors are not limited to "bad" or disruptive behaviors and certainly are not limited to students with disabilities. All behavior has meaning or motivation. It might reflect problems outside the student's control, such as underdeveloped skills. In order to assist students who have challenging behaviors, the team must know why the behavior happens.

Educators, parents, and the team must ask themselves why behavior happens, whether "good" or "bad." In this context, the team should understand that behavior can be measured, which is vital for planning to support students.

The IEP team needs to have information to understand and account for behavior. Again, this is true for both "bad" behavior (behavior we do not want to see) and "good behavior" (behavior we do want to see). "Student had a good day," does not provide valuable information. However, "Student finished all of their schoolwork without any prompting, played cooperatively with his friends by taking turns in kickball, and returned to class after recess with no reminders" gives lots of information about a student's behavior. Conversely, "Student had a bad day" does not provide adequate information to the team. "Student has not started any of his math work and cried when he ran out of time at the end of the class period," supplies much more valuable information. It identifies the activity, the problem, the setting, and the behavior.

The previous examples highlight the difference between conclusions and facts. A conclusion is that the day was "pretty good," while facts describe the events.

Adequate information about behavior should also be measurable. The team must have data describing how often the behavior happens and for how long. Returning to the first example of the child having a “bad day” in math class, the team still needs more information. A student who neglected to begin his math work and just stared at the assignment for an entire hour might be supported differently from a student who did not start their math work because they only had five minutes at the end of the class. Consider the frequency of the behavior as well. The team should know if this was the first time the student failed to begin their work, or if this occurred every day for a week, or always on Wednesdays.

Understanding what happens before a behavior (precedent) is nearly as important as understanding the behavior itself. Going back to the first example of a child who had a “good day,” it might be important to know that the student was provided with a wristwatch and a visual schedule for the first time and was observed frequently checking it during classwork or returning to class after recess.

The team must also understand the intensity of the behavior. A child who lightly hit another student one time four months ago, is not the same as a student who causes serious injuries on a daily basis. Evaluating behavior requires a significant amount of information, regardless of the methodology the team ultimately agrees will assist the student

Discussing behavior in the context of an IEP can take many forms. It may involve updating information that is reflected in the **present levels of performance**. It might also be reflected in the **accommodations and modifications** section. If behavior greatly contributes to a student's difficulty accessing education, behavior might be a primary consideration for **goals** specifically addressing preferred behaviors.

Finally, concepts such as functions of behavior and behavior management are expressly endorsed in the IDEA and obligate schools to gather data and implement programs to prevent challenging behavior. The IEP should explicitly describe **positive behavior supports** and incorporate any **behavior plan** that the team develops.

Regarding behavior goals, IEP teams should emphasize preferred behavior over non-preferred behavior. Many IEP goals reflect an absence of a behavior. Teams might agree on desired outcomes such as, "we want the student to NOT leave their desk," "we want the student to STOP hitting," or "we want the students to keep their hands to themselves." These are not behaviors but the absence of behaviors that the team needs for the student to have a successful day. The team should create the IEP goals to focus on the actual preferred behavior or response.

Teams should consider the unfortunately named "dead man's test" when crafting goals. If a goal is something that a dead man can accomplish (example, sitting quietly at their desk with their hands to themselves), this is not a behavioral goal. Think of the behavior "blurting out in class." The team should not focus on the student not blurting out in class or not sitting quietly, because this is something a dead man can do. However, the team should work with this student to develop the proper skills to raise their hand before speaking in class, because this is something a dead man could never accomplish. Parents are active members of the IEP team and should always help keep the focus on what the teams to see the student doing, instead of what they don't want them to do, since this will help the student be much more successful.

## Understanding Behavior

Managing behavior through a behavior plan is an important part of the IDEA. A behavior plan describes a student's challenging behaviors, the preferred behaviors, and the plan to help the student remove the barrier between those behaviors. It should outline the methodology employed, the school personnel responsible for implementing the plan, and the information on which the plan was developed.

This section focuses on gathering the data to inform methods of managing behavior often used by IEP teams. The section that follows describes some, but not all, methods of managing behavior that schools will often use. This guide was not developed by behavioral health professionals; accordingly, parents should always consult with behavioral health professionals, whether through the school or privately, before consenting to or adopting any of the methods or strategies discussed in this guide.

In nearly all circumstances, a behavior plan will begin with a "functional behavior assessment" (FBA), usually conducted by a behavior analyst. The parent should insist that the results of the FBA are integrated into the recommendations. Many assessments define what the problem is or hypothesize why a behavior is happening, and the team needs to use that information to ensure they offer the student the best support possible. Some functional behavior assessments define the purpose of behavior with descriptions such as "seeking," "escaping," and "automatic/sensory."

People could engage in behavior to get **attention** (sometimes called "attention-seeking"). It could include good attention, like praise, or bad attention, like a reprimand. It might appear that a student is being a class clown, getting out of their seat, or being disruptive, while the function of that activity might be to elicit attention. Possibly, a student might only access attention from their teacher when they are doing something wrong.



People might **seek access** to a particular **item, activity, or person**. If a child complains enough at the grocery store checkout, they might get a piece of candy. If they cry in the toy aisle, they might get a toy. Possibly, a student could appear to engage in behaviors in order to access the physical items that they want.

People are often presented with tasks, activities, people, or places they dislike. Children sometimes learn that if they display a type of behavior, they can **escape or avoid** tasks or people they dislike. For example, a student might disrupt class in order to avoid an assignment if the student knows that their teacher will remove them from the classroom if they are disruptive.

Behavior that is **sensory** or **automatic** provides stimulation from the behavior itself. Automatic or sensory behavior might occur when alone, with others, at home, at school, and under any circumstances. These behaviors may include biting nails, twirling hair, or humming a tune. The behavior provides sensory reinforcement.

## Managing Behavior

After defining and understanding the student's behaviors, the team should consider how it can support the student. Positive behavioral interventions are endorsed by the IDEA when behavior is impeding a student's learning or the learning of others. Interventions can occur through implementing behavior-related goals, a behavior intervention plan, other strategies, or all of the above.

Behavioral goals, like goals for reading or other elements of the general curriculum, should be incorporated into the IEP and not be developed as a separate document or plan. To design a different "behavior plan" implies that such plans should be treated differently, apart from academic functioning.



A distinct behavior plan might also be discriminatory when it creates a segregated sub-set of children within special education (those with behavior plans and those without). Parents and the team should always consider whether their decisions about behavior intervention are diminishing the student's opportunities for inclusive and equitable education. Practical, individualized academic goals and services reduce frustration and behavior problems.

Behavior intervention plans are common. When designing a plan, the team must recognize the student's experience and history and not utilize punitive measures that may result in trauma responses, especially when the student is lacking the skills to meet expectations. The team can work at developing skills that allow that student to succeed in their classroom setting while meeting that student's needs.

Additionally, any skills or therapies provided to the student (i.e., speech, OT, PT) should have a plan for generalization in the classroom. It does not matter if the student can display skills in an office setting with a trained professional. They need to be able to use these skills in a classroom setting with their paraprofessionals or on the playground with other students. IEPs need to have a plan for generalization to give students opportunities to show progress in natural settings.

Knowing the function of a behavior and the skills that are underdeveloped will give the team valuable insight into what the student is seeking and allow the team to help the student access those things in more prosocial ways. For example, instead of a student screaming because they want to take a break, the teacher may simply let them take breaks when they request. If the school wants to reinforce the behavior, the teacher may praise the student when they request a break.

## Reinforcement

The IDEA demands positive behavior interventions and strategies. In other words, it wants to ensure that students with behavior plans are positively reinforced for preferred behavior rather than punished for non-preferred behavior. Schools are practiced at punishment, so the IDEA emphasizes using positive techniques.

Responses to behavior can increase or decrease the likelihood of behaviors. If a behavior (good or bad) increases and the teacher sees more of it, it is likely being reinforced. Therefore, the IEP team might focus on reinforcing the behaviors the team wants to see rather than simply punishing the behavior the team does not want to see. **Reinforcement** leads to an **increase** in behaviors.

If a student completes an assignment and the teacher says, "Good job," the student might complete their work more frequently. If so, the behavior of completing schoolwork was reinforced. If the student completes work less frequently, the behavior was not reinforced by the teacher's praise. A behavior has been reinforced if it occurs more often.

**Punishment** or **negative consequence** can lead to a **decrease** in behavior over time. For example, if the student completed an assignment and did so poorly that they stopped completing assignments, the behavior had a negative consequence. While it might be tempting for a team to "punish" a student's problematic behavior to cause it to decrease, such methods of managing behavior can lead to other problematic behavior or, more likely, ineffectiveness of the punishment. For this and many other reasons, the team must implement positive supports.

The team should examine if an intervention is increasing or decreasing behaviors in the desired way. If the changes are not happening as intended, the team needs to explore other intervention methods.

As the student increases positive behaviors and skills, problematic behaviors will often decrease on their own. When they do not, the team should ask, "What is preventing this student from being an effective learner? What are the barriers? What skills does this student need to develop to be an effective learner? How are we teaching those skills?"

The team should examine problem behaviors from a skills deficit model. They should not be thinking, "How do we stop or punish this behavior?" Instead, the team must think, "what needs to be taught to prevent the behavior?"

## Skills Deficits

Behind every problematic behavior is an undeveloped or underdeveloped skill, such as social skills, communication, self-regulation, coping, distress tolerance, or impulse control. The team should design the IEP to build and develop these skills with the student. Problem behaviors can decrease as the student begins to acquire and master these replacement skills:

- Don't punish blurting out answers in the classroom
- Reinforce the behavior the team want to see, like hand raising
- As hand-raising increases, blurting out or talking out of turn will often decrease

Skills must be taught and practiced repeatedly. The team cannot always rely on just "telling" students what to do. Problematic behaviors are often seen because the student is asked to do things they don't know how to do. Some methods of addressing skill deficits include behavioral skills training and functional communication training.

## Behavioral Skills Training

Behavioral skills training is a method of teaching skills by teaching about the skill, modeling it for the student, giving them opportunities to practice, and then giving the student feedback as needed. Teaching involves discussing what skills the team will learn, why they're essential, and how they relate to the student. For example, the student might not care about "not disrupting the class" but may care about the skill if it assists them in making friends.

Modeling involves showing the student exactly what is expected of them. It is crucial that the teacher breaks the skill into multiple steps for the student. An adult demonstrates each step to the student, taking each task one at a time, as most skills have multiple steps. It is not beneficial to tell a student what to do; the teacher must show them as often as it takes, so they can acquire the skill.

When learning any new skill, it takes a lot of practice. Educators and parents must give students multiple opportunities to practice skills with guidance from the teacher.

Adults shape the student's behavior by providing feedback. The feedback should include what went well and what needs to be corrected. It is essential that there be great emphasis on successes and what aspects of the skill the student demonstrated correctly (even if there is not much success at the beginning). This should be encouraging and supportive.

## Functional Communication Training

Another method of improving behavior is functional communication training, which trains students to communicate their needs. This support aids students in replacing problematic behavior through communication.



Carefully consider whether traditional verbal communication is enough for the student. Through this method, the team should encourage the student to employ whatever communication is effective.

So many behaviors result from a student's inability to communicate their wants, needs, or ideas effectively. The frustrations that result from a lack of understanding of what is trying to be communicated are present every day for students with functional communication delays. Functional Communication Training (FCT) works to aid students to effectively communicate in a variety of ways, whether that is through traditional verbal language or by other means.

Addressing communication barriers should be at the forefront of the IEP process. The team should determine what communicative behavior is preferred. For example, instead of running out of the classroom, the student should ask for a break. Can the student engage in positive classroom behaviors with their teacher, staff, and peers? Does the student have the skillset to communicate their needs with others? Once again, the focus is not on what the team doesn't want to see, but on what skills and behaviors they want to see instead. The team needs to support students in getting their needs met in a way that does not require problematic behaviors.

## **Evaluating Behavior Management**

When reviewing the IEP, the team must determine if behavior strategies described in the IEP are working. It is the team's responsibility to read the data and understand if problem behaviors stay the same, and the IEP is not working. If there is no skill development or increase in positive behavior, the IEP is not working. Data indicates if a student's behavior is improving, staying the same, or getting worse.

Data review is an essential part of the IEP process. It should tell the team how well the interventions work. If the team reviews several months of data reflecting a similar or worsening condition, the interventions might be ineffective. In this instance, the team should avoid assigning fault to the student and consider modifying the approach. Data will reveal if the team is on the right track or not.

Additionally, the IEP team should review data more than just once per year when addressing behavior. Waiting an entire year to review data is often unhelpful. If strategies to address behavior have been ineffective to address perhaps worsening behavior, it can be demoralizing to parents, educators, and the student. Moreover, failing to review and adjust could waste opportunities to implement other strategies.

An IEP should provide as much information as possible to inform both parents and educators. It should identify both problematic behaviors and other barriers preventing the student from accessing education. More importantly, the IEP should identify not only the barriers the student is experiencing but also the skills necessary so the student can learn and develop.

# DISCIPLINE

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Students experiencing challenging behaviors will likely violate a school's code of conduct. The IDEA limits whether, when, and how a school may discipline a student eligible for special education and related services.

First, schools are not required to discipline students with disabilities. The IDEA allows schools to consider unique circumstances and determine discipline case by case. As a result, schools may not rely on "zero tolerance" as the sole policy to determine whether to discipline a student. Even so, schools are permitted to discipline students with disabilities in some circumstances.

The IDEA governs discipline when a violation of the school's code of conduct results in a "change of placement" for a student with disabilities. For this purpose, a "change of placement" must exceed ten school days, whether the proposed discipline is a lengthy suspension, expulsion, or other removal from the student's current placement. However, more than ten cumulative days of removals (such as three five-day suspensions) can also result in a change of placement if those removals constitute a pattern due to the similarity of the behavior and other factors.

When a school proposes to change a student's placement for disciplinary reasons, the IEP team must convene for a "**manifestation determination review**" to determine whether the school may proceed with the removal. During this meeting, the IEP team must consider whether the behavior is due to the student's disability or whether the school failed to implement the IEP.



If the IEP team determines that the behavior is neither a manifestation of the student's disability, nor the result of the school's failure to implement the student's IEP, then the school **may** discipline the student in the same manner that it disciplines non-disabled students.

If the team determines that the behavior did result from the school's failure to implement the student's IEP, then the school **may not** change the student's placement. After all, the IDEA presumes that the IEP, if followed, could prevent behavior that leads to discipline. Accordingly, the school may not penalize a student it failed to support.

If the team determines that the behavior that caused the proposed change of placement was caused by, or had a direct and substantial relationship to, the student's disability, then the school **may not** change the student's placement.

Manifestation Determination Reviews might be tense, with competing interests of school discipline and student fairness. The team must gather the facts of the incident and specific information about the student's disabilities and how they might manifest through behavior. Parents should ensure that a professional familiar with the student's disabilities either attends the meeting to offer insight or prepares a letter detailing the student's disabilities and how they might manifest.

Generally, teams will consider voting on their ultimate decision; however, voting is neither endorsed by the IDEA nor is it consistent with the purpose of IEP teams. Instead, the team should work to reach a consensus among its members after considering all relevant information in the student's file, through teacher observations, or offered by the parent.

If the team determines that the school **may** change the student's placement, the school's obligation does not end. Even if a student is expelled, the school must continue providing educational services that will enable the student to participate in the general education curriculum and progress toward meeting their annual IEP goals. The school may provide the services in an alternative setting. Still, the team must consider whether the student's disabilities might prevent progress in typical alternative settings, such as a student's home. In some cases, a student requiring significant support might still require individual instruction and interventions to ensure progress.

Further, when the behaviors are not related to the student's disability, it remains essential to address the problems. As a result, the IDEA requires the team to conduct a functional behavior assessment and implement behavior intervention services and modifications to prevent the behavior from recurring.

If the team determines that the school may not change the student's placement due to the school's failure to implement the IEP, the school must remedy the deficiencies immediately.

If the team determines that the school may not change the student's placement because the behavior was a manifestation of the student's disabilities, the school must either:

1. Conduct a functional behavior assessment and implement a behavior intervention plan (as discussed in the Behavior section), or
2. If the student already has behavior intervention plan, the team must review it and modify it to address the behavior if necessary. In this instance, a parent may agree to a change of placement as part of a modification to the student's behavior intervention plan. Still, the school may not unilaterally change the student's placement.

## Exceptions

As with many aspects of the IDEA, there are exceptions. For example, suppose a student possesses illegal drugs or weapons at a school function or causes serious bodily injury to another person. In that case, the school may remove the student for 45 school days regardless of whether the student's behavior was a manifestation of their disabilities.

In addition, if a school believes that a student's current placement is substantially likely to result in injury to the child or others, the school may request a due process hearing to allow an independent decision-maker to determine whether a student should remain in the current setting.

In either circumstance, the school must continue providing sufficient education to enable the student to access the general education curriculum and progress toward their IEP goals.

## Restraint

Students with disabilities often experience some form of restraint, whether physical, chemical, or mechanical. In 2021 the Arkansas legislature passed Act 1084, titled "An Act Concerning the Use of Student Restraints in Public Schools or Education Settings, and for Other Purposes." This law limits the use of restraint, prohibits certain types of restraint, and requires schools to implement school-wide positive behavioral supports, document the use of restraint, and notify parents their student is restrained.

Importantly, this law governs the actions of school personnel before, during, and after restraint.

## Before Restraint is Used

Schools shall implement positive behavioral supports, conflict resolution, and de-escalation approaches to prevent restraint. In doing so, schools must "establish a problem-solving and intervention team for each student who exhibits social, emotional, or behavioral difficulty that may escalate, if not addressed, to potentially dangerous behavior." This team will complete an FBA and consider the need for a Behavior Intervention Plan (BIP). If the student is suspected of having a disability, the school shall follow federal IDEA procedures.

## When Restraint is Used

The law also outlines when, how, and by whom a child may be restrained in school. Only school personnel who are appropriately trained may administer physical restraint. Restraint may only be used when there is "imminent danger of serious physical harm to a student or others."

Restraint cannot be used:

- To punish or discipline the student
- To coerce the student
- To force the student to comply
- To retaliate against the student
- To replace the use of an appropriate educational or behavioral support
- As a routine safety measure
- As a planned behavioral intervention
- As a convenience for school personnel
- To prevent property damage

If restraint is used, the least restrictive method must be used. The restraint should be used for a limited period of time, the student must continuously be monitored, and the student must be allowed to communicate.

School staff cannot use the following on a student:

- Mechanical restraint
- Chemical restraint
- Aversive behavioral interventions that compromise health and safety
- Physical restraint that is life-threatening or medically contraindicated
- Prone restraint or other restraint that restricts the breathing of a student

### After a Restraint is Used

Finally, the law requires schools to respond after an incident of physical restraint occurs. After the restraint occurs, school staff must:

- Notify the principal and parent/legal guardian of the student as soon as possible but no later than the end of the school day that the incident occurred;
- Document the incident in a written report within 24 hours;
- Hold a debriefing meeting within two school days after the incident occurred; The following school personnel shall be present at a debriefing meeting: A member of school personnel who was present during the incident, A member of school personnel who was in the proximity of the student on whom physical restraint was used immediately before and during the time of the incident, A school administrator, and any other member of school personnel determined to be appropriate by the school district.
- Complete a "Physical Restraint or Seclusion Incident Record" and "Debriefing Report"; and
- Mail to the parent within two days of the debriefing meeting.

The debriefing meeting should consider whether positive behavioral support was properly implemented before the incident and should discuss appropriate actions to prevent the need for physical restraint in the future.

As discussed in the Behavior section of this guide, parents and educators should respond to challenging behavior through the IEP process to determine if additional interventions or modifications are warranted. The IEP team should strive to create supports that are proactive rather than reactive to the student's behavioral challenges. When a team anticipates the need for behavior support and proactively intervenes, it could reduce the chances of the child accumulating a series of suspensions. In turn, a child might avoid the path toward a change of placement.

In addition, schools and parents should work cooperatively to change the pattern of negative behavior. If a school is not equipped with the personnel who can adequately support a child, then the IEP team must look to outside sources for assistance. Schools are not prohibited from consulting private practitioners in behavioral sciences, whether mental health therapists, psychologists, psychiatrists, or other specialties. Parents may independently secure other resources to assist in positive behavioral change, privately or through sources such as health insurance. Schools should welcome added expertise and work cooperatively with those resources.

Discipline is not always avoidable but should not come as a "surprise." Schools should outline and explain conditions for disciplinary action to parents in advance. Students should also know the rules and expectations. If communication deficits challenge the student's understanding of the rules, the IEP team must consider how to describe the rules in a way the student will understand.

There should be clear expectations when it comes to the behavior of the child and the subsequent consequences. Consistency is imperative in creating a clear expectation for the student.

The strategy should change if disciplinary consequences do not decrease problem behaviors. The behavior may not be eliminated entirely, but an overall reduction should be noticed.

Schools should never use any form of unethical sensory punishment (i.e., aversive sounds, sprays, lights, corporal punishment, forced physical exertion such as standing with arms in the air, or any other action that could cause harm). Further, school personnel should avoid reacting emotionally when using disciplinary actions. Instead, demeanor, tone, and body language should be calm and objective.

Discipline should be used sparingly. Frequent discipline reduces the likelihood of all effectiveness (i.e., the first time the school called the parent, it was very effective. As they called the parent more frequently, the student responded less and less). The IEP should emphasize developing skills and behaviors that the team wants to see rather than punishing the behaviors that they don't want to see.

# DISPUTE RESOLUTION OPTIONS

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Disagreements during IEP meetings are somewhat common. Therefore, parents need to convey their concerns respectfully but firmly. A parent should not be afraid to share their concerns with the IEP team. If the parent feels that the IEP team has failed to address concerns, many dispute resolution options are available.

## Facilitated IEP Meetings

A neutral third party guides an IEP meeting when there are challenges communicating the student's needs within the IEP team. At the end of the meeting, an IEP is developed by the entire team.

Parents should request a facilitator when they expect a discussion to be complicated. This request should be made before a problem arises to prevent conflict.

## Mediation

Mediation is FREE, voluntary, and confidential dispute resolution. Parents should request mediators if they cannot agree with the IEP team about an issue. The mediator is an independent third party who will work with parties to discuss and understand the issues from both perspectives. This is known as collaborative problem-solving. There should be a written agreement following the meeting.

The dispute resolution section of the Arkansas Department of Education (ADE) will investigate the allegations in the complaint, and if they find evidence to support those allegations, will issue findings and corrective actions against the district. ADE has sixty days to complete the investigation.

## State Complaints

State complaints are a request for investigation sent to the state's department of education. It offers parents an opportunity to engage professionals to review and evaluate a school's provision of special education and related services to their student. Complaints must be in writing and must allege a violation of the IDEA within one year of filing, meaning parents have one year to file from the date of the incident or violation.

## Due Process Complaints

Due process complaints initiate a request for a hearing in front of an independent hearing officer provided by the state's department of education. It is an opportunity to present evidence and question witnesses regarding an alleged violation of the IDEA. Parents may request a due process hearing over any matter related to a student's identification, evaluation, placement, discipline or special education . Any request for a due process hearing must allege a violation of the IDEA within two years of filing. The parent and the school district may each be represented by an attorney throughout this process .

# ADDITIONAL EDUCATIONAL SUPPORTS

## Part C - Birth To Age 3

Research confirms that early intervention in the first three years of life can have positive long-term impacts on the outcomes for the child. Therefore, infants and toddlers from birth to age three receive early intervention under Part C of the IDEA from the state's early intervention agency. As with IEP referrals, the child's parent, daycare workers, or pediatricians can refer the child for an evaluation to determine eligibility. In Arkansas, this is done through First Connections, a program run by the Arkansas Department of Human Services Division of Developmental Disabilities Services. First, the appropriate state agency will evaluate eligibility and need for services. Then, an Individualized Family Service Plan is developed with the family if services are needed.

The Individual-Family Service Plan (IFSP) is both a plan and a process and is the heart of early intervention. An IFSP is a written document (similar to an IEP) describing the support and services the state will provide to children with developmental delays. They are developed for eligible children from birth to age three who need extra help with physical, communication, self-help, cognitive, or social-emotional skills.

A service coordinator will help set up and schedule services. Services can include:

- Speech and language therapy
- Physical or occupational therapy
- Psychological services



- Home visits
- Medical, nursing, or nutrition services Hearing (audiology) or vision services Social Work Services
- Transportation

Part C of the Individuals with Disabilities Education Act (IDEA) says children must receive services in "natural environments" as much as possible. That usually means in the home or a childcare setting. At 30 months (about 2 and a half years), or six months before their third birthday, the student will start transitioning from the ISFP to the preschool IEP. Transition to preschool special education services will occur at three years old if the child qualifies. Eligibility is narrower for the ages 3-5 IEP category. Children eligible for the preschool IEP will be served either by their local school district or through an educational cooperative such as Arch Ford.

At five years old, there is another transition to special education services for K-12 which is managed by the local education agency (LEA). Qualifications are more stringent than in earlier years. Ages 3-5 and K-12 fall under the IEP.

## **Part B - Pre-K (Ages 3-5)**

A section of Part B of the IDEA applies to children who have not started Kindergarten. Once a child reaches their third birthday, they might be eligible for special education and related services pursuant to Part B of the IDEA. The categories for eligibility for services through Part C (birth to age 3) differ from those of children who are preschool age. Part C intends to provide a greater number of children with services under a lower standard for identification.

As a result, a child might be eligible for services at age 3 and lose eligibility when entering preschool or kindergarten despite little or no change in their condition.

Schools that receive funding under the IDEA for children aged 3-5 must provide IEPs for all eligible children who meet the legal requirements. The IEPs blend the developmental and functional requirements from Part C IFSPs with the traditional academic/functional goals and related services of traditional Part B IEPs.

Children with developmental delays that might not meet the eligibility requirements of typical Part B services can also receive special education services if they meet the legal criteria and need educational support. Parents or guardians should contact their LEA's special education department for directions on initiating the referral process and can find their local LEA by contacting the state's Department of Education.

Services should be provided in the least restrictive environment and in the environment where the child is most comfortable, whether in a daycare or the home. Some districts also have preschool classrooms for those who qualify for full-time special education instruction. The goal of the Pre-K IEP should be to prepare the child for a successful start to their K-12 educational career.

Part B services for children 3-5 sometimes rely on clinical/medical models such as developmental preschools. Such settings are typically funded by Medicaid or private insurance and governed by entirely different rules regarding eligibility, service delivery, and protections. To qualify under the IDEA (educational model), the child must need the services to access their education. A doctor must refer the child for evaluations and services to be eligible for Early Intervention Day Treatment (clinical/medical model).



## Private Schools

Public education includes traditional public schools as well as public charter schools. Private schools are not required to follow the IDEA.

While private schools have no obligation, public school districts have some limited obligations to students in private schools: Public school districts have the following obligations to private school students pursuant to Part B of the IDEA:

- Public school districts are required to locate, identify, and evaluate all children with disabilities who are enrolled in private schools in their district.
- Public school districts are required to provide equitable services to private school students with disabilities, taking into account the unique needs of the students and the resources available to the district.
- Public school districts are required to consult with parents of private school students with disabilities in the development and implementation of their children's service plans.
- Public school districts are required to provide parents of private school students with disabilities with the same information and opportunities to participate in decision-making as they provide to parents of students who attend public schools.

“Equitable services” are those that are comparable to services within the public school district, the funding of which is based on a ratio of the number of children with disabilities within the public school district and those in private school.

Services may be of a different amount than a student would receive in public school but must be provided by personnel who meet the same standards as those in public school.

Any services offered to private school students will be outlined in a "services plan" which closely resembles the requirements of an IEP. Private school students have no individual right to some or all of the special education and related services that a child would receive if enrolled in a public school. While parents of public school students have significant opportunities for dispute resolution, the IDEA only permits parents to challenge the identification and evaluation obligations of the public school district through a request for a due process hearing. On all other matters, the parent may only send a complaint to the state's department of education.

# RESOURCES

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The printable documents provided with this resource guide includes:

- [A-B-C Data Tracking Sheet & IEP Goal Tracker](#)
- [Customizable IEP Binder Template](#)

## Additional Resources

- [Evaluation/Programming Conference Decision Form/Notice of Decision](#)
- [Existing Data Review/Notice of Decision](#)
- [Individualized Education Program \(IEP\) - School Age - No Postsecondary Transition](#)
- [Individualized Education Program \(IEP\) - School Age - Postsecondary Transition](#)
- [Individualized Education Program \(IEP\) - Early Childhood](#)
- [Notice of Action](#)
- [Parental Consent to Access Public Insurance and to Release Personally Identifiable Information](#)
- [Special Education Referral](#)
- [Process for Functional Assessment of Behavior](#)
- [Manifestation Determination Review](#)



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