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Developing Educationally Meaningful and Legally Sound IEPs

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Free Appropriate Public Education (FAPE)

- The crucial obligation of special educators is to provide a FAPE

- Since 1975, FAPE has been special education and related services that are
  a) provided at public expense,
  b) Meet the standard of the state educational agency (SEA),
  c) Includes preschool, elementary, or secondary education,
  d) Are provided in conformity with the individualized education program (IEP)

IDEA, 20 U.S.C. § 1401(A)(18)

The IEP is a Student's FAPE

- According to Senator Robert Stafford (1978), Congressional authors "did not attempt to define 'appropriate' but instead we established a base-line mechanism, a written document called the Individualized Education Program (IEP)" (Stafford, 1978, p. 75).

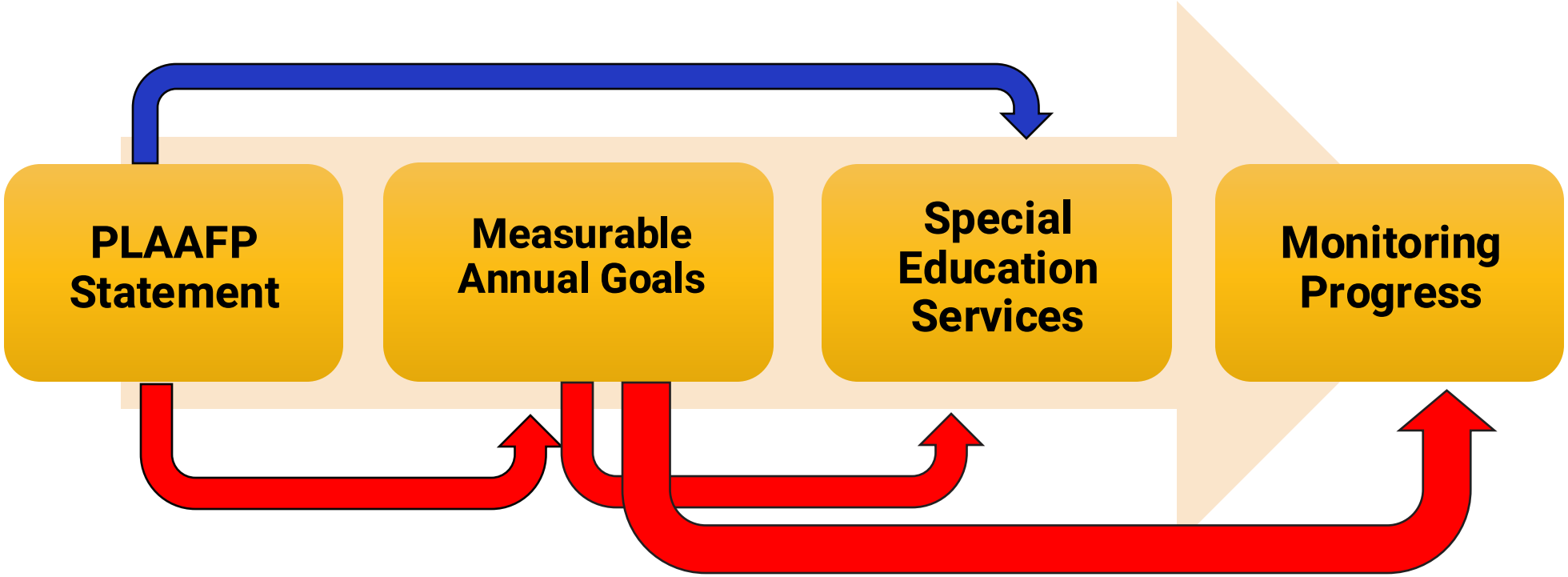
- Stafford, R.T. (1978). Education for the Handicapped: A senator's perspective. *Vermont Law Review*, *3*, 71-82.

The Purpose of the IEP

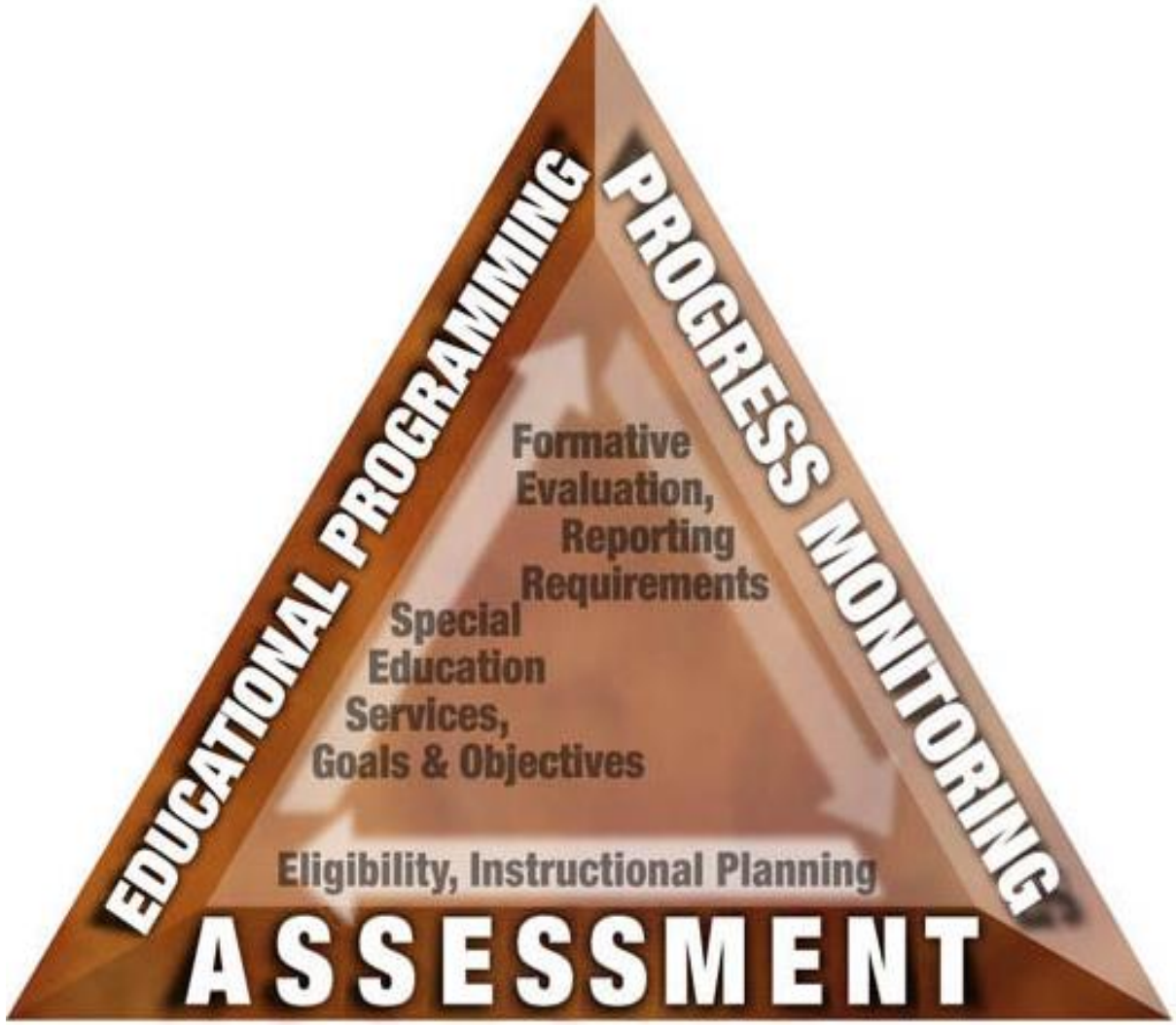
- "The IEP must aim to enable the child to ***make progress***. After all, the ***essential function of an IEP*** is to set out a plan for pursuing ***academic and functional advancement***."

- *Endrew F. v. Douglas County School District RE-1*, 580 U.S 386 (2017)

The Four Components of an Internally Consistent IEP



The Starting Point of the IEP: Assessment



Assessment Data

	Level	Assessment Purpose	Rate of Feedback	Feedback	Primary Target Of Feedback
Assessment Levels	III	Annual large-scale	Infrequent	General, broad	General accountability audience: Policymakers Community Administrators Others
	II	Periodic grade level / subject area			Administrators Teachers
	I	Ongoing classroom	Frequent	Specific, narrow	Teachers Students

Tier I: Ongoing Classroom Assessment Data

- Classroom is the heart of assessment!
- Assessment data used to make decisions (DBI)
- Every lesson and unit plan should be devised based on assessment data

What is “Formative Assessment”*?

- Information gathering to modify teaching and learning activities for the purpose of ***forming*** a more effective program

(*Originally called “formative evaluation” by Michael Scriven)

Progress Monitoring can be thought of as “Formative Evaluation of Instruction.”

(Stanley Deno, 2005)

Assessment Data

- Assessments as “snapshots”

Snapshots reflect how the subject performs at a specific point in time.

Similarly, assessment data aim to represent a student’s or a group’s performance at time of testing.

Assessment Data

A series of snapshots, taken over time, may reveal changes in the subject.

Similarly, it is only with a series of assessment data, sampled over time, that changes in student knowledge, or learning may be ascertained.

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Component #1: Presents Levels of Academic Achievement and Functional Performance

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Notes about Baseline Data for Annual Goals

- Baseline data only has meaning if the data DIRECTLY relates to the target skill in the goal.
- Do not create forced or trivial connections.
- Most legal trainings now recommend that baseline data be in the PLAAFP statements.

Baseline and Progress Monitoring Data

- Current
- Relevant
- Accurate/Reliable (*able to be corroborated; IL recommends "teacher made" measures be used only when they can be used by a 2nd observer.*)
- Actionable (if needed)
- Will the measure be used to monitor and evaluate progress going forward?

Component #2: Measurable Annual Goals

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Goals and Objectives

- Goals and objectives need to be:
  - Measurable / Able to be Monitored
  - Meaningful
  - Standards-aligned
  - Derived from the needs resulting from the disability
  - Related directly to the present levels

Goal Requirements

Measurable goal statements include:

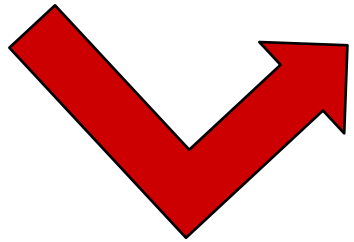
- Condition
- Behavior
- Criteria

Measurable Goals at a Glance

Condition	Clearly Defined Behavior	Performance Criteria	Evaluation Schedule
-Describe the situation in which the student will perform the behavior. Given visual cues.. During lectures in math… Given active response checks…	Name the action you will see the student actually doing. Use action verbs. Name Locate Point Separate Rank Choose	The level and frequency the student demonstrates mastery. % of the time #times/# times With the # or % accuracy "X" or better on a rubric "X" or better on a checklist.	Number of times needed to demonstrate mastery How consistently the student needs to perform the skill(s) before it's considered "mastered" Evaluation Schedule -How frequently the teacher plans to assess the student -Method of evaluation

Standards Aligned Goals

- Goals need to correspond to the identified skill deficits obtained from present levels of academic achievement.



- By writing standards-aligned goals, we ensure that we are focusing our instruction on skills that will enable students to access and make progress in the general education curriculum.

Standards Aligned Goals

- Standards aligned goals include some of the content or skills found within standards/anchors.

- Not every annual goal must be standards-aligned. For example, functional goals related to independent living, behavior, or personal hygiene do not align with the academic standards.

Steps to Goals

1. Review Present Levels of Academic Achievement
2. Identify student's needs (academic and functional)
3. Prioritize student's needs
4. Determine the standard that correlates with each need
5. Write the goal with the condition, behavior and performance criteria

Examples of Goals

- **Goal:** *Given a reading passage at the 4th grade level, Samuel will be able to* identify and describe the characters, setting, plot and theme, *with 80% accuracy on weekly comprehension probes for six consecutive weeks.*
- **Goal:** Given reading materials at the 2nd grade level, Amy will use knowledge of phonics and context clues to decode new words with 90% accuracy on weekly reading fluency probes, for six consecutive weeks.
- **Goal:** Given a word bank with key math vocabulary, Simon will answer questions related to content in tables, graphs and charts with 90% accuracy on 8 of 10 every other week teacher-made assessments.

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Component #3: Special Education Services

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What does IDEA say about the statement of services and aids?

According to IDEA, Section 300.320 (a), each child's IEP must contain the following:

"(4) A statement of the **special education** and **related services** and **supplementary aids and services**, based on peer-reviewed research to the extent practicable, to be provided to the child, or on behalf of the child, and a statement of the **program modifications or supports** for school personnel that will be provided to enable the child—… "

Source: IDEA, Sec. 300.320(a)(4), emphasis added

IEP Tip Sheet

Overview of the Statement of Services & Aids

This tip sheet introduces and provides an overview of the statement of special education, related services, supplementary aids and services, and program modifications that are part of the individualized education program (IEP). It also includes a brief summary of federal regulations and tips for implementation. To learn more, review the more in-depth tip sheets for all four parts and check with state law for additional requirements.

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(i) To advance appropriately toward attaining the annual goals;

(ii) To be involved in and make progress in the general education curriculum in accordance with paragraph (a)(1) of this section, and to participate in extracurricular and other nonacademic activities; and

(iii) To be educated and participate with other children with disabilities and nondisabled children in the activities described in this section [emphasis added]."

Breaking Down the Parts of Statement

Statement Component	Definition	Examples
Special Education	"… specially designed instruction, at no cost to the parents, to meet the unique needs of a child with a disability …" [Sec. 300.39(a)]	• Specialized instruction conducted in the classroom, home, hospitals, institutions, and other settings • Specialized instruction in physical education • Travel training • Vocational education • Speech-language pathology services, or any other related service, if the service is considered special education rather than a related service
Related Services	"… transportation and such developmental, corrective, and other supportive services as are required to assist a child with a disability to benefit from special education …" [Sec. 300.34(a)]	• Speech-language pathology and audiology services • Interpreting services • Psychological services • Physical and occupational therapy • Recreation, including therapeutic recreation • Early identification and assessment of disabilities in children
Supplementary Aids & Services	"… aids, services, and other supports that are provided in regular education classes, other education-related settings, and in extracurricular and nonacademic settings, to enable children with disabilities to be educated with nondisabled children to the maximum extent appropriate …" [Sec. 300.42].	• Accommodations • Modifications • Other direct services
	Supports and modifications to assist staff in supporting implementation of the IEP	• Training for staff and parents to support implementation • Special equipment or resources for providing instruction and supports • Collaborative planning time between the general education teacher, the special education teacher, and related service providers

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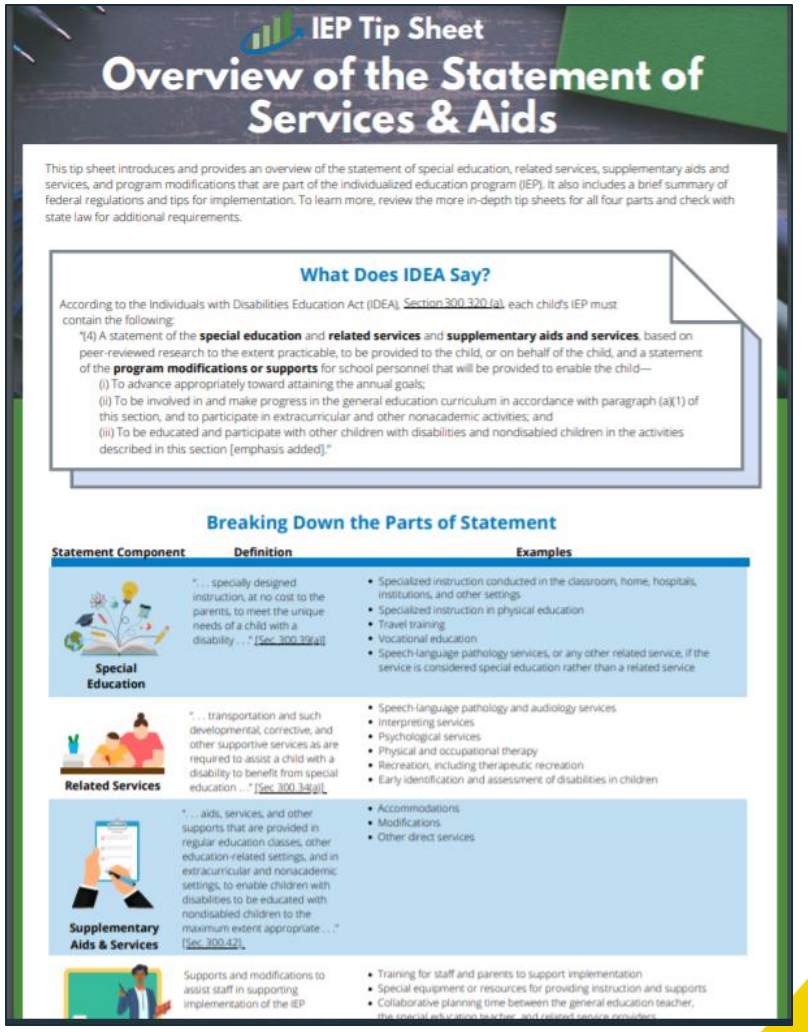

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Source: IDEA, Sec. 300.320(a)(4), emphasis added

Example: One Statement of Services and Aids

A sixth-grade student with a learning disability that impacts the student's ability to decode and fluently read connected text

Type of Service	Sample Proposed Services
SDI	Daily 30-minute direct instruction in phonics and reading fluency taught by the special education teacher
Related Service	Speech services to address the disfluency/stutter impacting fluent reading of connected text
Supplementary	Access to audio books or a peer reader
Program Modifications or Supports for School Personnel	Special education teacher participation in the Orton-Gillingham training program

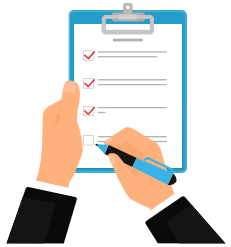
How do the parts of the statement of services and aids fit together?

Related Services

Special Education

Access to and Benefit From the General Curriculum

School and Postschool Success (e.g., graduation, meeting grade-level expectations)



Supplementary Aids and Services (in general education)

Program Modifications or Supports for School Personnel

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Component #4: Measuring and Reporting Progress

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Progress Monitoring: Importance of Data

When progress report and other data do not reflect that an annual goal will be met, reconvene the IEP team to determine why, make needed instructional changes, and continue to collect data

U.S. Department of Education, 2017

Evaluation of Progress Decisions: Based Upon Data

- Does the student need more than what they are getting?
- Does the student need something different than what they are getting?

(In a few instances, re-assessment of the student)

Remember: Considering the Supreme Court's *Endrew F.* ruling, not having progress or status data - and/or doing nothing in the presence of actionable data - is likely a denial of FAPE (Shriner, et al., 2021)

WHICH PROGRESS INDICATORS DO COURTS USE IN APPLYING THE *ENDREW F.* SUBSTANTIVE STANDARD FOR FAPE UNDER THE IDEA?

(Zirkel, 2022, 399 Ed. Law Rep. 1 West's Education Law Reporter, May 26, 2022)

1. There is broad deference to objective data reported by the IEP team.

2. Do not conflate “standardized” testing with normed scores based on the Endrew F. focus on the ***individual child*** rather than peers or even grade levels.

Common Errors in Monitoring Progress Toward Annual Goals

- Writing goals that are not measurable.
- Substituting subjective judgement for objective data.
- Using only commercially-developed summative achievement tests to monitor a student's growth.

Progress Statements

Policy requires that there be data to support the “checked box.”

Goal Progress Updates

Date: _____

Progress:

Progress Score: _____

Anticipate: ☐ Will Meet Goal ☐ Will Not Meet Goal ☐ Met Goal ☐ Did Not Meet Goal

Comments:

Data should be chartable or graphable: Not a status alone, but a measure of progress over time.

What Does Progress Look Like?

rate / speed *(15 times per hour)*
fluency (speed and accuracy) *(60 words read correctly per minute)*
quality ratings / scores on scales/rubrics *(a score of 4 for focus on the state assessment writing rubric)*
number or words/parts of a sentence/paragraph *(6 sentence/paragraph elements, 80 correct words sequences)*
advancement on *Learning Progressions/Task Analyses*

Best Practice

Connection to PLAAFP is important

Criteria for Progress/ Performance

What Does Progress Look Like?

# of attempts / trials *(on 5 out of 5 attempts)*
time to respond / time limits *(within 10 seconds of the question being presented)*
minimum # of appropriate responses *(a minimum of 3 times a day)*
change in *level of prompting* and/or supports needed – independence
change in *generalization* *in use of content or skill*

Best Practice

Connection to PLAAFP is important

Criteria for Progress/ Performance

Recommendations:

Provide frequent and systematic data-based reports to a student's parents on their child's advancement toward their goals.

When progress report and other data do not reflect that an annual goal will be met, reconvene the IEP team to determine why and make academic/functional changes!

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