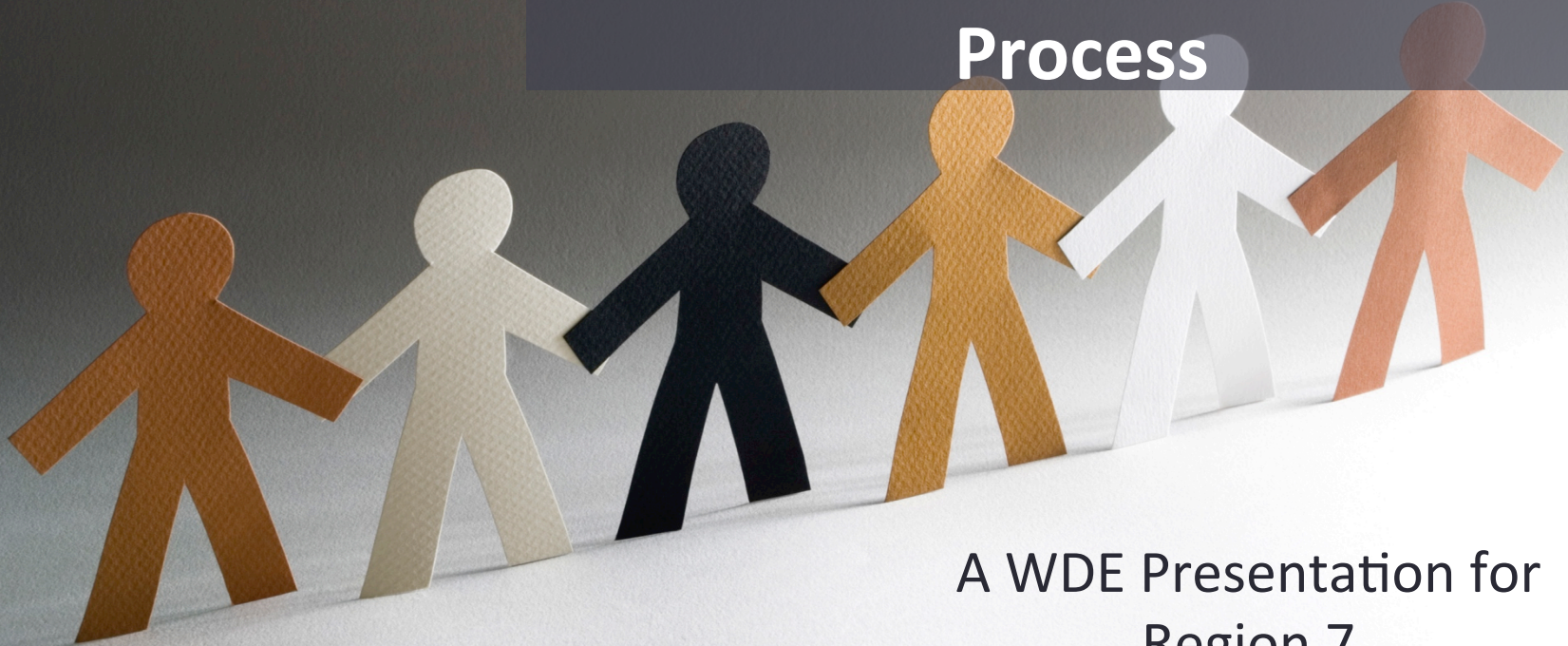


Understanding the IEP Process



A WDE Presentation for
Region 7

by

Lenore Knudtson, Consultant

2015

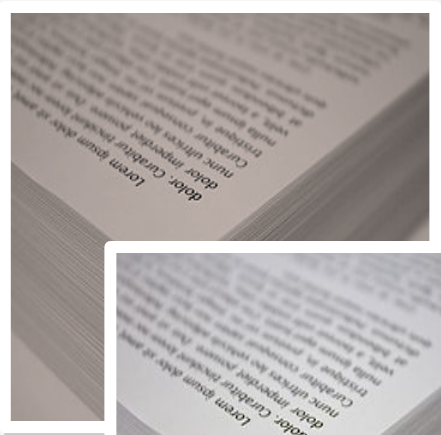


Telling the story of an individual child.

**ACHIEVING COMPLIANCE IN ORDER TO
IMPROVE OUTCOMES. . .**



IDEA



Federal Regulations



Chapter 7 Rules

Sources of authority to inform, protect, fund, and regulate services to students with disabilities.

What is the purpose of the IDEA?

The purposes of this part are--

- (a) To ensure that all children with disabilities have available to them a **free appropriate public education** that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment, and independent living;
- (b) To ensure that the rights of children with disabilities and their parents are protected.

What is FAPE?

- The practical definition of FAPE originates from the *Rowley* standard. It has been tested many times, and it remains the standard today.
- In *Rowley*, the Supreme Court established the following two-part test that courts should use to decide the appropriateness of a student's education:

What is FAPE?

- Has the state complied with the procedures set forth in the IDEA?
- Is the IEP, developed through the IDEA's procedures, **reasonably calculated to enable the child to receive educational benefits?**

What is FAPE?

- The Supreme Court held that when this two-part test is satisfied, the state has complied with the obligation imposed by Congress, and the courts can require no more.

Board of Educ. of the Hendrick Hudson Cent. Sch. Dist. v. Rowley, 553 IDELR 656 (U.S. 1982).

What else?

1. FAPE is an individualized standard, judged in relation to a student's potential.
2. School districts are not required to maximize a student's educational performance.
3. The 10th Circuit Court of Appeals has adopted the "some educational benefit" standard; and
4. Further, the 10th Circuit holds that generalization of skills into the home is not required. *Thompson R2-J Sch. Dist. v. Luke P.*, 50 IDELR 212 (10th Cir. 2008), *cert. denied*, 110 LRP 798 (2009).

How does a parent know?

- A parent has a right to participate in IEP team decisions about his/her child.
- A parent has a right to be involved in all placement decisions about his/her child.
- A parent has a right to receive notice about proposed or refused changes regarding a student's identification, evaluation, educational placement, or the provision of FAPE.



The IEP process is the **KEY** to understanding FAPE for your student.

The IEP Is Key, But PWN is Crucial

- Prior Written Notice (PWN) is one of the most important procedural safeguards afforded to parents.
- PWN is an important way for a parent to remain involved, be alert to changes, and preserve the right to object.
- A clear understanding of PWN is critical for a parent and public agency.
- It is a tool of critical importance to telling a child's story.



Prior Written Notice

School District/Public Agency	Prior Written Notice 34 C.F.R. §300.503			
Contact Person and Number				
Name of Student	WISER ID	DOB	Grade	Date

The school district must give you a written notice whenever the school district: (1) Proposes to initiate or change the identification, evaluation or educational placement of your child or the provision of a free appropriate public education (FAPE) to your child; or (2) Refuses to initiate or change the identification, evaluation or educational placement of your child or the provision of FAPE to your child. You and your child are entitled to procedural safeguards under the Individuals with Disabilities Education Act (IDEA). A copy of the Notice of Procedural Safeguards can be obtained from your child's school or the WDE website at www.edu.wyoming.gov. It contains a list of resources for parents to obtain assistance in understanding the IDEA.

Written Notice of Special Education Action

Description of the action the school district or public agency proposes or refuses to take:

Explanation of why the school district or public agency is proposing or refusing to take that action:

Description of each evaluation procedure, assessment, record or report the school district or public agency used as a basis for the proposed or refused action:

Description of any other options the team considered and the reasons why those choices were rejected:

Description of other relevant factors:

Prior Written Notice

School District/Public Agency

Contact Person and Number

Name of Student

Prior Written Notice

34 C.F.R. §300.503

DOB

Grade

Date

The school district must give you a written notice whenever the school district (1) Refuses to initiate or change the identification, evaluation or educational placement of your child or the provision of a free appropriate public education (FAPE) to your child; or (2) Refuses to initiate or change the identification, evaluation or educational placement of your child or the provision of FAPE to your child. You and your child are entitled to procedural safeguards under the Individuals with Disabilities Education Act (IDEA). A copy of the Notice of Procedural Safeguards can be obtained from your child's school or the WDE website at www.edu.wyoming.gov. It contains a list of resources for parents to obtain assistance in understanding the IDEA.

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Description of each evaluation procedure, assessment, record or report the school district or public agency used as a basis for the proposed or refused action:

Description of any other options the team considered and the reasons why those choices were rejected:

Description of other relevant factors:

When Should You Provide PWN?

Proposals to Initiate or Change

- Something about a child's eligibility;
- Something about an evaluation;
- Something about a child's placement; or
- Something about the provision of FAPE.

Refusals to Initiate or Change

- Something about a child's eligibility;
- Something about an evaluation;
- Something about a child's placement; or
- Something about the provision of FAPE.

Contents of PWN

- The contents are mandatory. It must include:
 - Protections available to parents and contact information.
 - A description of the action proposed or refused.
 - An explanation of WHY the action is being proposed or refused.

Contents of PWN

- An explanation of the information and/or data that supports the proposal or refusal.
- A description of other options considered, but not chosen.
- A description of other relevant factors.

School District/Public Agency	Prior Written Notice 24 C.F.R. §300.503
Contact Person and Number	

The school district must give you a written notice whenever the school district: (1) Proposes to initiate or change the identification, evaluation or educational placement of your child or the provision of a free appropriate public education (FAPE) to your child; or (2) Refuses to initiate or change the identification, evaluation or educational placement of your child or the provision of FAPE to your child. You and your child are entitled to procedural safeguards under the Individuals with Disabilities Education Act (IDEA). A copy of the Notice of Procedural Safeguards can be obtained from your child's school or the WDE website at www.edu.wyoming.gov. It contains a list of resources for parents to obtain assistance in understanding the IDEA.

Written Notice of Special Education Action

Explanation of why the school district or public agency is proposing or refusing to take that action:

Description of each evaluation procedure, assessment, record or report the school district or public agency used as a basis for the proposed or refused action:

Description of any other options the team considered and the reasons why those choices were rejected:

Description of other relevant factors:

School District/Public Agency		Prior Written Notice 34 C.F.R. §300.503		
Contact Person and Number				
Name of Student	WISER ID	DOB	Grade	Date

The school district or public agency proposes to initiate or change special education services for the student. The school district or public agency provides assistance in understanding the IDEA.

Written Notice of Special Education Action

Description of the action the school district or public agency proposes or refuses to take:

The school should clearly describe any proposed changes, including the effective date of the changes, regarding the student's evaluations, identification (eligibility), educational placement or the provision of FAPE.

OR

The school should clearly describe any refusals to requests made by the parents to change any matter regarding the student's evaluations, identification (eligibility), educational placement, or the provision of FAPE. (For example, the parent requests an evaluation, and the school declines the request.)

Explanation of why the school district or public agency is proposing or refusing to take that action:

Description of any other options the team considered and the reasons why those choices were rejected:

Description of other relevant factors:

School District/Public Agency	Prior Written Notice 34 C.F.R. §300.503			
Contact Person and Number				
Name of Student	WISER ID	DOB	Grade	Date

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Explanation of why the school district or public agency is proposing or refusing to take that action:

The school should explain the reasons for the proposed change. Parents should expect to see information regarding the student's improved performance, lack of anticipated progress, recent successes, or recent struggles.

OR

Parents should expect to see an explanation of why the school is refusing a parent request. (For example, the school may disagree with the parent's request to provide the student a 1:1 aid. This section should address the reasons the school is refusing to provide a 1:1 aid in student-specific terms, i.e. current educational needs, detrimental social effects, etc.)

Description of any other options the team considered and the reasons why those choices were rejected:

Description of other relevant factors:

School District/Public Agency		Prior Written Notice 34 C.F.R. §300.503		
Contact Person and Number				
Name of Student	WISER ID	DOB	Grade	Date

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Written Notice of Special Education Action

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Description of each evaluation procedure, assessment, record or report the school district or public agency used as a basis for the proposed or refused action:

This section should contain current data supporting the proposal or refusal. Data may include evaluation results, progress monitoring data, disciplinary referrals, outside evaluations, current grades, information from parents, etc. Every proposal or refusal should be supported by data or other information in the student's record or provided by the parents.

Description of any other options the team considered and the reasons why those choices were rejected:

Description of other relevant factors:

School District/Public Agency		Prior Written Notice 34 C.F.R. §300.503		
Contact Person and Number				
Name of Student	WISER ID	DOB	Grade	Date

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Written Notice of Special Education Action

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Explanation of why the school district or public agency is proposing or refusing to take that action:

Description of any other options the team considered and the reasons why those choices were rejected:

Rarely is only one option considered. The school should describe the other options considered and why those options were not selected. (For example, the team considered special transportation for the student, but rejected that choice because siblings ride the same bus as the student, increasing his comfort level and opportunity to practice social skills.)

Description of other relevant factors:

School District/Public Agency		Prior Written Notice 34 C.F.R. §300.503		
Contact Person and Number				
Name of Student	WISER ID	DOB	Grade	Date

The school district must give you a written notice whenever the school district: (1) Proposes to initiate or change the identification, evaluation or educational placement of your child or the provision of a free appropriate public education (FAPE) to your child; or (2) Refuses to initiate or change the identification, evaluation or educational placement of your child or the provision of FAPE to your child. You and your child are entitled to procedural safeguards under the Individuals with Disabilities Education Act (IDEA). A copy of the Notice of Procedural Safeguards can be obtained from your child's school or the WDE website at www.edu.wyoming.gov. It contains a list of resources for parents to obtain assistance in understanding the IDEA.

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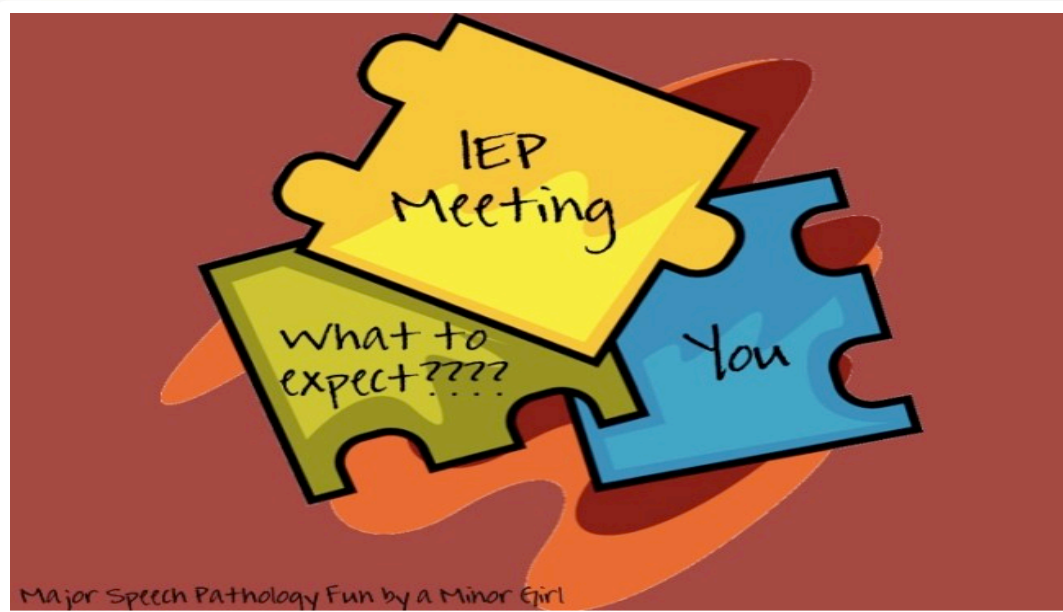
Description of other relevant factors:

Other relevant factors might include things like medication changes, a death in the family, a recent family move, long term absence of a service provider, or any other issue or circumstance that may have bearing on the student's participation or performance at school.

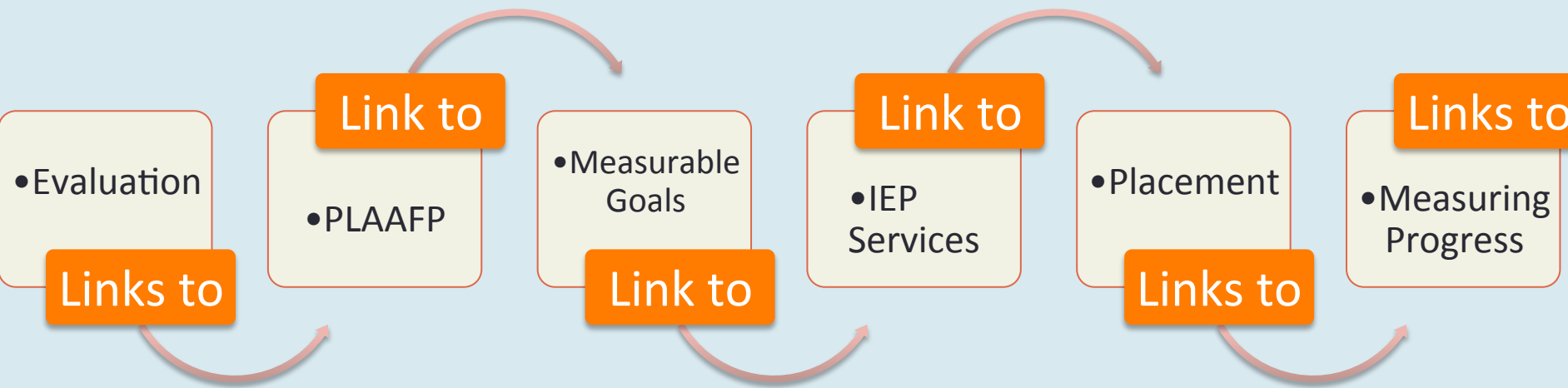


TEST YOUR KNOWLEDGE

Let's work through some examples.



The IEP process is the cornerstone of FAPE. It is where the child's story is told in great detail, carefully monitored, and changed as needed.



FAPE Cycle

The Story Starts Here



Comprehensive Evaluations

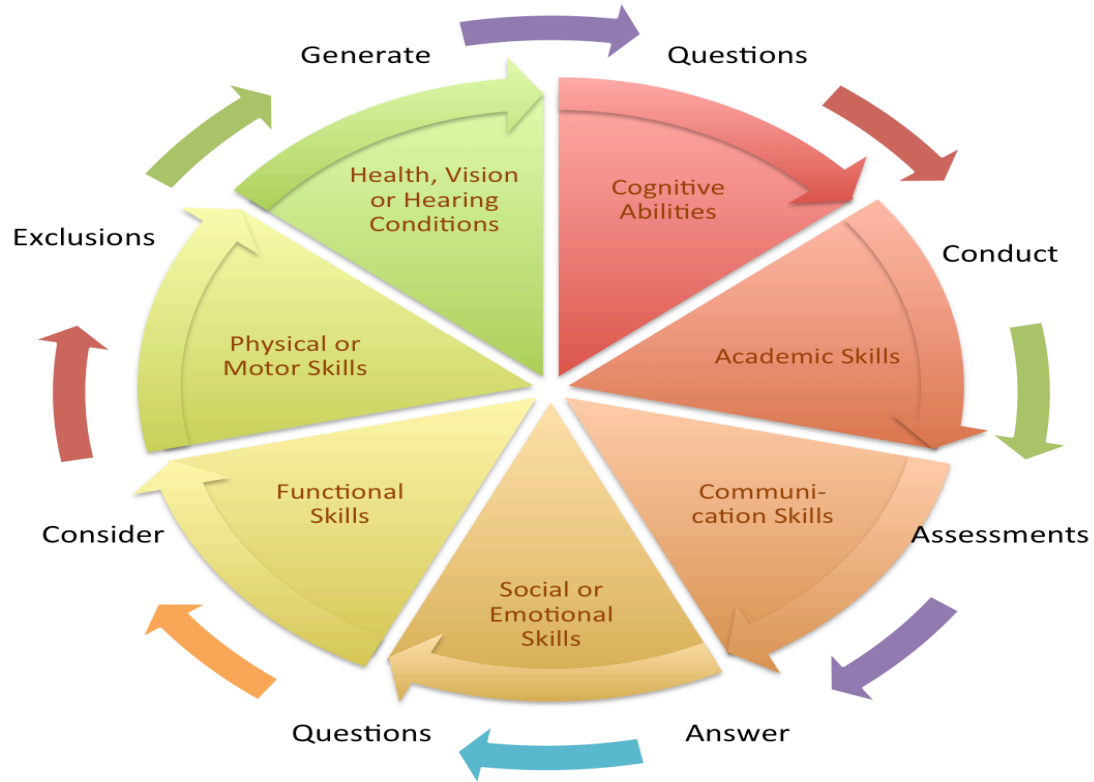


Every evaluation is a **COMPREHENSIVE** evaluation. All evaluative questions must be answered.

It starts with a review of existing data.



Comprehensive Evaluation: Eligibility & Need



Probing Question Model

What else?

- What additional data, if any, does the team need in order to answer the remaining evaluative questions?
- It may be medical, psychological, behavioral, academic, etc.
- The collection of the information determined necessary by the team in order to determine eligibility is the responsibility of the school district.
- If the team determines data is needed, and it doesn't already exist, then it is the school's responsibility to get it, including the cost.

Evaluation Procedures

- The public agency must ensure that the child is assessed in all areas related to the suspected disability, including if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities.

34 C.F.R. §300.304(c)(4).

Comprehensive Requirement

- In evaluating a child with a disability, the public agency must ensure that the evaluation is **sufficiently comprehensive to identify all of the child's special education and related service needs**, whether or not commonly linked to the disability category in which the child has been classified.

34 C.F.R. §300.304(c)(6).

Observation Requirement

- The child must be observed in his/her learning environment. *34 C.F.R. §300.310(a).*
- For a preschool age child, the observation must take place in an environment appropriate for a child of that age. *34 C.F.R. §300.310(c).*

Consent to Evaluate

- Once the team determines what additional data is necessary to answer the remaining evaluative questions, then it must propose a plan to collect that information.
- The parent will be asked for his/her informed consent.
- Consent is *informed* when the parent has received written notice about the action proposed. **HINT:**
PWN! 34 C.F.R. §300.300.

Evaluation Timeline

- For **INITIAL** evaluations only, the 60 calendar day timeline starts when the school receives the parent's informed consent. *34 C.F.R. § 300.301.*
- For reevaluations, there is **NO** timeline. It must be reasonable under the circumstances.
- Once a child has been fully evaluated and has begun receiving special education services, **ANY** subsequent evaluation is a reevaluation. *71 Federal Register 46640.*

When does the evaluation timeline end?

- Wyoming, like many other states, takes the position that the evaluation timeline concludes upon completion of assessments and other evaluation measures, and the determination:
 - Whether the child is a child with a disability, and
 - The educational needs of the child.

34 C.F.R. §300.305(a).

Does this mean the IEP too?

- No. A meeting to develop and IEP for a child must be conducted within 30 days of a determination of eligibility. *34 C.F.R. §300.323(c)(1)*.
- Special education services must be provided as soon as possible following the development of the IEP. *34 C.F.R. §300.323(c)(2)*.

What about an evaluation report?

- The parents must be provided a copy of the evaluation report and the documentation of determination of eligibility. *34 C.F.R. §300.306(a).*

Reports and Determinations

- It is important to ensure that parents have the information they need to participate meaningfully in IEP team meetings.
- While it would be appropriate for parents to review documents related to the determination of eligibility prior to the eligibility determination, there is no requirement that the eligibility be determined at an IEP team meeting.

Reports and Determinations

- It would not be appropriate for a public agency to provide documentation of the determination of eligibility prior to discussing a child's eligibility for special education and related services with the parents.
- Therefore, providing documentation of the eligibility determination to a parent prior to discussion with the parent regarding the child's eligibility would indicate that the public agency made its determination without including the parent in the decision.

71 Federal Register 46645.

What does this mean?

- Eligibility determinations are team decisions.
- Although the IDEA does not require that the team make that decision during a team meeting, it is sometime most prudent to convene an eligibility determination meeting to fully explain to parents the results of the evaluation.

Eligibility and PWN

- The determination of eligibility triggers PWN.
- The proposal should be carefully documented, including the team members who participated in the decision.

IDEA
Disability

Educational
Need

IDEA
Eligibility

Eligibility Determinations

What is an IDEA disability?

- An IDEA disability is one of the 13 categories described in 34 C.F.R. §300.8.
- Wyoming Rule has described the IDEA disability categories in more detail in WDE Rules, Chapter 7, Section 4.

Limitation

- If it is determined, through an appropriate evaluation, that a child has one of the disabilities identified, **but only needs a related service and not special education**, the child is not a child with a disability under this part.

34 C.F.R. §300.8(a)(2).

What is . . .

Special Education

- Means **specialty designed instruction**, at no cost to the parents, to meet the unique needs of a child with a disability, including instruction conducted in the classroom, in the home, in hospitals and institutions, and other settings.

See 34 C.F.R. §300.39(a).

Related Service

- Means transportation and such developmental, corrective, and other supportive services as are required to assist a child with a disability to benefit from special education.

See 34 C.F.R. §300.34.

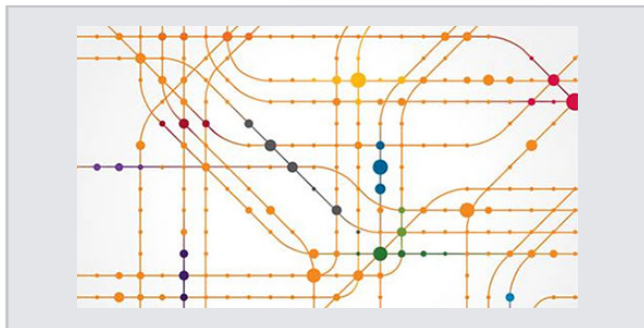
What is Specially Designed Instruction?

- Specially designed instruction means adapting, as appropriate to the needs of an eligible child, the content, methodology, or delivery of instruction **to address the unique needs of the child that result from the child's disability, and ensure access to the general curriculum.**

What does that mean?

- If a child only needs a related service, like counseling, OT, PT, etc., then the student is **NOT** eligible under the IDEA.
- EXCEPTION: S/L service can be the special education when the student is ONLY S/L eligible, but it automatically changes to a related service if eligible in any other category.

After eligibility, what is next?



Make the connections

PREPARING FOR THE IEP
MEETING

Goals

1. _____
2. _____
3. _____

School District/Public Agency		Individualized Education Program (IEP) 34 C.F.R. §§300.320-300.324		
Name of Student	WISER ID	DOB	Grade	Date of IEP Meeting
Date of Last IEP Meeting	Due Date of Next 3 Year Reevaluation	Disability Category(s)		

STRENGTHS, EDUCATIONAL CONCERNS AND PREFERENCES/INTERESTS

Team's Perspective

34 C.F.R. §§300.321(a) and (b)

Strengths:

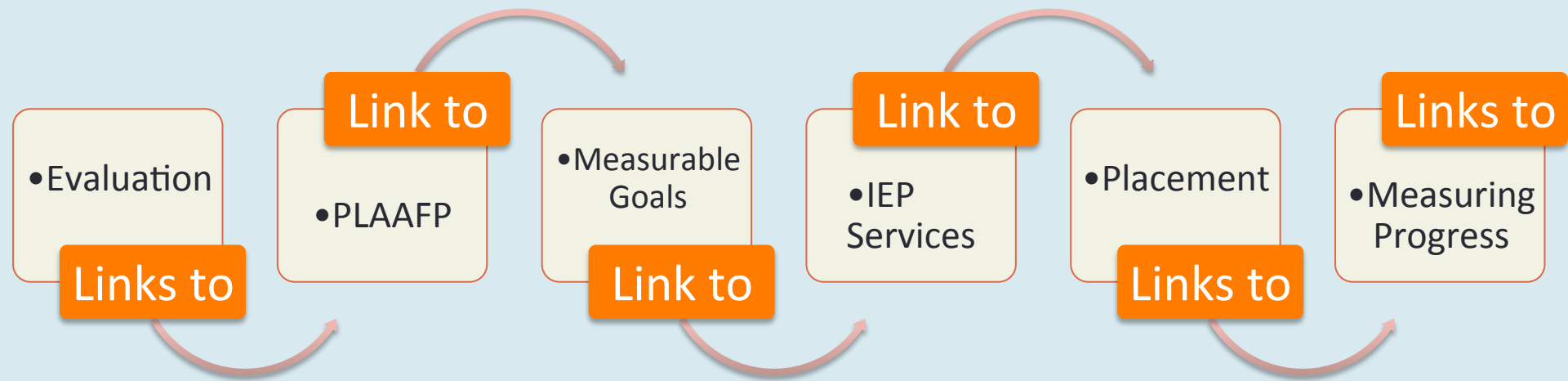
What is the student good at in relative terms? What is the best part of the student's learning day?

Preferences/Interests:

What does the student enjoy? Favorite activities, courses, subjects, staff persons, etc.?

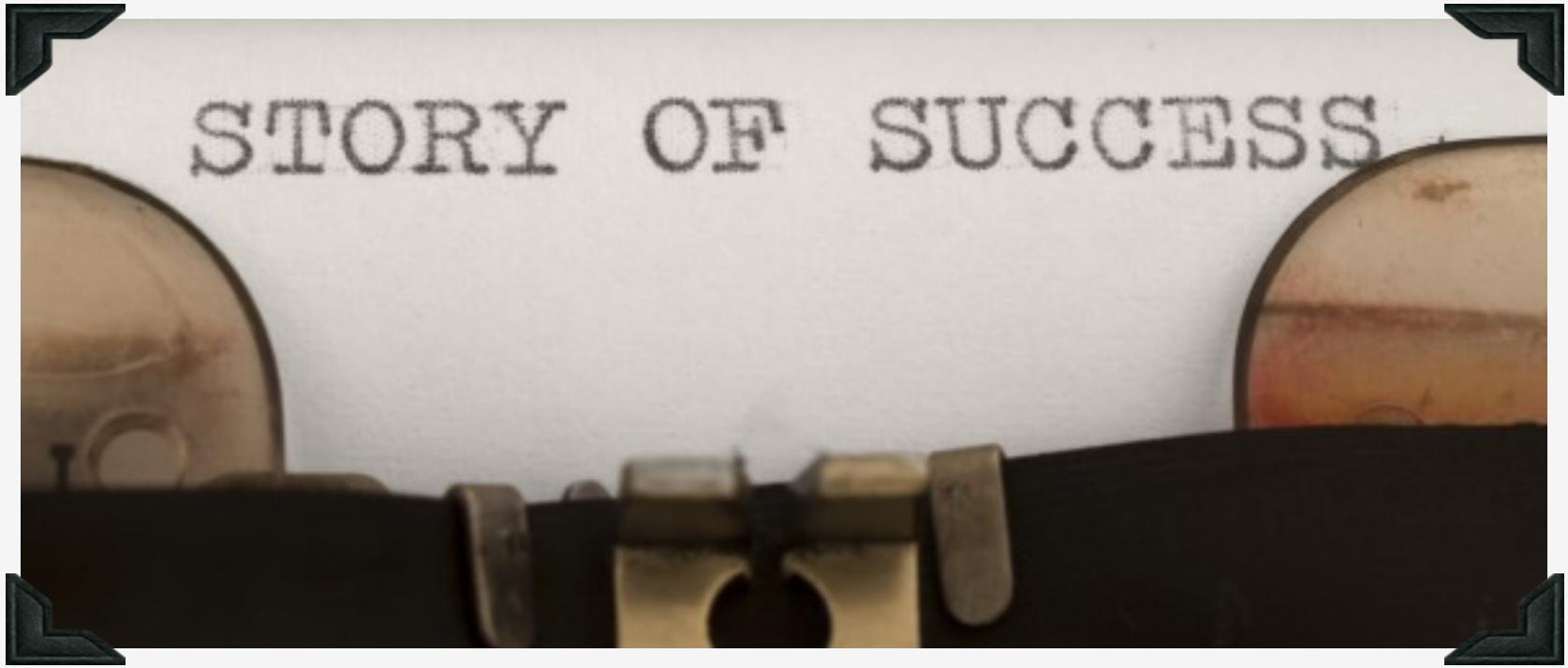
Educational Concerns:

Remember IEPs must address skill gaps in comparison to the general curriculum or extended curriculum. Without skill gaps, there is no justification for having an IEP. This area may be used to identify major skill gaps, prioritize educational needs, describe areas of lack of expected progress, etc.



FAPE Cycle

The story comes alive. . .



Present Levels

- A statement of the child's present levels of academic achievement and functional performance, including –
 - How the child's disability affects the child's involvement and progress in the general education curriculum (i.e.. the same curriculum as for nondisabled children), or
 - For preschool children, as appropriate, how the disability affects the child's participation in appropriate activities.

34 C.F.R. §300.320(a).

School District/Public Agency		Individualized Education Program (IEP) 34 C.F.R. §§300.320-300.324		
Name of Student	WISER ID	DOB	Grade	Date of IEP Meeting
Date of Last IEP Meeting	Due Date of Next 3 Year Reevaluation	Disability Category(s)		
STRENGTHS, EDUCATIONAL CONCERNS AND PREFERENCES/INTERESTS				
Team's Perspective 34 C.F.R. §§300.321(a) and (b)				
Strengths:				

PRESENT LEVELS OF ACADEMIC ACHIEVEMENT AND FUNCTIONAL PERFORMANCE

Preschool Students: Describe the academic, developmental and functional needs of the student, and how the disability affects the student's participation in appropriate activities (*the same age appropriate activities engaged in by nondisabled students*).

School Age Students: Describe the academic, developmental and functional needs of the student, and how the disability affects the student's involvement and progress in the general education curriculum (*the same curriculum as nondisabled students*).

Describe the child's present levels of academic achievement and functional performance across services and settings, including special education, regular education, and interventions.

Present levels are intended to inform the entire team about the student's current skill level across environments. The description may include data, but must also include narrative information describing what the data means for this student. Present levels are the first step in the process of identifying the student's educational needs for the current annual IEP. Present levels should be skill-descriptive, and tell the child's story in a manner that could inform any unfamiliar reader about this student's current educational (academic AND functional) performance.

Court Interpretations

- The failure to conduct a comprehensive evaluation of the student's educational needs resulted in a finding that the IEP was inappropriate and the **PLAAFP were invalid.**
Pinto v. District of Columbia, 64 IDELR 103 (D.D.C. 2014).

Court Interpretations

- The lack of individualized planning denied a student FAPE. The use of vague language and stock goals was sufficient to uphold a determination that the school district denied the student FAPE. *Jefferson County Bd. of Ed. V. Lolita S.*, 64 IDELR 34 (11th Cir. 2014).

Court Interpretations

- The IEP was found inadequate because goals were not based on PLAAFP.
- "An IEP begins by measuring the student's present level of performance -- affectionately known as [PLAAFP] -- which provides a benchmark for measuring the student's progress toward the goals stated in the IEP." *Ravenswood City Sch. Dist. v. J.S.*, 59 IDELR 77 (N.D. Cal. 2012) quoting *Settlegoode v. Portland Pub. Schs.*, 41 IDELR 9 (9th Cir. 2004).

Court Interpretations

- “[T]here should be a direct relationship between the present levels of educational performance and the other components of the IEP.” *O’Toole v. Olathe District Schools Unified Sch. Dist. No. 233*, 28 IDELR 177 (10th Cir. 1998).

Don't Overlook the PLAAFP

- Be intentional! Make the connection between the comprehensive evaluation and the PLAAFP. Ask questions like:
 - How is the student doing across all environments?
 - What is the student expected to do?
 - What is the student's current skill/functional level?
 - What strategies are most successful?

Name of Student	Date of IEP Meeting
PRESENT LEVELS OF ACADEMIC ACHIEVEMENT AND FUNCTIONAL PERFORMANCE (Continued)	

NOTE REGARDING SPECIAL FACTORS: This is an important section to ensure that special factors are considered for educational planning purposes. Don't be afraid to check "yes," as this only means that the IEP should specifically address those relevant special factors.

CONSIDERATION OF SPECIAL FACTORS

34 C.F.R. §300.324(a)(2)

	YES	NO
• Does the student's behavior impede his/her learning or the learning of others?	<input type="checkbox"/>	<input type="checkbox"/>
• Does the child have communication needs?	<input type="checkbox"/>	<input type="checkbox"/>
• Is the student deaf or hard of hearing? If yes, then answer the following:	<input type="checkbox"/>	<input type="checkbox"/>
○ Does the student need opportunities for communication and direct instruction in the student's language and communication mode?	<input type="checkbox"/>	<input type="checkbox"/>
• Is the student blind or visually impaired? If yes, then answer the following:	<input type="checkbox"/>	<input type="checkbox"/>
○ Does the student require orientation and mobility training?	<input type="checkbox"/>	<input type="checkbox"/>
○ After an evaluation of reading and writing needs, learning media assessment, and need for future instruction in Braille, does the student require instruction in the use of Braille?	<input type="checkbox"/>	<input type="checkbox"/>
• Does the student require assistive technology devices or services?	<input type="checkbox"/>	<input type="checkbox"/>
• Has the student been determined to be Limited English Proficient?	<input type="checkbox"/>	<input type="checkbox"/>

Any item checked "YES" must be addressed in the IEP.

EXTENDED SCHOOL YEAR

Like Google Maps



- Consideration of Special Factors is important because it alerts the team to the direction the IEP must go.
- It is like entering the name of a town in Google Maps. You know you need to go there, but the specifics will be added later.



Determinations

Name of Student	Date of IEP Meeting
PRESENT LEVELS OF ACADEMIC ACHIEVEMENT AND FUNCTIONAL PERFORMANCE (Continued)	

EXTENDED SCHOOL YEAR

34 C.F.R. §300.106

Extended School Year (ESY) services must be provided if necessary for the student to receive FAPE. In addition to degree of regression and the time necessary for recoupment, consider these factors:

- Degree of impairment and the ability of the child's parents to provide the educational structure at home;
- The child's rate of progress;
- His or her behavioral and physical problems;
- The availability of alternative resources;
- The ability of the child to interact with non-handicapped children;
- The areas of the child's curriculum which need to be reviewed;
- The child's vocational needs; and
- Whether the requested service is "extraordinary" to the child's condition, as opposed to an integral part of a program for those with the child's condition.

NOTE: ESY is not intended to provide "extra" benefit. It is appropriate ONLY if service beyond the normal school day or year is NECESSARY in order for the student to receive educational benefit during the normal school day/year. Most students will experience gains with more service, but that is not the purpose of ESY.

Is ESY necessary in order for the student to receive FAPE? YES NO

If ESY is a necessary component of FAPE, ESY goals and services must be documented in the IEP.

What is ESY?

- The term extended school year services means special education and related services that—
- (1) Are provided to a child with a disability—
 - (i) Beyond the normal school year of the public agency; (ii) In accordance with the child's IEP; and
 - (iii) At no cost to the parents of the child; and
- (2) Meet the standards of the SEA.

34 C.F.R. §300.106(b).

When is it provided?

- Extended school year services must be provided only if a child's IEP Team determines, on an individual basis that the services are necessary for the provision of FAPE to the child. *34 C.F.R. §300.106(a)*.
- Remember, FAPE means “some educational benefit.”

The Leading 10th Circuit Case

- The 10th U.S. Circuit has identified the following factors that districts may also consider **in addition to the regression-recoupment analysis**:
 - Degree of regression suffered in the past.
 - Exact time of past regression.
 - Ability of parents to provide educational structure at home.
 - Child's rate of progress.
 - Child's behavioral and physical problems.

The Leading 10th Circuit Case

- Availability of alternative resources.
- Ability of child to interact with nondisabled children.
- Areas of child's curriculum that need continuous attention.
- Child's vocational needs.
- Whether requested services are extraordinary for the child's condition, as opposed to an integral part of a program for populations of students with the same disabling condition.

Johnson v. Indep. Sch. Dist. No. 4, 17 IDELR 170 (10th Cir. 1990), cert. denied, 110 LRP 38025 (1991).

What else?

1. ESY services are not intended to maximize a student's potential or progress.
2. The need for ESY services must be considered for **every** student, but ESY services are not necessary for all students.
3. When determined to be a necessary component of FAPE, the IEP must address ESY services with the same level of specificity as during the regular school year.
4. ESY services serve as an "extension" of the IEP for an IDEA eligible student.

What about LRE?

1. OSEP has long recognized that the principles of LRE apply to ESY.
2. However, ESY is provided at times when school is not in session.
3. OSEP does not require schools to recreate a general education program when no school is in session. It may be necessary for schools to purchase access to an environment to meet the student's LRE needs.

What about LRE?

- The 2nd Circuit Court of Appeals recently held:
 - ✓ In order to comply with the LRE requirement, for the ESY component of a twelve-month educational program as for the school-year component, a school district must consider an appropriate continuum of alternative placements, and then must offer the student the least restrictive placement from that continuum that is appropriate for the student's disabilities.

What about LRE?

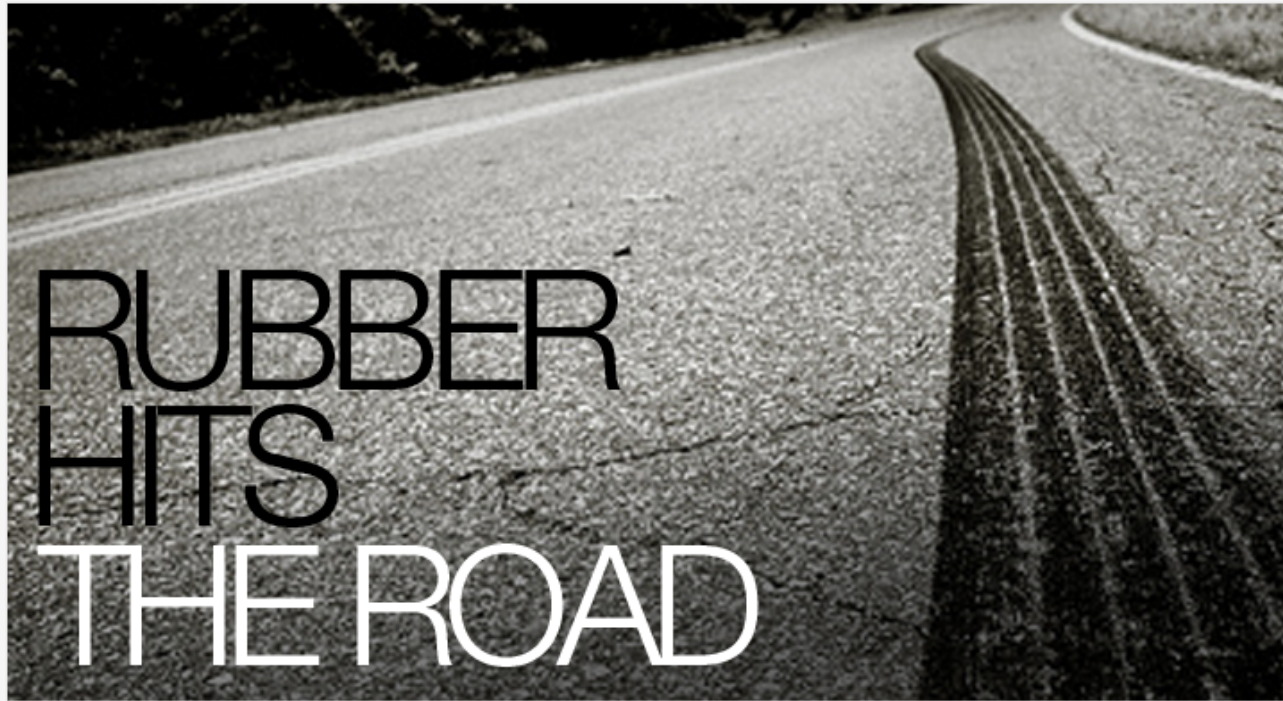
- ✓ If a district does not offer a mainstream ESY program, the court stated, it can still make a continuum of ESY placements available by considering a private summer program or a mainstream ESY program offered by another public entity.

T.M. v. Cornwall Central Sch. Dist., 63 IDELR 31 (2nd Cir. 2014).

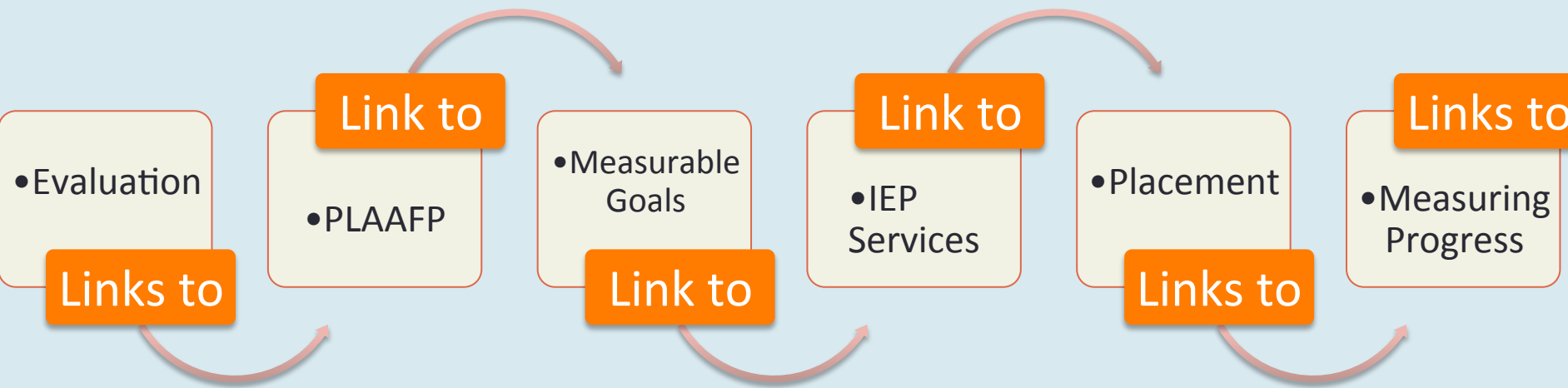
The WDE ESY Reference Guide



A GREAT RESOURCE



Measurable Goals



FAPE Cycle

Goals Link to PLAAFP

- Does this mean that every need should have a separate goal?
- Not necessarily.
 - Several needs may be addressed by one goal.
 - Needs may be prioritized with a “scaffold” of needed skills before moving on to the next need.
 - It is not required to have a separate goal for each area or provider. *71 Federal Register 46662.*

Measurable Goals

- A statement of measurable annual goals, including **academic and functional goals**, designed to –
 - Meet the child's needs that result from the child's disability to enable the child to be involved in and make progress in the **general education curriculum**, and
 - Meet each of the child's **other educational needs that result from the child's disability**.

34 C.F.R. §300.320(a).

What does this mean?

- Goals must be measurable.
- Goals are intended to help the student be successful in the general curriculum, or a downward extension when needed.
- Goals can also address other needs that result from the student's disability.

MEASURABLE ANNUAL GOAL NUMBER _____

Additional Goal pages should be added as necessary.

A statement of measurable annual goals, including academic and functional goals designed to:

- Meet the student's needs that result from the student's disability to enable the student to be involved in and make progress in the general education curriculum.
- Meet each of the student's other educational needs that result from the student's disability.

Indicate whether this goal will be implemented during ESY. YES NO N/A

Each goal must include a baseline, target and method of measurement.

Goals link back to comprehensive evaluation data, PLAAFP, and resulting identified educational needs, i.e. skill gaps. All goals must be measurable, even if accompanied by benchmarks or objectives. Measurable means the IEP identifies the current skill level, a rigorous but reasonable target to be achieved in one year, and the method used to measure growth. Goals are intended to address skill gaps, NOT broad statements like "pass a class." The IEP should address what skills are necessary to pass the class.

<p>DESCRIBE PROGRESS</p> <p>NOTE: Narrative should be used to supplement data above.</p>					
STAFF NAME					

Goals are not lesson plans.

- Goals are intended to be written annually.
- Goals are intended to address skill deficits.
- It is the challenge of the IEP team to define goals in terms of a reasonable expectation of skill growth in one year.
- The IEP can and should be revised to address a lack of expected progress or more progress than anticipated.

How many is too much?

- Too many goals and/or objectives can make the IEP difficult for teachers, providers, and parents to understand.
- Implementation becomes difficult.
- Progress reporting becomes nearly impossible.

Are benchmarks always required?

- **No.** Benchmarks are required only for children taking alternate assessments aligned to alternate achievement standards. *34 C.F.R. §300.320(a).*

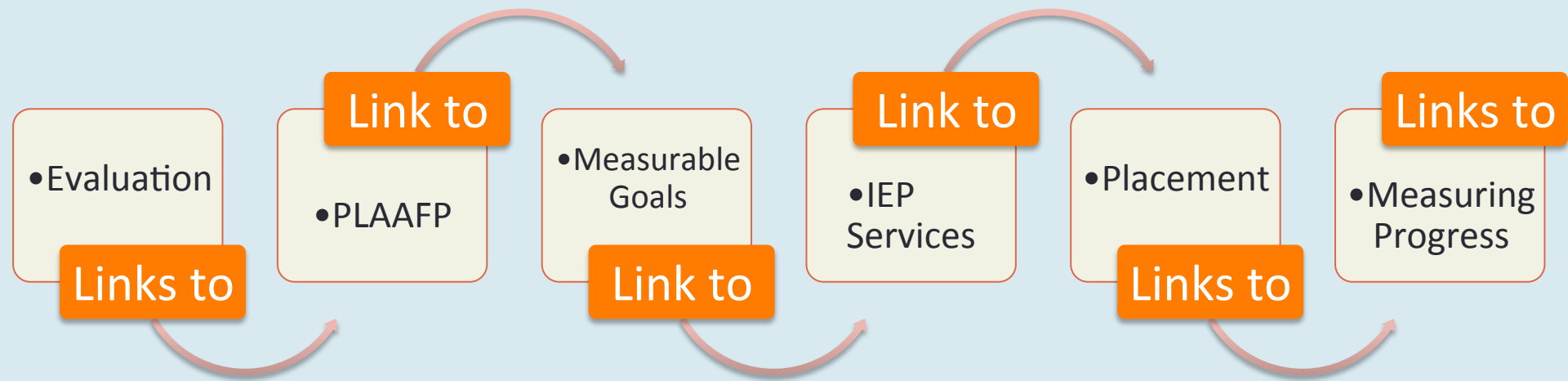
Do benchmarks replace goals?

- **No.** Benchmarks supplement a measurable annual goal, breaking it down into smaller steps.
- Benchmarks do not eliminate the need for well-written measurable annual goals.

Name of Student	Date of IEP Meeting
MEASURABLE ANNUAL GOAL NUMBER _____ <small>Additional Goal pages should be added as necessary.</small>	
A statement of measurable annual goals, including academic and functional goals designed to:	
<ul style="list-style-type: none"> Meet the student's needs that result from the student's disability to enable the student to be involved in and make progress in the general education curriculum. Meet each of the student's other educational needs that result from the student's disability. 	
Indicate whether this goal will be implemented during ESY. <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> N/A	
Each goal must include a baseline, target and method of measurement.	

Benchmarks or short-term objectives:	
Required <u>only</u> for students that will take alternate State or District wide assessment(s).	
Objective	Time Frame
<p>Benchmarks are necessary only for students working on alternate standards and taking alternate assessments. Benchmarks do not take the place of measurable annual goals. They supplement the annual goal by breaking down the goal into smaller increments, called benchmarks or short-term objectives.</p>	

DESCRIBE PROGRESS <small>NOTE: Narrative should be used to supplement data above.</small>				
STAFF NAME				



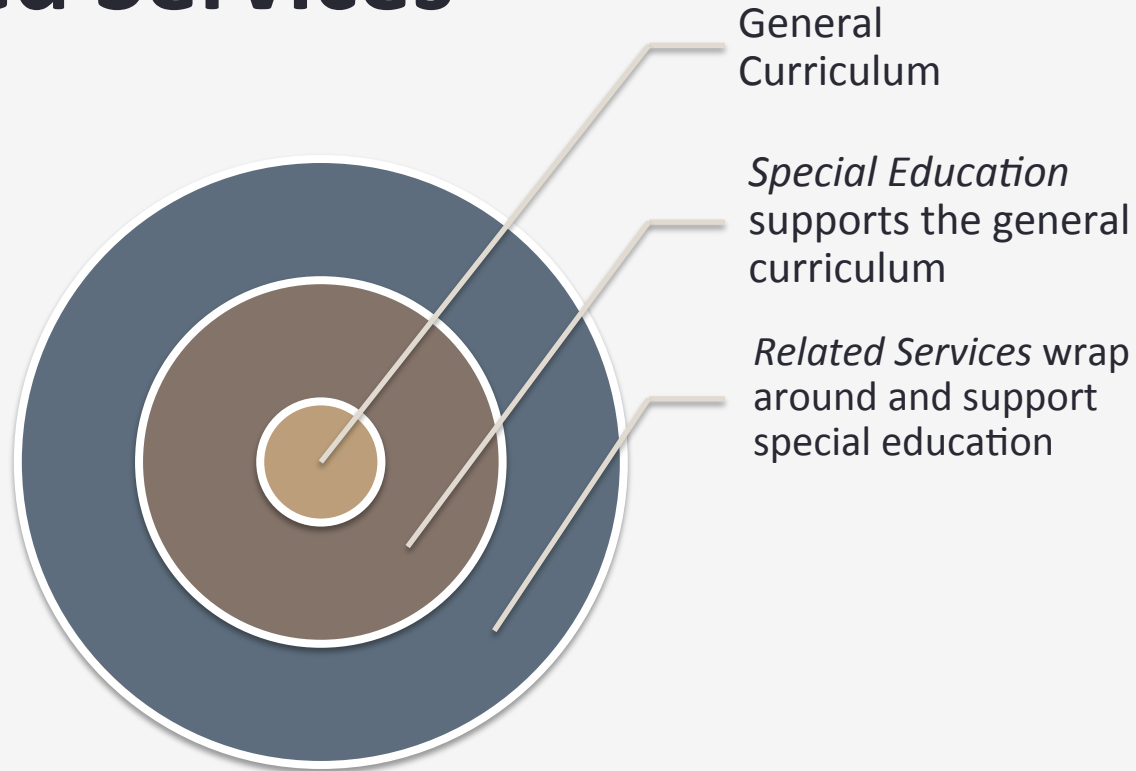
FAPE Cycle

Special Education and Related Services

- A statement of the special education and related services, and supplementary aids and services, and
- A statement of the program modifications or supports for school personnel that will be provided to enable the child –
 - To advance appropriately toward **attaining the annual goals**;
 - To be involved in and make progress in the **general education curriculum**, and to participate in **extracurricular and other nonacademic activities**; and
 - To be educated and participate with other children with disabilities and nondisabled children in the activities described above.

34 C.F.R. §300.320(a)(4).

Special Education & Related Services



Name of Student	Date of IEP Meeting
A. SPECIAL EDUCATION SERVICES	

A. SPECIAL EDUCATION SERVICES

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

- To advance appropriately toward attaining the annual goals.
- To be involved in and make progress in the general education curriculum and to participate in extracurricular and other nonacademic activities.
- To be educated and participate with other students with disabilities and nondisabled students in extracurricular and other nonacademic activities.

Special Education	Frequency	Duration	Location	Projected Start Date
Area of Specially Designed Instruction: Typically, this includes core content areas, behavior, and/or functional skills. <input type="checkbox"/> ESY				
Area of Specially Designed Instruction: Check ESY only if the service will be provided beyond the normal school day or year <input type="checkbox"/> ESY				
Area of Specially Designed Instruction: <input type="checkbox"/> ESY				
Area of Specially Designed Instruction: NOTE: It is not necessary to write a goal for each provider <input type="checkbox"/> ESY				

It is expected that the frequency, duration, and location would be different for services provided during ESY, which is for the purpose of maintaining current skills, not advancing to a higher skill level.

<input type="checkbox"/> ESY				
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Name of Student	Date of IEP Meeting
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B. RELATED SERVICES					
Necessary to benefit from special education.					
Related Service	<input type="checkbox"/> N/A	Frequency	Duration (Amount)	Location	Projected Start Date
<input type="checkbox"/> Audiology	<input type="checkbox"/> ESY				
<input type="checkbox"/> Counseling Services	<input type="checkbox"/> ESY				
<input type="checkbox"/> Educational Interpreting Services	<input type="checkbox"/> ESY				

The purpose of a related service is to help the student benefit from their special education. There must be a link back to the special education in order for a related service to be included in the IEP. General benefit is not sufficient under the IDEA.

<input type="checkbox"/> School Health Services	<input type="checkbox"/> ESY				
<input type="checkbox"/> School Nurse Services	<input type="checkbox"/> ESY				
<input type="checkbox"/> School Social Work Services	<input type="checkbox"/> ESY				
<input type="checkbox"/> Speech – Language Pathology (only for students with other primary disability)	<input type="checkbox"/> ESY				
<input type="checkbox"/> Transportation	<input type="checkbox"/> ESY				
<input type="checkbox"/> Other (specify)	<input type="checkbox"/> ESY				

C. SUPPLEMENTARY AIDS AND SERVICES

Accommodations, aids, services, assistive technology and other supports that are provided to avoid removing the student from regular education classes, other education-related settings and extracurricular and non-academic settings. (May include routine checking of hearing aids and external components of surgically implanted devices.)

Supplementary Aids & Services	<input type="checkbox"/> N/A	Start Date	Explanation of Frequency, Duration, and Location

Name of Student		Date of IEP Meeting			
B. RELATED SERVICES					
Necessary to benefit from special education.					
Related Service	<input type="checkbox"/> N/A	Frequency	Duration (Amount)	Location	Projected Start Date
<input type="checkbox"/> Audiology	<input type="checkbox"/> <i>ESY</i>				
<input type="checkbox"/> Counseling Services	<input type="checkbox"/> <i>ESY</i>				
<input type="checkbox"/> Educational Interpreting Services	<input type="checkbox"/> <i>ESY</i>				
<input type="checkbox"/> Occupational Therapy	<input type="checkbox"/> <i>ESY</i>				
<input type="checkbox"/> Orientation and Mobility	<input type="checkbox"/> <i>ESY</i>				
<input type="checkbox"/> Parent Counseling and Training	<input type="checkbox"/> <i>ESY</i>				
<input type="checkbox"/> Physical Therapy	<input type="checkbox"/> <i>ESY</i>				
<input type="checkbox"/> Psychological Services	<input type="checkbox"/> <i>ESY</i>				
<input type="checkbox"/> Recreation	<input type="checkbox"/> <i>ESY</i>				
<input type="checkbox"/> School Health Services	<input type="checkbox"/> <i>ESY</i>				

C. SUPPLEMENTARY AIDS AND SERVICES

Accommodations, aids, services, assistive technology and other supports that are provided to avoid removing the student from regular education classes, other education-related settings and extracurricular and non-academic settings. (May include routine checking of hearing aids and external components of surgically implanted devices.)

Supplementary Aids & Services N/A

Start Date

Explanation of Frequency, Duration, and Location

Supplementary aids and services includes paraprofessional support, behavior intervention plans, etc. that are delivered throughout the student's school day across all locations.

Service Provider Logs

- Service providers must document IEP services.
- A district's failure to keep accurate records of the services provided to special education students resulted in compensatory education. "The district's failure to produce tracking forms designed to account for all of the student's special education classes proved fatal to its claims." *Sykes v. District of Columbia*, 49 IDELR 8 (D.D.C. 2007).

Service Provider Logs

- OCR utilizes provider logs to confirm IEP implementation. When those logs are missing or incomplete, OCR will find a violation. *School Administrative Unit #9, 111 LRP 16101 (OCR 2010).*

What does this mean?

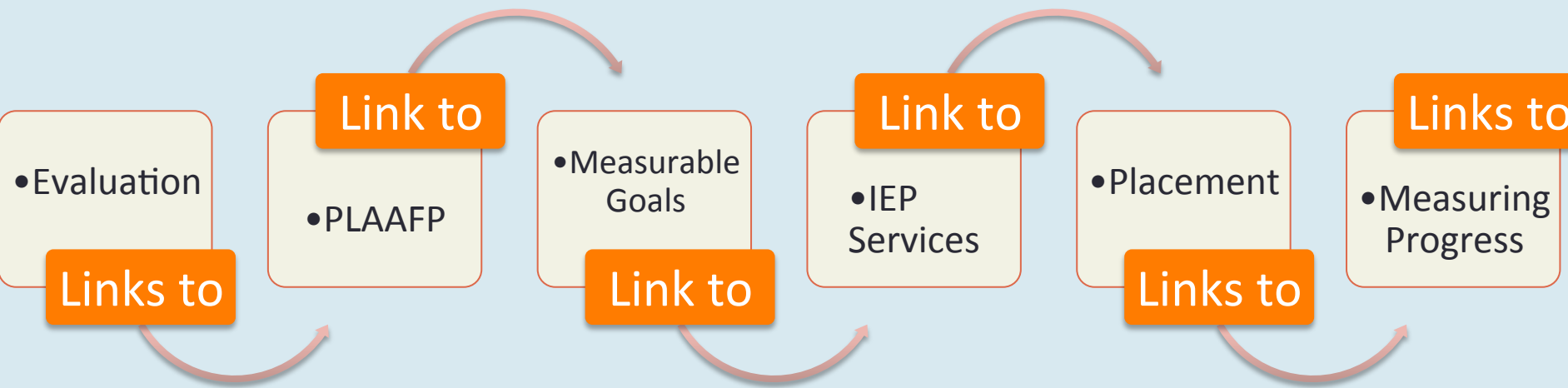
- Service provider logs are an important piece of IEP documentation.
- The public agency is required to keep documentation to verify compliance with IDEA.
- Without provider logs, a public agency is vulnerable to a claim that it failed to implement student IEPs.

"We know that equality of individual ability has never existed and never will, but we do insist that equality of opportunity still must be sought."

-Franklin D. Roosevelt



LRE



FAPE Cycle

LRE links to everything!

- 34 C.F.R. §§300.114 through 300.117
- 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 from the regular educational environment occurs **only if** the nature or severity of the disability is such that education in regular classes, with the use of supplementary aids and services, cannot be achieved satisfactorily.

The Three “Maximums”

- To the **maximum** extent appropriate, children with disabilities are educated with children who are nondisabled.

34 C.F.R. §300.114(a)(2).

- To the **maximum** extent appropriate, children with disabilities are able to participate in extracurricular activities with children who are nondisabled.

34 C.F.R. §300.117.

- To the **maximum** extent appropriate, children with disabilities are provided supplementary aids and services to enable them to be educated with children who are nondisabled.

34 C.F.R. §300.42.

LRE

- The IDEA presumes that the first placement option considered for each child with a disability is the regular classroom in the school that the child would attend if not disabled, with appropriate supplementary aids and services to facilitate such placement.
- Therefore, before a child with a disability can be placed outside of the regular education environment, the full range of supplementary aids and services that could be provided to facilitate the child's placement in the regular classroom setting must be considered.

71 Federal Register 46588.

LRE & Placement

- Historically, placement refers to points along the continuum of placement options available for a child with a disability, and location as the physical surrounding, such as the classroom, in which a child with a disability receives special education and related services.

71 Federal Register 46588.



Regular Classes

Separate Classes

Separate Schools

Residential Settings

Hospital or
Homebound

LRE Questions

Source: Adapted from Perry Zirkel, Lehigh University

Steps taken by the school to include the child in a regular classroom in conjunction with supplementary aids and services:

- Has the school considered the whole range of supplementary aids and services?
- Has the school made efforts to modify the regular program to accommodate the child?
- Do the school's efforts constitute at least serious consideration rather than token gestures?

LRE Questions

Possible negative effects on the education of other students in the regular classroom if the child were integrated:

- Is there a negative effect so disruptive that the education of the other students is significantly impaired?
- Do the child's disabilities demand so much of the teacher's time that the teacher will be required to ignore the other students?

LRE Questions

Determining if the proposed placement includes the child in school programs with nondisabled peers to the maximum extent appropriate:

- Is it possible to place the child in regular education for some academic programs?
- Is it possible to place the child in regular non-academic classes?
- Is it possible to provide interaction with nondisabled children during lunch and recess?

What else?

- Regular education is the starting point for the team's consideration.
- Always.
- Placements away from regular education must be **justified**.

The WDE LRE Reference Guide

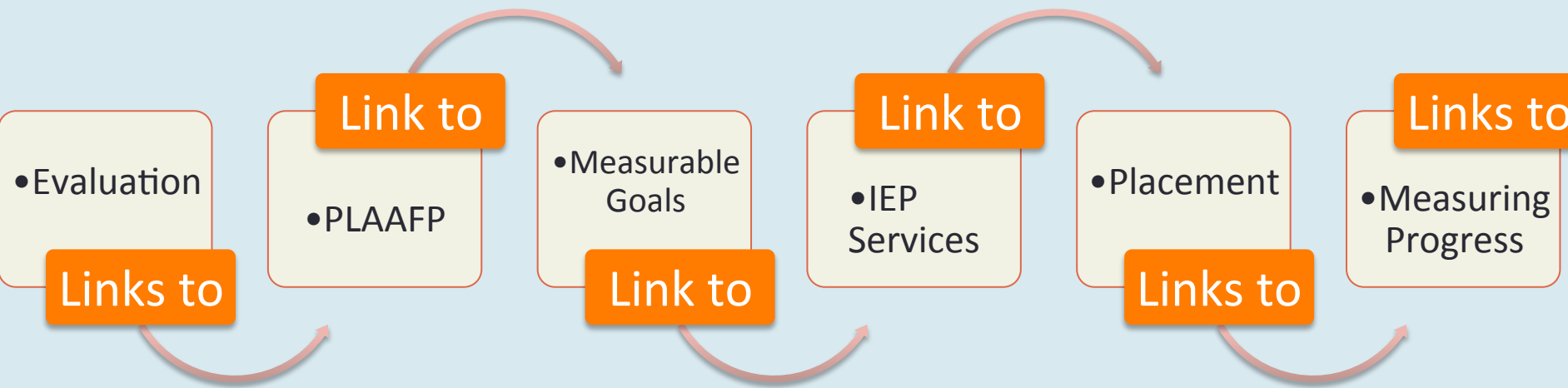


A GREAT RESOURCE

**A GOAL
WITHOUT
A PLAN
IS JUST
A WISH**

Adapted by Scott Esposito

Goals that cannot be measured do not provide FAPE.



FAPE Cycle

Measuring Progress

- The IEP must include a description of
 - How the child's progress toward meeting the annual goals will be measured; AND
 - When periodic reports on the progress the child is making toward meeting the annual goals will be provided.

34 C.F.R. §300.320(a)(3).

Measuring Progress

- The expectation is two-fold:
 - Data collection derived from the measurable annual goal's baseline, target, and method of measurement; AND
 - Narrative description relevant to the progress measured.
- Narratives without data are not sufficient.

Name of Student	Date of IEP Meeting
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<ul style="list-style-type: none"> Meet the student's needs that result from the student's disability to enable the student to be involved in and make progress in the general education curriculum. Meet each of the student's other educational needs that result from the student's disability. 	
Indicate whether this goal will be implemented during ESY. <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> N/A	
Each goal must include a baseline, target and method of measurement.	

Periodic reports of progress toward meeting the annual goal:				
Periodic reports must coincide with the district or public agency regular reporting schedule.				
DATE				
DATA TO SUPPORT PROGRESS NOTE: Progress must be quantified by the method of measurement specified in the goal.	<p>This section requires objective data, and should be completed for each reporting cycle. Measurable goals result in objective data. Calculate progress as stated in the annual goal. A lack of anticipated progress may suggest the need to restrategize and revise the service or goal. It is not helpful or sufficient to simply decrease expectations based on a lack of progress.</p>			

STAFF NAME				

Name of Student	Date of IEP Meeting
MEASURABLE ANNUAL GOAL NUMBER _____ <small>Additional Goal pages should be added as necessary.</small>	
A statement of measurable annual goals, including academic and functional goals designed to:	
<ul style="list-style-type: none"> • Meet the student's needs that result from the student's disability to enable the student to be involved in and make progress in the general education curriculum. • Meet each of the student's other educational needs that result from the student's disability. 	
Indicate whether this goal will be implemented during ESY. <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> N/A	
Each goal must include a baseline, target and method of measurement.	

<p>DESCRIBE PROGRESS</p> <p>NOTE: Narrative should be used to supplement data above.</p>	<p>This section requires a description or explanation of progress or the lack of anticipated progress. This description should relate directly to the data reported above. For example, it would be very important for the team to know that all of the progress reported occurred during the first few weeks of the reporting cycle and that no recent progress has been made, suggesting a need to restrategize the goal.</p>			
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<p>NOTE: Narrative should be used to supplement data above.</p>				
STAFF NAME				

Lack of Progress

- If a student fails to make progress within a reasonable period of time, the district must convene the team to address the student's lack of progress. *34 CFR 300.324 (b)(2)(A)*.
- Noting that a student's present levels of performance remained stagnant for several years, the court held a district's continuation of inadequate services will almost certainly be regarded as a denial of FAPE. *District of Columbia Pub. Schs.*, 49 IDELR 267 (D.D.C. 2008).

Lack of Progress

- Because the evaluation of a student's progress is so closely tied to the student's IEP goals, the district must ensure that the goals included in each student's IEP are clear and objectively measurable.
- Measurable goals must have sufficiently objective criteria for measuring progress.

Kuszewski v. Chippewa Valley Schs., 34 IDELR 59 (E.D. Mich. 2001), *aff'd*, 38 IDELR 63 (6th Cir. 2003).

Lack of Progress

- A finding that a child's goals are vague or immeasurable generally leads to a ruling that the district denied FAPE.
- An IEP's statement that a student would "improve his functional academic skills from a level of not completing assignments independently to a level of being able to read, write and do basic math skills independently" was too vague to permit measurement of the student's progress. *Independent Sch. Dist. No. 701 v. J.T.*, 45 IDELR 92 (D. Minn. 2006).
- Finding by IHO that the lack of clear, measurable goals in a child's IEP precluded an objective measurement of the child's progress. *Anchorage Sch. Dist.*, 54 IDELR 29 (D. Alaska 2009).

What does this mean?

- Telling a child's story clearly and concisely, linking evaluations, PLAAFP, measurable goals, IEP services, and placement.
- Progress is the goal.
- The rate of progress is an individualized expectation.
- However, the IEP is **NOT** a promise or guarantee of success.

What else?

- When an IEP results in less than reasonable progress, or fails to provide “some educational benefit,” go back and look for the broken link.
- Review, restrategize, recalibrate, and revise with the IEP team.



Find the broken link!



IEP Amendments

IEP Amendments

- After the annual IEP, changes can be made to the IEP with the agreement of the parent.
- The changes must be in writing.
- The public agency must issue PWN before implementing the changes.
- Upon request, a parent must be provided a copy of an amended IEP.

34 C.F.R. §300.324(a).

The story is an annual cycle.




Comprehensive Evaluations



The cycle repeats every year. The IEP team's work is paced and guided by the needs of a child.

Thank you!



*"By all means seek wisdom,
but look at the world
through the eyes of a child."
Lyn Packer*