



Specially Designed Instruction: It's a verb.

WDE WAVE Conference
2023



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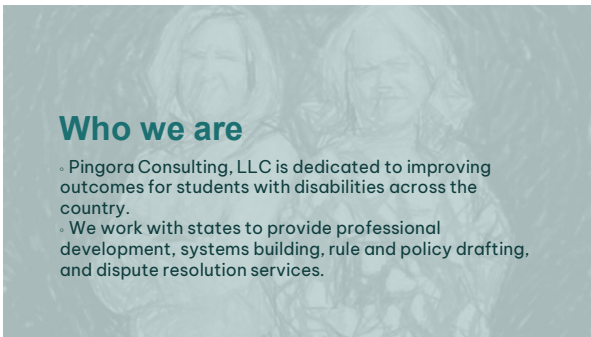


Welcome!

2

Who we are

- Pingora Consulting, LLC is dedicated to improving outcomes for students with disabilities across the country.
- We work with states to provide professional development, systems building, rule and policy drafting, and dispute resolution services.



3



OXFORD LANGUAGES
DICTIONARY

VERB

(1) a word used to describe an action, state, or occurrence....

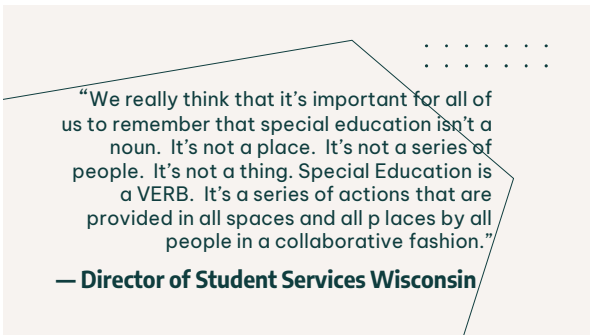
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What is a verb?

Verbs are words that show action (*sing*), occurrence (*develop*), or state of being (*exist*).

5



“We really think that it’s important for all of us to remember that special education isn’t a noun. It’s not a place. It’s not a series of people. It’s not a thing. Special Education is a VERB. It’s a series of actions that are provided in all spaces and all p laces by all people in a collaborative fashion.”

— Director of Student Services Wisconsin

6

Purpose
34 C.F.R. §300.1

(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;

(c) To assist States, localities, educational service agencies, and Federal agencies to provide for the education of all children with disabilities; and

(d) To assess and ensure the effectiveness of efforts to educate children with disabilities.

7

Since 1975 in the EDUCATION FOR ALL HANDICAPPED CHILDREN ACT, Special Education has been defined as ---

SPECIALLY DESIGNED INSTRUCTION

34 C.F.R. §300.39 (a)(3)

8

FAPE
34 C.F.R. §300.17

Special education

and related services that:

- Are provided at public expense and without charge;
- Meet the standards of the SEA;
- Include an appropriate preschool, elementary school, or secondary school; and
- Are provided in conformity with an IEP.

9

In *Rowley*, the Supreme Court established the following two-part test that courts should use to decide the appropriateness of a student's education:

- 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?

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

TIME TESTED, BUT STILL TRUE. . .

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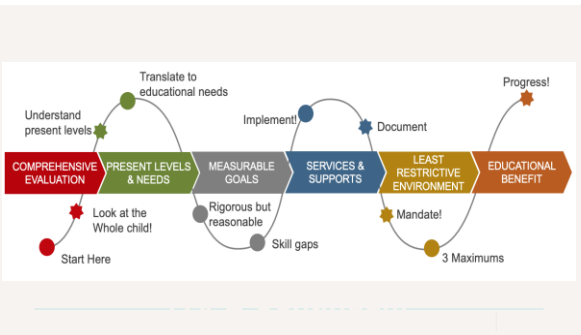
FAPE according to *Endrew F.*

69 IDELR 174 (2017).

- 1 Every child should have the chance to meet challenging objectives.
- 2 The IDEA demands an educational program reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances.
- 3 An educational program must be appropriately ambitious in light of his circumstances.




11



12


Designed by the IEP Team



Educational Needs

How are they identified?

13



Evaluation Wheel

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It starts with a comprehensive evaluation.

An evaluation under the IDEA serves two purposes:

- Identifying students who need specialized instruction and related services because of an IDEA-eligible disability; and
- Helping IEP teams identify the special education and related services the student requires.

77 Federal Register 46546

14

Evaluate to determine PLAAFP

- Each IEP must contain: "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)

15

THE U.S. EDUCATION DEPARTMENT NOTED THAT "EVERY CHILD SHOULD HAVE THE CHANCE TO MEET CHALLENGING OBJECTIVES." IT ADDED THAT MEETING THAT STANDARD WILL HINGE ON HOW EFFECTIVELY THE IEP TEAM GATHERS AND INTERPRETS INFORMATION ABOUT THE **CHILD'S CURRENT PERFORMANCE**.

Questions and Answers on Andrew F. v. Douglas County School District, Re-1, 71 IDELR 68 (EDU 2017).

16

PLAAFP = NEEDS

- The IEP should express the **PLAAFP** in specific, objectively measurable terms.
- While the use of test scores is not always appropriate, test scores accompanied by some individual analysis is common.

O'Toole v. Olathe Dist. Schs. Unified Sch. Dist. No. 233, 28 IDELR 177 (10th Cir. 1998).

17

PLAAFP = NEEDS

The statement of **PLAAFP** should be individualized and reflect the student's unique abilities.

Letter to New, 211 IDELR 464 (OSEP 1987).

18

19

Goals address SKILL GAPS.

- An IEP must include 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).

20

Goals are linked to skill gaps.

Annual measurable goals must be:

Based on the unique needs of a student.

Designed to help the student be successful in the general curriculum.

34 C.F.R. §300.320(a).

RIGOROUS BUT REASONABLE!

21

GOALS must be individualized based on need.

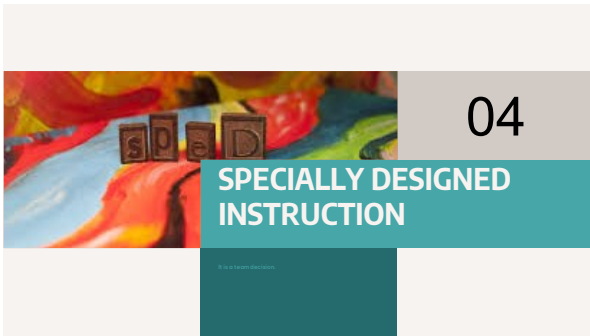
The court held that the district's use of "stock" goals and services amounted to a denial of FAPE.

No IEP is perfect and that sometimes the paperwork does not reflect the actual services provided to a student and the time and effort of teachers.

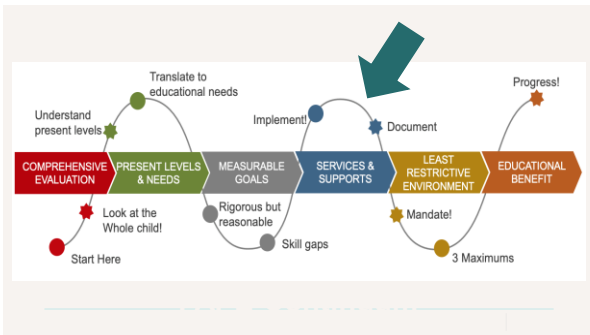
But, the IDEA requires IEPs to include a reasonably accurate assessment of students' needs and meaningful goals.

Jefferson County Bd. of Educ. v. Lolita S., 62 IDELR 2 (N.D. Ala. 2013).

22



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24

“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, on or behalf of the child , and a statement of the **program modifications or supports** for school personnel that will be provided to enable the child –”

34 C.F.R. §300.320 (a)(4)



25

34 C.F.R. §300.324(a)(4)

(i)

To advance appropriately toward attaining the annual goals.

(ii)

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

(iii)

To be educated and participate with other children with disabilities and nondisabled children in the activities described in this section.

26

34 C.F.R. §300.39(a)

- *Special education* means specially designed instruction, at no cost to the parents, to meet the unique needs of a child with a disability, including—



27

Special Education 34 C.F.R. §300.39 (a)

- Specialized instruction conducted in the classroom, in the home, in hospitals and institutions and in other settings; and
- Instruction in physical education.
- Speech-language pathology services, or any other related service, if the services is considered special education rather than a related services under State standards;
- Travel training; and
- Vocational education.

28

34 C.F.R. §300.34 (a)

Related Service means transportation and such developmental corrective, and other supportive services as are required to assist a child to benefit from special education, and includes –

29

Related Services

Transportation

Speech-
Language
Pathology

Psychological
services

Physical &
Occupational
Therapy

Parent
counseling
& training

Interpreting
Services

30

34 C.F.R. §300.42

Supplementary Aids & Services

Supplementary aids and services means aids, services and other supports that are provided in regular education classes, other education –related settings, to enable children with disabilities to be education with nondisabled children to the maximum extent appropriate in accordance with §§300.114 through 300.116.

31

34 C.F.R. §300.39(b)



- *Specially designed instruction* means adapting, as appropriate to the needs of an eligible child under this part, the content, methodology, or delivery of instruction—
 - (i) To address the unique needs of the child that result from the child's disability; and
 - (ii) To ensure access of the child to the general curriculum, so that the child can meet the educational standards within the jurisdiction of the public agency that apply to all children.

32

Elements of Specially Designed Instruction

.....	Element	Examples
What is taught	Content	<ul style="list-style-type: none"> • Social Behaviors, communication or language skills; • Phonics, vocabulary, phonological awareness, and comprehension skills & strategies • Cognitive and metacognitive strategies • Math language, calculations, word problems, fractions, numbers sense • Functional life skills, vocational skills, adaptive physical education • Hand writing, spelling, sentence construction, typing, and word processing.

33

Elements of Specially Designed Instruction

How the instruction is delivered	Element	Examples
	Methodology	<ul style="list-style-type: none"> Systematic, explicit instruction delivered in small groups or 1:1 Co-teaching Timed activities to build fluency Concret and semi-concrete representations and number lines Scaffolding, repeated reading, peer-assisted learning strategies Use of instruction technology or computer-based

34

Elements of Specially Designed Instruction

Frequency, Duration & Location	Element	Examples
	Delivery of Instruction	<ul style="list-style-type: none"> Where: Special classroom, general education classroom, community Who: Content or behavior specialist, special education teacher, or related service provider When: 45 minutes daily, from 9:00 to 9:30 daily, ten practice opportunities distributed across the day

35

Appendix C to 34 C.F.R. Part 300 (1999)

51. Must the IEP specify the amount of services or may it simply list the services to be provided?

- The amount of services to be provided must be stated in the IEP, so that the level of the agency's commitment of resources will be clear to parents and other IEP team members.
- The amount of time to be committed to each of the various services to be provided must be (1) appropriate to that specific service, and (2) stated in the IEP in a manner that is clear to all who are involved in both the development and implementation of the IEP.

36

How much service?



Both the amount and type of services that a district is required to provide will depend on the child's identified needs.



An IEP is not defective merely because it fails to include special education services requested by the parents if those services are not necessary for the child to receive FAPE.



Winkelman v. Parma City Sch. Dist., 51 IDELR 92 (6th Cir. 2008), cert. denied, 109 LRP 38984, 129 S. Ct. 2862 (2009).

37

Turn to the person on your left to answer this question.

38

What if . . .

Your school provides differentiated instruction for all students? Is an IEP with SDI still needed?

39

The LEA must provide a child with a disability specially designed instruction that addresses the unique needs of the child that result from the child's disability, and ensures access by the child to the general curriculum, even if that type of instruction is being provided to other children, with or without disabilities, in the child's classroom, grade, or building.

40

THE FACT THAT SOME OF THOSE SERVICES MAY ALSO BE CONSIDERED BEST TEACHING PRACTICES OR PART OF THE DISTRICT'S REGULAR EDUCATION PROGRAM DOES NOT PRECLUDE THOSE SERVICES FROM MEETING THE DEFINITION OF SPECIAL EDUCATION AND BEING INCLUDED IN THE CHILD'S IEP.

Letter to Chambers, 59 IDELR 170 (OSEP 2012).

41

What is the general curriculum?

It is the same curriculum as for nondisabled children.

34 C.F.R. §300.320(a)(1)(i).

42

What is the general curriculum?

- The Department interprets “the same curriculum as for nondisabled children” to be the curriculum that is based on a State’s academic content standards for the grade in which a child is enrolled.
- Based on the interpretation of “general education curriculum” set forth in this letter, **we expect annual IEP goals to be aligned with State academic content standards for the grade in which a child is enrolled.**

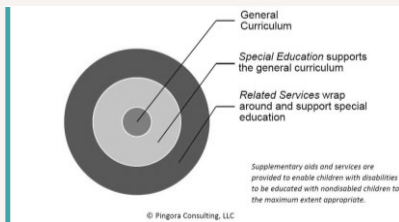
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What is the general curriculum?

- The standards must be clearly related to grade-level content, although they may be restricted in scope or complexity or take the form of **introductory or pre-requisite skills.**
- In a situation where a child is performing significantly below the level of the grade in which the child is enrolled, an IEP Team should determine annual goals that are ambitious but achievable. In other words, the annual goals need not necessarily result in the child’s reaching grade-level within the year covered by the IEP, but the goals should be **sufficiently ambitious** to help close the gap.

Dear Colleague Letter, 66 IDELR 227 (OSERS 2015).

44



SERVICES

45

Considerations for Curriculum and Programs

Curriculum/ Programs

- The curriculum/program is a tool that can help meet the needs of the student, but it cannot be the only thing that is used as SDI.
- Teachers provide specific strategies for the unique needs of the student.

Computer Program

- A computer program is a tool (or support) in a classroom; however it should not take the place of a teacher's professional insight and instructional planning.

46

Specially Designed Instruction is:

Designed to ensure the student can access the general curriculum.	NOT	A replacement for core programming.
A service	NOT	A place
What a teacher provides	NOT	What a child does
Based on student need a specific skill deficit	NOT	A restatement of the standards being taught to all students

47

Specially Designed Instruction is:

Individualized, adapted instruction based on a need outlined in the PLLAFP and evaluation report	NOT	A commercial remediation program used for all students, a disability specific program or curriculum.
Specific to the child's needs	NOT	Based on a model or schedule
Providing instruction to the student on how to independently use the accommodation or assistive technology device	NOT	Providing accommodations or assistive technology

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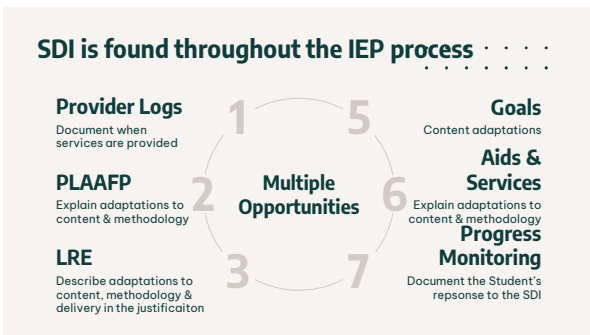


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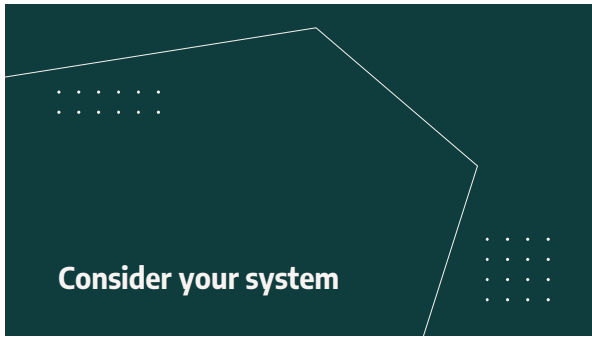
IEP services must be delivered.

- Services must be provided in conformity with the IEP. 34 C.F.R. §§300.17(d) and 300.323(c).
- Because the IEP is developed based on a student's educational needs, any omission of service will be considered a procedural violation of the IEP.
- Procedural violations may rise to the level of a denial of FAPE.

50



51



52



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54
