

Endrew F.
FAPE Requirements
and Your IEP
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Topics:
 Review of Endrew F. and how we define Free Appropriate Public Education (FAPE)
 Discuss what this means for your child's IEP

Review of Endrew F. and FAPE

Free appropriate public education:

- Overturned the Tenth Circuit's "merely more than de minimis" standard for the educational benefit guaranteed by the Individuals with Disabilities Education Act
- Cited a "markedly more demanding" interpretation of the requirement.
- An IEP has to be "appropriately ambitious," and "every child should have the chance to meet challenging objectives."

Review of Endrew F. and FAPE

The IEP should be written to help the child achieve grade level standards.

- "For most children, a FAPE will involve integration in the regular classroom and individualized special education calculated to achieve advancement from grade to grade."

Endrew F. v. Douglas County School District RE-1, 137 S. Ct. 988, 69 IDELR 116 (Mar. 22, 2017)

Review of Endrew F. and FAPE

IEPs must include behavioral supports needed:

- In Endrew F., "[The student] exhibited multiple behaviors that inhibited his ability to access learning in the classroom."
- If a child's behavior interferes with their learning or the learning of others, a functional behavioral assessment should be considered.

Endrew F. v. Douglas County School District RE-1, 137 S. Ct. 988, 69 IDELR 116 (Mar. 22, 2017)

Review of Endrew F. and FAPE

The IEP team must be able to justify the decisions:

- "A reviewing court may fairly expect those authorities to be able to offer a cogent and responsive explanation for their decisions that shows the IEP is reasonably calculated to enable the child to make progress appropriate in light of his circumstances."

Endrew F. v. Douglas County School District RE-1, 137 S. Ct. 988, 69 IDELR 116 (Mar. 22, 2017)

Review of Endrew F. and FAPE

Parents are key members of the decision making process:

- "This fact-intensive exercise will be informed not only by the expertise of school officials, but also by the input of the child's parents or guardians."

Endrew F. v. Douglas County School District RE-1, 137 S. Ct. 988, 69 IDELR 116 (Mar. 22, 2017)

Review of Endrew F. and FAPE

FAPE = Progress:

"A substantive standard not focused on student progress would do little to remedy the pervasive and tragic academic stagnation that prompted Congress to act."

Endrew F. v. Douglas County School District RE-1, 137 S. Ct. 988, 69 IDELR 116 (Mar. 22, 2017)

What does this mean for your child's IEP?

FAPE – progress in light of your child’s circumstances

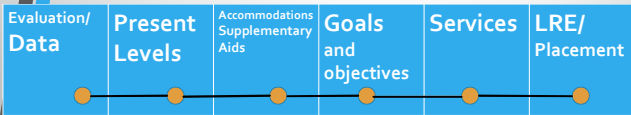
Diploma Bound

- Passing marks and advancing from grade to grade
- Educated in the regular classroom - “regular examinations,” receiving grades, and attaining “an adequate knowledge of the course material.”

Certificate Bound

- Children who cannot learn at grade level - their educational program must be “appropriately ambitious.”
- The child should have the chance to meet challenging objectives.

Your Child’s IEP



Evaluation/Data

- Reevaluation every 3 years or sooner if needed
- Formal assessments in all areas of suspected disabilities

Present Levels

- Data which identifies the strengths and areas of need/concerns
- Possible sources:
 - grades
 - work samples
 - progress towards the previous IEP
 - MAP-R or MAP-M
 - PARCC
 - Interventions records
 - QRI or other inventories

Accommodations and Supplementary Aids and Services

Instructional and Testing Accommodations

- https://marylandlearninglinks.org/wp-content/uploads/2018/02/Maryland-Assessment-Accessibility-and-Accommodations-Policy-Manual-2018_FINAL-1.pdf

Supplementary aids and services

- Supports and services that enable a student with a disability to be educated within general education settings alongside nondisabled peers. May include, but are not limited to the services of various personnel that provide instructional support, indirect consultation, related supportive services, special scheduling, materials, devices, and instructional adaptations as determined appropriate for the individual student.

Goals and Objectives

- Measurable annual goals with accompanying short-term objectives or benchmarks should align with the present levels of academic achievement and functional performance.
- Annual goals and short-term objectives or benchmarks should relate directly to the information recorded under concerns/needs requiring specialized instruction.

Services

- What services are needed in order to implement the goals and objectives?
- What service provider is required in order to implement the goals and objectives?


Least Restrictive Environment (LRE)

Where can the services be provided?

- Inside general education
- Outside general education

Placement decisions CANNOT be solely based on:

- Category of the student's disability;
- Severity of the student's disability;
- Language and communication needs;
- Needed modifications in the general curriculum;
- Configuration of the public agency's delivery system;
- Availability of space or educational or related services; or
- Administrative convenience.



Watch fors:

- Repeating goals from year to year.
- Goals that do not match the student's needs.
- Lack of progress - grades, statewide testing decline, complete picture.

FAPE – progress in light of your child’s circumstances

Repeating goals from year to year.

- School repeated the child's communication goals from year to year, although she appeared to need more prompting to communicate as time progressed.
- The school district did not have a credible explanation for why it did not revise the goals to better address the student's unique needs.

Elk River Indep. Sch. Dist. #0728-01, 118 LRP 488. (SEA MN 12/8/17)

FAPE – progress in light of your child’s circumstances

Goals that do not match the student’s needs.

- Student was working on learning the alphabet and letter sounds. The IEP goals were written for comprehension and higher order thinking. No phonics or decoding goals were included.
- School staff could not explain why these needs were omitted from the IEP.
- Not appropriately ambitious if not attainable.

S.B. and S.B. ex rel. C.B. v. New York City Dep't of Educ., 117 LRP 41952. (Sept. 28, 2017)

FAPE – progress in light of your child’s circumstances

Grades, statewide testing decline, complete picture.

- Progress was so incremental there was no reasonable basis the student could reach or accomplish IEP goals within the annual timeframe.
- Student had scored "below basic" on a statewide assessment of reading and writing skills and had received higher scores in previous years.
- Student had ongoing academic and behavioral struggles
- Court held the district denied the student FAPE.

Pocono Mountain Sch. Dist. v. J.W. by J.W. and S.W., 117 LRP 37853. (Sept. 8, 2017)

FAPE and Your Child's IEP

The IEP must include your input, be appropriately ambitious and challenging, designed to help the child achieve grade level standards, include behavior supports if needed, reasonably calculated based upon the data, and staff must be able to explain why the services are proposed.

Questions

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