

IDEA

THE IEP PROCESS

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Show+Tell

Your Momma Sure Cares About Your Schooling

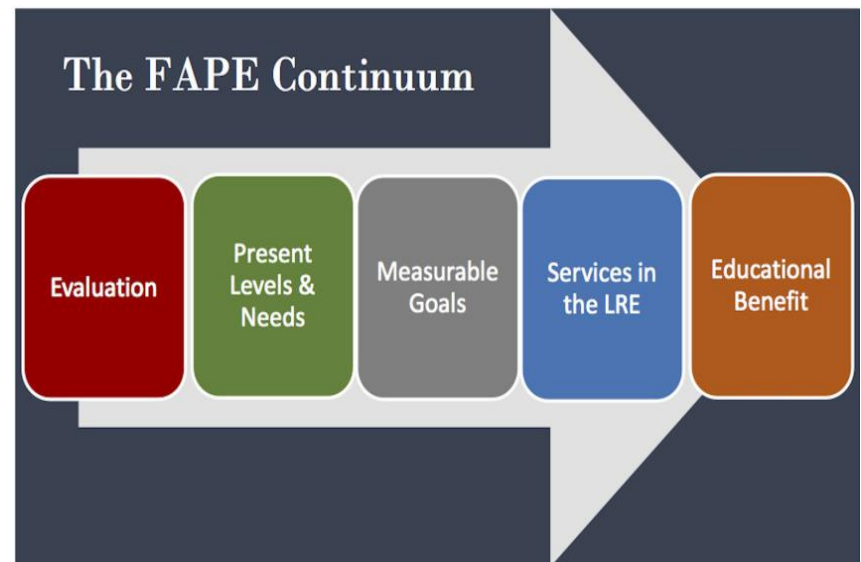


IDEA

- Free Appropriate Public Education (FAPE)
- Evaluation/Re-evaluation
- Change of Placement
- Discipline/Behavior
- Parent's Rights
- Related Services
- Independent Educational Evaluation
- Least Restrictive Environment
- Prior Written Notice

Free **Appropriate** Public Education

- **Free** – provided at public expense (however- there are different rules around private schools, etc.)
- **Appropriate** – meets the student's unique needs through Special Education and Related services as defined in the IEP through pre-school, elementary, middle, and high school.
- **Public**- meets the standards of the state education agency (Colorado Department of Education)
- **Education** – detailed in the Individualized Education Program (IEP)



(including students who have been suspended or expelled)

Special Education

- specially designed instruction at no cost to parents, to meet the unique needs of a child with a disability, including:
 - Instruction in the classroom, home, hospital or institution, and in other settings.
 - Instruction in physical education

Special Education

State this to school district:

- I want what is appropriate for my child.
- Do not say “I want what is best.”

IDEA doesn't state that school districts give what is best but what is appropriate.

Identification

- Child Find - locate, identify, and assess students birth to 21 with disabilities.
- School may refer child for assessment, with parent's permission.
- Parents may request an evaluation from school.

Evaluation

- The school district evaluates your child at no cost to parents to see if they qualify for special education services.
- The evaluation must be completed within 60 calendar days.

Eligibility

If a child has a disability **AND** needs special education services and supports because of the disability, then the child is eligible for services under IDEA.

If the child is determined *not* to be eligible:

- Consider Section 504 of the Rehabilitation Act of 1973.
- Parents have right to request an independent evaluation, mediation, or a due process hearing.

Independent Educational Evaluation

- At public expense, if parents disagree with the school district's evaluation
- School district must initiate a hearing to show that its evaluation is appropriate, if parents request IEE
- If the school district shows at a hearing that its evaluation is appropriate, parents may still obtain an IEE, but not at public expense

Re-evaluation

- Purpose is to see if child is still eligible and educational needs are being met.
- Parents must give their consent.
- Child can be re-evaluated more often if conditions warrant.

3 Types of IEPs

- **Initial**: determine eligibility, set goals and objectives, and determine supports and services.
- **Annual**: review goal progress, suggest changes, update supports and services, and review placement.
- **Triennial**: every three years a child is reevaluated (unless parent and school agree it is unnecessary). Parent must give consent.

IEP Team Members

Required Team Members:

1. Parents
2. Student if 15, but not later than the end of 9th grade
3. Not less than one regular education teacher
4. Not less than one special education teacher
5. School district representative
6. Person to explain evaluation results

Optional Team Members:

1. Student (if under age 15)
2. Related services staff
3. Others who know student
4. Representative from Part C

Amended IEP

- IDEA allows for IEP be amended/modified without the complete IEP team:
 - * if parent and school agree
 - * parents need to help write amendments
 - * IEP team informed of changes
 - * Parents have to request copy of IEP with amendments
- Caution - everyone serving child needs copy of amendments

When Parents Disagree

- ✓ Discuss concerns with other members of IEP Team
- ✓ Request additional testing
- ✓ Get an Independent Educational Evaluation (IEE)
- ✓ Request Mediation
- ✓ File a complaint or Due Process Hearing



Written Prior Notice

Whenever the school district proposes or refuses to initiate or change:

- Identification
- Evaluation
- Educational placement
- Provision of FAPE



Notice in native language of parent unless it is clearly not feasible to do so

Written Prior Notice

Notice must include:

- Description of the action proposed
- Explanation of why the action is proposed
- Description of the information used as a basis for the action
- Description of other options considered and why those were rejected
- Description of other relevant factors
- Statement about procedural safeguards
- Sources for assistance to understand the procedural safeguards

Related Services

SECTION 13: SERVICE DELIVERY STATEMENT									
Statement of types and anticipated location of services to be provided to and on behalf of the student: 300.320(a)(7)									
SPECIAL EDUCATION AND RELATED SERVICES IN THE LEAST RESTRICTIVE ENVIRONMENT									
Specialized Instruction Area and/or Related Services 300.320(a)(4)	Service Provider 300.18 HQ Sp. Ed. Teacher	Start Date 300.320(a)(7)	End Date 300.320(a)(7)	Frequency of Special Education/Related Services— Direct Use ONE column only per identified service			Frequency of Special Education/Related Services— Indirect Including Case Management Use ONE column only per identified service		
				Per Day	Per Week	Per Month	Per Day	Per Week	Per Month
				300.320(a)(7)	300.320(a)(7)	300.320(a)(7)	300.320(a)(7)	300.320(a)(7)	300.320(a)(7)
Total Amount of Time:				____ HPD	____ HPW	____ HPM	____ HPD	____ HPW	____ HPM

Related Services

Terms includes:

- speech-language pathology and audiology
- Interpreting services
- Psychological services
- Physical and occupational therapy
- Recreation, including therapeutic recreation

Related Services

Terms includes continued:

- School nurse services
- Counseling including rehabilitation counseling
- Orientation and mobility services
- Medical services for diagnostic or evaluation purposes
- Social work services

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.

Least Restrictive Environment

“...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 not disabled.”



Copy of Procedural Safeguards

Given only once per year except:

- Initial referral or request for evaluation
- File a complaint or hearing request
- In accordance with discipline procedures
- Request by parent



Procedural Safeguards

Parents must have the opportunity to:

- Examine all education records in child's file
- Participate in all meetings related to the:
 - evaluation
 - identification
 - educational placement, and the
 - provision of FAPE for their child.

Procedural Safeguards

Contents:

- Explanation of all procedural safeguards
- In parents' native language unless clearly not feasible to do so
- Easily understandable

Dispute – 2 Types

- A request is made to file a **state complaint**
 - When an assertion that a school district is not in compliance with IDEA
- A request is made for a **due process hearing**
 - A due process hearing may resolve disagreements about the **amount**, **type**, **intensity**, **frequency** or **location of service**

Filing a Due Process Hearing

- Parent or school district may file
- Complaining party **MUST** provide notice to other party and the Colorado Dept. of Ed.
- **Alleged violation within 2 years of action**
(of the date parent or school knew or should have known of violation)

Requesting a Due Process Hearing

Exception for 2 year timeline:

- School district misrepresented that problem was resolved and it wasn't.
- School district withheld information from parents that the district was required to give to parents

School Response to Complaint

District must respond to parents within 10 days to why they proposed or refuse an action

- Options considered and rejected
- Each Evaluation, record or report used
- Other relevant factors

Mediation

- Voluntary
- Cannot delay hearing
- Trained impartial mediator
- No cost to parent or school
- Timely, convenient location
- Written agreement, if resolved (legally binding)
- Confidential discussion



Resolution Meeting

- Held within 15 days of parent's due process hearing request
- School district, Parents and IEP Team members meet
- Parent/school district determine members
- Parties may agree to waive meeting, if not waived, no hearing until held
- 30 day resolution – May have hearing if not resolved

Resolution Meeting

- Written settlement is legally binding
- Settlement may be voided within 3 business days

45 day timeline for hearing begins when:

- Both parties agree in writing to waive the meeting, or
- During the meeting parties say no agreement is possible

Resolution Meeting

WARNING:
Discussion during
the resolution
process is not
considered
confidential.



Due Process Hearing

Hearing decision is based on whether the child received FAPE



Due Process Hearing

Child did not receive FAPE only if the procedural inadequacies:

1. Impeded the child's right to FAPE
2. Substantially impeded **parents' participation** in FAPE decisions for their child
3. Caused a deprivation of educational benefits

Either party can appeal a hearing decision

Due Process Hearing

Burden of Proof:

The party seeking relief in a due process hearing bears the burden of proof.



The Stay-put Rule

The Student will “stay-put” in the educational setting that was stated in their IEP before the request of hearing was filed:

1. The parent and district can agree to have the student in a different setting during the appeal process
2. Stay in placement based on determination by administrative law judge
3. Stay in program that court determined while decision is being appealed to a higher court

Exception to this rule is when student is being disciplined. (Special Circumstances)

Change of Placement

A **change of placement** in the context of an **Individualized Education Program (IEP)** refers to a situation where a student's educational setting or the services provided to them change significantly.

This could happen for a variety of reasons, such as a change in the intensity of services or a move to a different educational environment, like from a general education classroom to a special education classroom or vice versa.



Change of Placement

- A change of placement can occur for the following reasons:
- **Increased Need for Services:** The student may require more specialized services, leading to a move to a different classroom or school that can provide those services.
- **Behavioral Concerns:** If a student's behavior becomes difficult to manage in their current placement, a more restrictive environment might be considered to meet their needs.
- **Progress Monitoring:** If the IEP team determines that the current placement is not providing the appropriate level of support or the student is not making sufficient progress, a change of placement could be recommended.

Change of Placement

- Important Considerations:
- A change of placement requires careful planning and discussion among the IEP team, which includes parents, teachers, and other relevant professionals.
- Before a change of placement can occur, the IEP team must determine if it is appropriate and in the interest of the child, considering the least restrictive environment (LRE) principle.
- If a change of placement is necessary, a formal meeting must be held to update the IEP.

DISCIPLINE: Interim Alternative Educational Setting (IAES)/Suspension

Authority of School regarding IAES

1. Consider unique circumstances in determining change of placement based on violation of school rules
2. May place a child in IAES, other setting or suspension (up to 10 days) for violating school rules

Change of Placement

IAES More than 10 days child continues to receive:

- Services to participate in the general curriculum and progress toward meeting IEP goals.
- Functional behavioral assessment (FBA) and Behavioral Intervention Plan (BIP)
- If BIP is developed, review and modify it as necessary to address the behavior so that it does not recur

Removals

- **Short Term Removals**

- A short-term removal is a suspension of up to 10 consecutive school days or 10 cumulative school days in a year

- **Long Term Removals**

- A long-term removal is a suspension of more than 10 consecutive school days
- A long-term removal can also be a pattern of short-term removals

- **Pattern Removals**

- The removals add up to more than 10 school days in a year
- The child's behavior is similar to previous incidents that led to removals
- Other factors like the length of each removal, the total time removed, and the proximity of the removals to each other

What Counts as a Removal

- Out of School Suspensions, expulsions, and removal to an Interim Alternative Educational Setting
- In-School Suspensions, when the answer to each of the following question is no:
 - Will the student be able to appropriately participate in the general curriculum?
 - Will the student be able to receive the services specified in the IEP?
 - Will the student be able to participate with children without disabilities to the extent by the IEP as the LRE?

What Counts as a Removal

- Partial day counts as a removal
- Bus suspensions count as a removal when:
 - Transportation is listed on the IEP as a related service and the school does not provide alternative transportation-even if the student otherwise makes it to school



What Does **NOT** Count as a Removal

- Time Out
- After School Detention
- Lunch Detention



Unique Circumstances

- Authorizes school personnel to “consider any unique circumstances on a case-by-case basis” when considering disciplinary action.
 - disciplinary history,
 - ability to understand consequences,
 - expression of remorse, and
 - supports provided to a child with a disability prior to violation

Manifestation Determination

- (1) The IEP team determines whether the conduct was a manifestation of the child's disability or
- (2) if the conduct was a direct result of the school district's failure to implement the IEP.

The district has **10 school days** to conduct the meeting.

HOW DOES THE TEAM MAKE A DETERMINATION

- The team reviews all relevant information in a student's file.
 - Student's IEP
 - Teacher observations
 - Information from student's parents
 - Student's evaluation/FBA
- The team can decide to conduct additional assessments or interviews. The entire IEP Team is not required to attend the meeting.

It's Manifestation of Disability

- Return child to school unless parent and school district agree a change of placement as part of modification of BIP.



Behavior Not A Manifestation

- School personnel may apply disciplinary actions in the same manner and for the same duration as would applied to children without disabilities.
- However, the district must provide services that allow students to receive free appropriate public education if expelled or suspended for over 10 days.

Special Circumstances

- School may remove a student to an interim alternative educational setting for no more than 45 school days whether or not the behavior was a manifestation of disability if student:
 - Knowingly possess or uses illegal drugs or sells controlled substances
 - Carries or possess a weapon at school
 - Inflicted serious bodily injury upon another person
 - a substantial risk of death
 - extreme physical pain
 - protracted and obvious disfigurement
 - protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

Parent Disagrees with Placement

- Parent may appeal decision by requesting a hearing.
- Expedited hearing must occur within **20 school days** of the date of complaint is filed.
- Hearing officer must make a determination within **10 school days** after the hearing.

APPEAL

- Decisions can be appealed
- When a parent or district appeals a decision the child must remain in the interim alternative educational setting
 - Pending the decision of the hearing officer
 - Until the expiration of the time period specified
 - Or whichever occurs first, unless the parent and district agree otherwise

IEP Implementation

- IEP must be used with successes & difficulties documented
- All teachers involved need a copy of the IEP
- Progress toward IEP goals must be measured & reported to parents
- Parents: stay involve & communicate regularly with teachers & team members
- If IEP is not working let the school know immediately



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EVALUATIONS