

Partners In Advocacy:

A Guide to Special Education Planning



KENTUCKY PROTECTION AND ADVOCACY

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A Guide to Special Education Planning

Kentucky Protection & Advocacy

100 Fair Oaks Lane

Third Floor

Frankfort, KY 40601

Tel: (502) 564-2967

Toll Free: (800) 372-2988

Fax: (502) 564-0848

TTY/TDD: (800) 372-2988

www.kypa.net



Table of Contents

Chapter 1: Special Education	1
Who is eligible under IDEA?	
Chapter 2: Getting Started	3
I. The Referral Process	
II. Response to Intervention (RtI)	
III. Admission and Release Committee (ARC)	
IV. Evaluation	
V. Identification	
Chapter 3: The Individualized Education Program (IEP)	11
I. Present Levels of Academic Achievement and Functional Performance (Present Levels)	
II. Consideration of Special Factors	
III. Annual Measurable Goals	
IV. Supplementary Aids and Services	
V. Accommodation Determination	
VI. Least Restrictive Environment (LRE)	
VII. Related Services	
VIII. Extended School Year (ESY)	
IX. Transition	
X. Additional Forms/Information	
Chapter 4: Discipline	19
I. Functional Behavioral Assessment (FBA) and Behavior Intervention Plan (BIP)	
II. Manifestation Determination	
III. Protections for Children in Special Education	
IV. Restraint and Seclusion	
V. Protections for Children Not Identified for Special Education	
VI. Juvenile Charges	

Chapter 5: What If...?	25
What if I disagree with something the other members of the ARC are saying needs (or does not need) to be in my child's IEP?	
What if I think my child's IEP is not being followed?	
What if I think my child needs more services to make progress?	
What if I think my child needs more evaluations to determine needed services?	
What if the school wants to remove a service/support my child has been receiving?	
What if the school says they will not evaluate my child for Special Education because he/she is doing well academically but is often in trouble at school, has been suspended and is not able to participate in all school activities?	
What if the school wants to change my child's placement?	
What if my child's pediatrician makes a recommendation about services? Does the school have to do it?	
Chapter 6: Disagreements	29
I. Mediation	
II. KDE Complaint	
III. Due Process Hearings	
IV. Court Actions	
Chapter 7: Samples and Examples	34
Request for Evaluation	
Request for an ARC Meeting	
Request to Review/Inspect Educational Records	
Parent Objection List	
P&A KDE Formal Complaint Form	
Examples of Present Levels of Academic and Functional Performance	
Examples of Present Levels with Corresponding Goals	
More Examples of Goals and Benchmarks/Objectives	
Chapter 8: Other Laws That May Impact Education	48
I. Section 504 of the Rehabilitation Act	
II. The Americans with Disabilities Act (ADA)	
III. Family Education Rights and Privacy Act (FERPA)	
Chapter 9: Glossary and Resource Guide	50

Chapter 1: Special Education

As parents we all want our children to be successful in school. We send them to school so they can learn what they need to exit school and go on to further education, employment, and life in the community. For many years that was not the expectation for students with disabilities, but that has changed. Today we know that disability is a natural part of the human experience that does not stop an individual from participating in and contributing to society.

Improving the educational results for children with disabilities is an important part of our national agenda of ensuring equality of opportunity and full participation. For eligible children with a variety of disabilities it means they need special services for them to reach their potential. Although as parents we may worry about our children being labeled or put in different classrooms, it is important to remember that special education means free special services provided by the public school system that are located in the most typical setting appropriate for your child. This is referred to as a Free Appropriate Public Education (FAPE).

Special Education is protected by the federal Individuals with Disabilities Education Act (IDEA). This law may also be referred to by one of the names it was given when it was reauthorized – the Individuals with Disabilities Education Improvement Act (IDEIA) or even IDEA 2004. For the purposes of this booklet, the law will be referred to as IDEA.

There are both federal and state regulations for IDEA that spell out clearly the procedures schools and parents must follow when students need Special Education and related services. You may find the federal regulations by visiting: <http://www.wrightslaw.com/idea/law.htm>. State regulations may be found by visiting: <http://www.lrc.ky.gov/kar/TITLE707.HTM>.

Like many federal laws, IDEA is made up of several sections. Each section outlines rights for specific areas. IDEA covers both Early Intervention (called First Steps in Kentucky) and public education beginning at the age of 3.

This booklet discusses services for students aged 3-21. If your child is under the age of 3, please contact First Steps at 1-877-417-8377 for further information.

Who is eligible under IDEA?

Students must have a disability and a need for specially-designed instruction in order to make progress in school. Specially-designed instruction means that general education content, materials, and methods of teaching are adapted to meet your child's needs.



There are 14 different categories of disability:

- Intellectual Disability: Mild Mental Disability (MMD), Functional Mental Disability (FMD)
- Multiple Disabilities
- Hearing Impairments, including Deafness
- Speech/language impairments
- Visual Impairments, including Blindness
- Serious Emotional Disturbance
- Orthopedic Impairments
- Autism
- Traumatic Brain Injury
- Other Health Impairment
- Deaf-Blindness
- Specific Learning Disability
- Developmental Delay (only for students aged 3-8)

For specific information on the categories and requirements for eligibility, please visit the Kentucky Department of Education (KDE) website: <http://www.education.ky.gov>

How does IDEA support parents?

As a parent, you have the right to:

- Be a full and equal participant at Special Education team meetings
- Give or deny permission to the school for evaluation and placement of your child in Special Education
- Read and have copies of your child's school records
- Agree or disagree with services and decisions
- Use dispute resolution methods to resolve disagreements

Chapter 2: Getting Started

You think your child may benefit from Special Education services. Now what? The next step is to get the referral process started. This chapter will cover:

- I. The Referral Process
- II. Response to Intervention (RtI)
- III. Admission and Release Committee (ARC)
- IV. Evaluation
- V. Identification



I. The Referral Process

What is a referral?

The “referral” is the beginning of the process for deciding if a child has a disability and needs Special Education. When you make a referral, it means you are letting the school district know that you think a child may have a disability and should be evaluated. The referral can be made by **any** individual. This includes parents and teachers.

How do I refer my child?

If you believe that your child has a disability and may need Special Education, you may wish to schedule a Parent-Teacher conference to discuss your concerns and make note of teacher observations. Then you may wish to:

1. Talk with your child’s school principal (during a time that both of you can focus on the conversation) and tell him/her that you want to refer your child for an evaluation for Special Education.
2. Write the principal a follow-up letter that summarizes your understanding of the conversation and include a formal request for evaluation. (See **Chapter 7** for a sample letter and the P&A request for evaluation form)
3. Make a copy for your records.
4. Mail (certified with return receipt requested) or hand-deliver your letter and evaluation form to the school.
5. You will be notified about a meeting to discuss the referral. Regulations do not specify a time limit. However, P&A recommends that you make a call about your request if you do not hear from the school after 2 weeks.

At the meeting, you must be told about your rights as a parent of a child with a disability. This means you must receive a full explanation and a copy of all of the procedural safeguards (rights) available to parents under IDEA.

Procedural safeguards give parents these rights under the law:

- The right to participate in all meetings
- The right to examine all educational records
- The right to obtain an independent educational evaluation (IEE)

- The right to written notice when the school proposes to change or refuses to change identification, evaluation, or placement of a child.
- The right to collect attorney fees for parents who prevail (win) in administrative hearings or court actions
- The right to request outside mediation, a due process hearing, or to file a state complaint

Parents should be given notice of their procedural safeguards at several different steps in the procedures described in this booklet. The notice requirement of the law is intended to make sure that parents understand how the process works and what their rights are. If you do not understand something, then the team is legally obligated to explain it to you. Parents should be knowledgeable, informed team members.

II. Response to Intervention (RtI)

The referral process in Kentucky now includes the use of Response to Intervention (RtI) that covers behavior, speech, math, and reading for preschool to 12th grade students.

What is response to intervention (RtI)?

In recent years, Congress added new requirements to our national education laws to help struggling students by using a researched based process called Response to Intervention (RtI). RtI is used with all students and is not a Special Education program. The Kentucky Department of Education (KDE) has provided resources in planning and decision-making for schools to use the RtI process.

RtI is a multi-step system of intervention for all preschool to 12th grade students which includes screening and covers:

- Behavior
- Math
- Reading

RtI is used with all students and is not a Special Education program.

The levels of intervention, called Tiers, are the steps or phases of intervention. Placement in each Tier is determined by the progress students make with interventions or research-based instruction. Research-based instruction means the academic and behavior interventions have been proven to work effectively. The goals of RtI are to increase student achievement and reduce behavior problems.

Schools use RtI to:

- Identify students at risk for failure
- monitor student progress
- provide research-based interventions
- change the level and kind of interventions depending on the student's progress
- identify students with learning disabilities

(Adapted from National Center on Response to Intervention)

According to the National Center for Learning Disabilities, the RtI process has the potential to limit the academic failure that any student experiences and can increase the accuracy of Special Education evaluations. Information and data gathered by the RtI process can lead to earlier identification of children who have disabilities and are in need of Special Education services.

What about RtI and Special Education eligibility? Do we have to wait until RtI has been tried to request a referral for an evaluation?

Parents always have a right to request a complete evaluation, but RtI can help with the evaluation. RtI can be used as part of the assessment to evaluate performance at the same time that its interventions may lead to improved school performance. When it is used appropriately, it gets help to students while they are being evaluated. *It is not meant to delay or deny the obligation to evaluate children with a suspected disability.*

What if the school refuses to do a Special Education evaluation because my child is receiving RtI?

Federal regulations state that if parents have asked for a referral for an individual Special Education evaluation and the school refuses the school must:

1. Provide written notice to parents explaining why they refuse to do it.
2. Provide the information and/or data that was used to make that refusal.

Federal evaluation regulations do not support rejecting a referral and delaying evaluation just because the child hasn't completed RtI.

What about RtI and parental permission?

During the RtI process, parental permission is not required. This is because the assessments are focusing on improving instruction, not on determining disability. However, if a teacher or other school person thinks your child needs to be evaluated for Special Education, he/she must tell you about it. The teacher will then refer your child for evaluation and send you a written notice about a meeting called an ARC. Signed parent permission is required before a child can be evaluated for Special Education services.

III. Admission and Release Committee (ARC)

What is the ARC and who is on it?

The ARC is the group of people who decide if a child needs Special Education and related services. They also decide how those services will be delivered.

The ARC includes:

- **YOU** the parent/guardian (foster parents are considered as parents in certain circumstances)
- Your child (at age 14 and earlier, if appropriate)
- An administrator who can provide or supervise the Special Education services, and who can commit people and money resources (this may be the school principal, Director of Special Education or other person)
- Your child's regular education teacher
- A Special Education teacher
- And others as appropriate (for example, physical or speech therapist, behavior management specialist, counselor, etc.)



You may take anyone you like with you to ARC meetings.

If you plan to take a lawyer or advocate with you to represent your child, you and your lawyer/advocate will need to let the school district know in writing ahead of time.

What is the first job of the ARC?

After your child is referred, the school will schedule a meeting at a time and place that is convenient for everyone. You will receive a written notice of the meeting. At this meeting, the ARC will determine if an evaluation is needed.

What if the ARC decides to evaluate?

- You must be informed of what tests and other measures that will be used, for what purpose, and by whom. This is called the evaluation plan. You will receive a written copy of it.
- You must give written permission (or consent) to evaluate
- The school cannot test your child for the first time or take your child out of the regular class unless you give your written permission or as ordered by a hearing officer or a court decision.

What is the timeline?

After a completed referral is given to the school system, the school has 60 school days (about 3 months) to:

- Complete the evaluations
- Hold a second meeting to discuss evaluation results and eligibility for Special Education
- Write an Individualized Education Program (IEP) if your child has been determined eligible for services
- Begin services

What if an evaluation is not needed?

If the ARC decides that an evaluation is **not** necessary:

- The school must explain why they believe an evaluation is not needed, not just yes or no. This is written in the meeting conference summary. (A conference summary must be done in every ARC meeting – not just when an evaluation is not needed.)
- A written Remediation Plan must be developed to help your child in school
- A 504 plan may be drafted as appropriate (see **Chapter 8** for more information)
- Parents must have their rights explained to them, including the right to disagree with the decision through a due process hearing. If you disagree with the decision, make sure that your disagreement is noted in the conference summary.

IV. Evaluation

What does the evaluation cover?

- The type of suspected disability should be part of the referral information.
- All areas of suspected disability must be evaluated.
- Evaluations are multi-disciplinary which means they are done by people from different backgrounds: psychology, physical therapy, speech and language, occupational therapy, etc.
- Behavioral observations must be completed in different settings.
- Parent input must be obtained in your child's developmental history.
- A summary, called a Psycho-Educational Report, of all evaluation information must be prepared and explained fully to you.

Re-evaluation is required every three years, but may be done sooner if the ARC recommends.

What does the law say about how testing is done?

The law sets guidelines as to how the evaluation must be done. It says that state and local school districts shall be sure that:

- Tests and other questions are given in your child's native language (the language you speak at home).
- No single test or method (for example, an IQ test) is used as the only means of deciding on an educational program for your child. A number of different measures must be used to test areas of educational need.
- The persons who evaluate your child are trained to give the tests they give. They must use tests that are "valid" and must follow the instructions that are provided for each test. "Valid" means that the test "does the job" for which it is used.
- Tests are chosen and given so that a child with sensory (vision or hearing), motor, or speech problems can still show what abilities he/she has in other areas. For example, it would not be fair to give a child with a visual impairment a label such as Mild Mental Disability because the child scored poorly on an IQ test which required vision to complete. Children must be given tests that are appropriate to their individual needs.
- Your child is evaluated in all areas related to the suspected problem. This includes, when needed, health, vision, hearing, social and emotional problems, general intelligence, academic performance, communication, and motor abilities. Not all of these areas need to be evaluated in every child. For example, if your child's main issue is speech impairment, he/she may only need to receive a speech and language evaluation by a qualified speech/language pathologist.

What can you do as part of the evaluation?

- Tell your child about the evaluation and encourage him/her to do well.
- Help the school to obtain other information (for example, from doctors or other professionals who have seen your child in the past) that is needed.

- Provide any information about your child that may be helpful to the school.

Remember, you know more about your child than anyone else!

Keeping simple records of your child's development or a diary of your child's behaviors are ways you can keep track of information that may be important during the evaluation.

Don't be afraid to share your ideas or information about your child, even if you are not asked about it or are not sure it is important. Sometimes professionals forget to ask about things that may be helpful to know.

What if you are not happy with the school's evaluation?

- You have the right to an independent educational evaluation (IEE) performed by someone who does not work for the school district.
- The school district must pay for this evaluation unless they can prove in a due process hearing that their evaluation is appropriate.
- You must let them know you are requesting an independent educational evaluation. You do not have to say why you disagree with the school's evaluation. They have to pay for the independent evaluation or request a due process hearing.
- You may obtain an independent educational evaluation and pay for it yourself at any time. The results of an independent evaluation must be considered by the ARC regardless of who pays for it, but if you obtain outside evaluations with your own money, the school does not have to follow the recommendations. The law says only that they must consider the results.

Take an active role in learning about and discussing the evaluation results.

- Remember that you are an important member of the evaluation team.
- Speak up and share your thoughts.
- Ask questions about things you do not understand.

VII. Identification

What comes after the evaluations?

After the evaluations have been done, the ARC must meet again and:

- Review the results and decide whether or not your child's disability significantly impacts his/her educational performance. There must be someone at this ARC who can explain the evaluation results.
- Decide in which category your child's disability best fits (See Chapter 1 of this booklet for the categories). It is important at this point to have reviewed the criteria in the regulations for the categories you think are the most likely. (There may be a difference of opinion and you want to be able to show how the evaluation results support the category you think applies.) The eligibility forms are available at the KDE website at : <http://www.education.ky.gov>
- Determine whether Special Education and related services are needed. If they are, the ARC designs an IEP (Individualized Education Program). If the ARC decides that Special Education and related services are not needed, then a remediation plan must be written or a Section 504 plan (see **Chapter 8** for more information) may be written.

How is the ARC meeting for identification conducted?

A general procedure is described here. The actual steps may vary from school to school.

Each time the ARC meets, there should be a written conference summary of the meeting. This is in addition to the actual IEP. All ARC members will be asked to sign a page saying that they participated in the meeting; for parents, this also indicates that you were provided a copy of your procedural safeguards.

Signing the form does not indicate that you agree with the IEP! If you disagree with anything on the plan, you have the right to object. Make sure your objections are noted in the conference summary. We recommend also writing “with objections” under your signature. You may also wish to use P&A’s Parent Objection List found in **Chapter 7** of this booklet.

FIRST:

The chairperson of the meeting (usually this is the school principal or guidance counselor) should make introductions and tell about the role of each member present. This helps you and other committee members to know from the beginning why each member is involved. If these introductions are not made, you should introduce yourself and any other person you have brought with you. Then, ask who the other committee members are.

SECOND:

The purpose of the meeting is to be explained. This should include a discussion of your rights. If you have questions about parent rights, ask for these to be explained at this time. The school system must provide you with a written copy of your child’s and your rights under IDEA.

THIRD:

The evaluation results are to be discussed. Here are some things you might want to note in this step of the meeting:

- Make sure that the people (or at least a representative of the multidisciplinary team) who evaluated your child are present at the meeting.
- Make sure that the evaluator(s) state the name and specific results of each test given.
- You should have received a copy of the written evaluation report before the meeting. If you didn’t, be sure to get a copy of it. This will be an important part of your records.
- If you don’t understand any of the test or evaluation terms used, ask for these to be clearly explained.
- If you happen to disagree with another committee member, say what you feel and why you disagree. The purpose of this meeting is to plan for your child, and everyone’s input should be considered.
- If there is a good reason for disagreement about the test results, you may ask for an independent evaluation to be given. As noted above, this means that your child is tested again but by professionals outside the school system.

FOURTH:

The committee will talk about how your child is doing now on school work and will plan for your child’s Special Education program. You may note the following:

- If you disagree with the school’s description of how your child is doing, be sure to give your description as well. Again, your input is important.
- Say what you think are the more important skills for your child to be working on this next year. Now is the time for these to be discussed by the committee.
- If you don’t understand the educational plan or disagree, ask for further explanation and discussion.

- Be sure that all subject or skill areas (for example, math, speech, dressing skills) which need special instruction are listed in the IEP. However, remember that the IEP does not outline the school day. It is not a lesson plan.
- Make sure that the methods and schedules for measuring progress are listed. This will be how you and the ARC know if the plan is working or not.

FIFTH:

When the committee is discussing information about the Special Education placement and related services for your child, you may do the following:

- Tell the rest of the committee what placement you believe is better for your child. This way, if there is disagreement, it can be worked out. Unless you speak up, everyone will think you agree.
- Be sure that all the related services that you think your child will need (such as transportation, speech therapy, physical therapy, behavior management, and counseling) are included on the IEP. Remember, the school is required to provide only the related services that are written into the IEP.
- If you and other committee members do not agree on placement or related services, and you cannot resolve this during the meeting, do not sign the consent for placement. (Before your child is placed in Special Education, you will be asked to sign consent for placement which is a separate form in the ARC paperwork.) Ask what further procedures can be followed to resolve the disagreement, or ask what steps are next to go directly to a due process hearing.

Before the ARC meeting ends, consider asking the four below questions:

1. Ask to see the written conference summary before signing so that you can be sure of any major decisions made and be clear about what happens next.
2. If follow-up tasks have not been assigned or made clear, ask who is going to be in charge of each task to be carried out and ask when it is going to be done.
3. Ask which duties you have or what you might do to help at home.
4. Ask about the date for review of the IEP before leaving the meeting. This must be at least once a year, but may be more frequent. It is a good idea when just beginning Special Education, or when making major changes in the IEP, to set up a review meeting for four to six weeks later. This will allow everyone to review how the program is working and correct any possible problems before they become emergencies.



Chapter 3: The Individualized Education Program (IEP)

Now that your child has been determined eligible for Special Education, an Individualized Education Program (IEP) needs to be developed. This chapter covers the basics of the IEP.

What is the IEP?

An IEP is a written plan of action written by the ARC that:

- II.
 - Tells specifically what and how Special Education services will be provided to your child
 - Provides access to ensure that he/she will make progress in the general curriculum.
 - Addresses his/her other unique educational needs
 - Prepares him/her for further education, employment and independent living.

How is the IEP developed?

There are different sections that are developed in the order that follows:

- I. Present Levels of Academic Achievement and Functional Performance
- II. Consideration of Special Factors
- III. Annual Measurable Goals
- IV. Supplementary Aides and Services
- V. Accommodation Determination
- VI. Least Restrictive Environment
- VII. Related Services
- VIII. Extended School Year
- IX. Transition
- X. Additional Forms

- a. Alternate Assessment
- b. Behavior Intervention Plan

I. Present Levels of Academic Achievement and Functional Performance (Present Levels)

This is a summary of information and data about what your child currently knows and is able to do. It looks at how his/her disability affects his/her achievement and involvement in the general curriculum. This information assists with writing goals, providing services, and helping teachers in lesson planning.

When developing the Present Levels, the ARC may discuss:

- Results of research based interventions/RtI
- Work samples/tests
- How your child is doing at his/her grade level
- Behavior/classroom observations/Functional Behavior Assessment (discussed later)
- How your child is performing in class
- Progress monitoring data
- Surveys/interviews completed by you and your child
- Things needed to learn that are not addressed in the general curriculum
- State and district-wide assessment results
- Educational Planning and Assessment System (EPAS) tests: EXPLORE (8th grade), PLAN (10th grade), ACT (11th grade)
- Person-Centered Planning (planning that considers your child's personal choices for his/her life)
- Individual Learning Plan (ILP) or Individual Graduation Plan (IGP)

Areas in the Present Levels

1. Communication – receptive, expressive, non-verbal, articulation, and fluency



2. Academic Performance – Basic reading and comprehension, math calculation and reasoning, oral and written expression, listening, and learning styles



3. Health, vision, hearing, motor abilities – relevant health and physical needs



4. Social and emotional – functional performance information about social and interpersonal behavior and skills, sensory self-regulation, emotional behavior, organization and executive skills, environmental access/mobility skills, and independent living skills.



5. General intelligence – aptitude (ability to learn), problem solving, reasoning, knowledge application, memory, and thinking



6. Transition needs – starts at 8th grade or age 14 – community experience, employment, post-school living objectives, acquisition of daily living skills, instruction and related services.



7. Functional vision/learning media assessment – identifies the impact of a child's visual impairment on literacy skills.

Example of Present Levels may be found in **Chapter 7**.

II. Consideration of Special Factors

When thinking about your child's disability, what are other factors the ARC might consider to be important for your child in developing the IEP? IDEA requires six Special Factors to be considered by the ARC. These are:

1. Behavior Issues
2. Limited English Proficiency
3. Blindness/Visual impairment
4. Communication Needs
5. Deaf/Hard of Hearing (this includes direct instruction by a teacher who speaks American Sign Language)
6. Assistive Technology (devices that assist students in performing tasks in school)

There should be information and data within the Present Levels to show that Special Factors exist.

If your child has behavior needs as indicated under Special Factors, and the Behavior Intervention Plan (BIP) box is checked, then a copy of the Behavior Intervention Plan **must** accompany the IEP. Students with any category of disability where behavior impacts learning should have a BIP. This means that positive behavioral interventions and strategies which target behaviors of concern are developed and discussed at the ARC meeting. An appropriate BIP should be created by school personnel by performing a Functional Behavior Assessment (FBA). (For more information on BIPs and FBAs, see **Chapter 4**).

If Special Factors are indicated, services or devices to address these factors must be addressed in the IEP!

III. Annual Measurable Goals

Annual measurable goals are written so behaviors and skills are seen, heard, and measured. The ARC should prepare for writing goals by reviewing the Present Levels and identifying skill areas that will have the greatest impact on improving both your child's age and grade-level performance over the next 12 months.

Since Goals are written for one year they may need to be prioritized by what are the most important ones to work on for that year.

You might consider:

- Skills that help with the learning the general curriculum
- Amount of time left in school
- Skills needed to achieve post-secondary (after high school) outcomes
- Behaviors that cause the most concern
- Your child's strengths and interests
- Concerns voiced by your child, the teachers, and you

Annual measurable goals have short-term instructional objectives (also called benchmarks) that are smaller steps taken to reach the goals.

You should receive information on how your child is doing on his/her goals as often as report cards are given.

See **Chapter 7** for examples of Annual Measurable Goals.

IV. Supplementary Aids and Services

Supplementary Aids and Services are strategies, devices, and assistive services that are needed by your child to meet his/her goals. These are used for your child to be involved and make progress in the general curriculum, and to participate in extra-curricular activities and other non-academic activities.

Decisions for identifying Supplementary Aids and Services are based on student performance and needs related to your child's disability. Every child with an IEP requires Supplementary Aides and Services.

Examples :

- Use of a communication system
- Enlarged text
- Extended time to complete assignments/tests
- Graphic organizer
- Visual daily schedule
- Movement breaks
- Adult assistance
- Assistive technology devices
- Accommodations on state testing

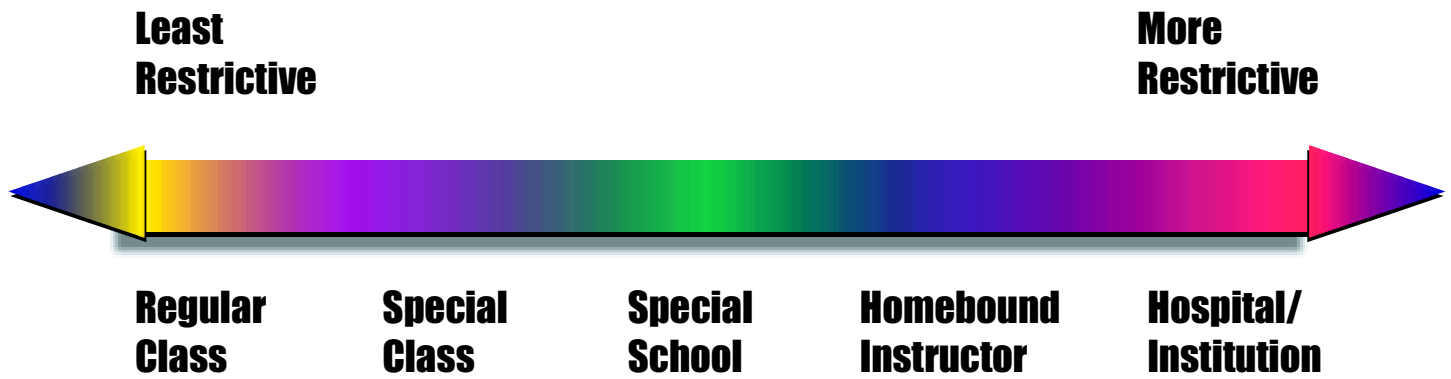
V. Accommodation Determination

The ARC may identify assessment accommodations for state and district-wide testing. The purpose of the accommodations is to allow your child's score to reflect what he/she has learned from the general curriculum. These must be related to your child's disability (with evaluation data to support them), documented as part of the IEP, and part of the regular instructional routine – not just used for testing.

VI. Least Restrictive Environment (LRE)

Your child must be educated in the Least Restrictive Environment (LRE) possible for his/her IEP to be implemented and for him/her to learn. This means:

- The school district must ensure that your child attends the school he/she would attend, if he/she did not have a disability – unless the IEP requires otherwise
- The ARC reviews services outlined in the IEP – including specially designed instruction, supplementary aides & services, related services, program modifications, and support for school personnel – to determine what location they will be implemented
- The ARC first considers IEP implementation in the regular education classroom. If there is a need for your child to receive services in a different setting – like a resource room – the amount of time spent there is listed.
- The school cannot remove your child from an age-appropriate regular education classroom just because of needed modifications to the curriculum
- The ARC must consider any potential harmful effects on your child or the quality of services he/she needs



VII. Related Services

Related services are ones that your child may receive in order to benefit from Special Education. Some examples are:

- Special Transportation
- Psychological Services
- Counseling
- Parent Education
- Interpreting
- Orientation and Mobility (for students with visual impairments)
- Occupational Therapy
- Physical Therapy
- Speech Therapy
- Recreation
- School Health Services

The ARC decides the frequency of the services, where the services are to be done, and who is to do them.

Each of the listed services is defined in **Chapter 9**.

VIII. Extended School Year (ESY)

Extended School Year is a service provided beyond the normal school year so a student does not lose learning over extended periods of time out of school. Your child can receive ESY if he/she has a serious loss of skills over a break which takes him/her a long time to relearn. Also:

1. ESY services are not designed to teach new skills.
2. The ARC makes the decision on ESY based on data collected over the year.

If ESY services are to be provided, the ARC will indicate which goal(s) from the IEP will be worked on through the summer.

IX. Transition

Transition refers to the process to help your child's move from public school into post-school life. Post-school life includes college or vocational school, employment, adult education, adult services, independent living, and

community participation. This planning is based upon your child's strengths, needs, and your child's interests. It also includes:

- A. Instruction
- B. Related Services
- C. Community Experiences
- D. Development of employment and other post-public school adult living goals
- E. When appropriate, acquisition of daily living skills and a functional vocational evaluation

The IEP shall have a statement of transition service needs when your child is in the 8th grade or turns 14 years old. More inclusive planning and documentation must be included when your child turns 16 years old.

The Transition Plan includes measurable post-secondary goals on age-appropriate transition assessments that cover training or education, employment and independent living skills. Examples of these areas:

- A. Training/Education:
 - 1. Specific vocational/career field
 - 2. Independent skills training
 - 3. Two or Four- year college/university
 - 4. Technical college
- B. Employment:
 - 1. Paid employment (competitive, supported, sheltered, or military)
 - 2. Non-paid employment (volunteer in a training capacity)
- C. Independent living (where appropriate)
 - 1. Adult daily living skills including
 - a. Financial
 - b. Transportation
 - c. Household
 - d. Other areas

For each post-secondary goal, there must be an annual goal included in the IEP that will help your child make progress towards the post-secondary goal.

Outside agencies and community supports can also be involved in helping plan and carry out transition goals. These agencies may include: Vocational Rehabilitation, local Comprehensive Care Centers, the Office for the Blind, IMPACT/IMPACT Plus, local Centers for Independent Living, and the Commission on the Deaf and Hard of Hearing. It is also a good time to look at your child's circle of support within the community.

X. Additional Forms/Information

Your child's IEP may also have additional forms that outline other considerations/services that will be provided by the school. These are the Alternate Assessment and Behavior Intervention Plan.

a. Alternate Assessment

What does it mean for my child to participate in alternate assessment?

All students in Kentucky are tested on specific standards at each grade level. Some students with the most significant cognitive disabilities require an alternate means of participating in this testing. If a student is found to be eligible for the Alternate Assessment, he/she will receive an Alternate Diploma.

Who decides if my child will participate in Alternate Assessment?

The ARC makes this decision. They will answer questions on the KDE Alternate Assessment form. They must say “yes” for each statement from the guidelines to determine if your child is eligible to participate. Each “yes” must have specific data to support this response.

When is this decision made?

Alternate Assessment eligibility should be reviewed at the beginning of each school year, or as close to the beginning as possible, as well as during each annual ARC meeting. The ARC will review any changes or new data and make a determination if your child still meets Alternate Assessment eligibility criteria. It is possible for a child who was previously on the Alternate Assessment to be changed back to the regular assessment.

You, as part of the ARC, will be part of the decision making process on the alternate assessment. You will need to indicate on the form that you understand the difference between the regular and Alternate Diploma.

b. Behavior Intervention Plan

A Behavior Intervention Plan (BIP) may be an additional form used for your child’s IEP. It is further discussed in **Chapter 4**.



Chapter 4: Discipline

One of the most common areas of disagreement between parents and schools is about discipline. This chapter outlines the major areas involved with discipline in schools. It covers:

- I. Functional Behavior Assessment and Behavior Intervention Plan
- II. Manifestation Determination
- III. Protections for Children in Special Education
- IV. Restraint and Seclusion
- V. Protections for Children not Identified for Special Education
- VI. Juvenile Charges

I. Functional Behavioral Assessment (FBA) and Behavior Intervention Plan (BIP)

A Functional Behavioral Assessment (FBA) is the foundation of positive behavior support; it is not a discipline plan. A FBA should assist in the creation of a Behavior Intervention Plan (BIP).

Behavior management should be:

- Gentle: Show care and concern, and should not cause pain or distress
- Preventative: Manage behavior by helping people be successful first
- Normal: Highlight the similarities in people
- Educational: Focus on teaching communication and social skills

(Janney, Black, & Ferlo 1989)

A FBA will:

- Define the behavior using clear language and observable actions: hits, bites, yells, rocks, etc.
- Determine the degree of seriousness of the behavior
- Gather information across settings: who, what when, where
- Develop a statement or hypothesis that describes the behaviors and the probable function/purpose of the behavior

- Provide information to suggest the creation of a Behavior Intervention Plan
- Evaluate a Behavior Plan by collecting directly observed data to help in making changes as needed

Adapted from source: www.education.ky.gov/nr/rdonlyres/6f3d9659-4748-4000.../ilssapbs.ppt

Finding the purposes of challenging behavior: *All behaviors communicate.* Your child may be telling you:

- How he/she feels, both physically and emotionally
- Something is wrong/uncomfortable
- He/she needs attention
- He/she wants to avoid/escape a situation or activity
- He/she wants something (example: food/drink)
- He/she wants access to a favorite activity (example: playing a game).

The behaviors can also be associated with play or may be repeated behaviors like rocking or hand flapping.

A FBA allows teachers, caregivers, and other professionals to predict when, where, and why challenging behaviors occur so that strategies can be planned to decrease the frequency and/or severity of the identified behaviors. Failing to plan positive strategies often makes behaviors worse. The use of FBA is mandated by the Individuals with Disabilities Education Act and its reauthorization in 2004.

A FBA is only the first step toward the goal of addressing behavior. The FBA will drive the creation of the Behavior Intervention Plan (BIP). The Kentucky Department of Education offers forms for creating Behavior Intervention Plans and for completing Functional Behavioral Assessment for school district guidance at their web site at:

<http://www.education.ky.gov>

A good behavior intervention plan should include the following:

- Identification of the purpose of behavior
- Strategies to reduce effects of behavior triggers
- Appropriate Replacement Behaviors taught to serve the same purpose as the behavior
- Strategies for *appropriate* behavior
- Strategies for *inappropriate* behavior
- A way to measure success or failure of the plan

Adapted from [http://downloads.k12.hi.us/sbbh/forms/programsupports and forms/05FBA%20and%20BSP.doc](http://downloads.k12.hi.us/sbbh/forms/programsupports%20and%20BSP.doc)

II. Manifestation Determination

A manifestation determination is a special ARC meeting that happens when a child with an IEP or suspected disability (in some cases) gets in trouble at school and

1. There is a resulting change of placement/removal for more than 10 consecutive school days, **OR**
2. A series of removals totaling more than 10 days in a school year

The manifestation determination decides two questions:

1. Is your child's behavior a manifestation (the disability directly causes the behavior) of his /her disability?

OR

2. Is the behavior a result of the school's failure to implement the IEP?

If the answer to either question is "yes", then your child's placement may not be changed.

In addition, a Functional Behavior Assessment (FBA) needs to be completed if one was not previously done. If the FBA is at least a year old or if your child has new behaviors/diagnoses, then a new FBA should be completed.

A Behavior Implementation Plan (BIP) must be written for your child. If a BIP already exists, then ARC needs to review the plan and make necessary modifications.

If the ARC team cannot agree on the two questions, the local school system makes the determination and provides the parent with notice of its decision.

If you do not agree with the decision, you have the right to request mediation, file a due process hearing request, or a KDE Complaint. These are discussed further in **Chapter 6**.

There are certain circumstances where it does not matter whether the behavior was a manifestation. They are called "Special Circumstances." Special circumstances occur when at school (including on school property) or at a school function your child: has a weapon; possesses or sells illegal drugs; or inflicts serious bodily injury.

III. Protections for Children in Special Education

The school wants to suspend my child. Are there protections?

There are two protections written into the law.

- Basically, for less than 10 days discipline is the same as students without disabilities.
- For 10 days or more the school must conduct a manifestation determination.

What about in-school suspension?

In-school suspension is called different things in different districts, such as SAFE or ISS or ISAP. It is an arrangement where your child is removed from his/her normal classroom setting and he/she spends some period of hours to days in another room. There are usually some behavior requirements there, like not talking or getting out of your seat. However, your child is still entitled to receive services outlined in the IEP.

In-school suspensions are not included in the ten days for the purpose of discipline as long as your child receives services outlined in the IEP during that time. If he/she does not receive services, then the in-school suspensions count as part of the 10 days.

What is an interim alternative educational setting?

Federal law states that when a school wants to suspend a student for certain behaviors at school or school function, he/she may be placed in an interim alternative educational setting. An interim alternative educational setting is an arrangement chosen by the IEP team that allows your student access to the general curriculum, provides Special Education services, and addresses his/her behavior as described in the functional behavior assessment. The services must also address the behaviors that caused the disciplinary action.

The school may send your child to an interim alternative educational setting if at school (including school property) or at a school function he/she:

-Has a weapon

-Knowingly possesses or uses illegal drugs or sells or solicits their sale

-Has inflicted serious bodily injury on someone

Your child may be sent to interim alternative educational setting for up to 45 school days without regard to whether your child's behavior is a manifestation of disability

The school wants to expel my child. Can they do that?

- In order to expel your child, who is in Special Education, the district must have done all the reviews outlined above. They must conclude that the IEP and placement are appropriate. They must determine that the behavior at issue is not a manifestation of his/her disability.
- If they have done all that, they may expel your child. They must still continue to provide services, though. Educational services will be provided in a setting other than school; it is usually in a public place and not at your home.

If the behavior is not a manifestation of the disability, disciplinary procedures applying to students without disabilities may be used in the same manner and for the same duration.

VII. Restraint and Seclusion

Parents are sometime told that restraint and/or seclusion must be written into the behavior plan in case of an emergency. **This is not true.** A school always has the ability to use restrictive procedures on any student if needed to prevent harm to themself or others.

Special Education law also requires that any service used must be an evidenced based practice and there is no evidence that restraint and seclusion provides any therapeutic value. Safe, positive ways of changing or redirecting behavior are well documented and evidence shows them to be successful.

Restraint and seclusion **should not** be written into the IEP or Behavior Intervention Plan.

While Kentucky schools are provided guidelines on restraint/seclusion by the KDE, there are currently no state regulations about its use. KDE is working on regulations.

Types of Restraint

Mechanical

- use of objects or device to restrict student's movements in order to manage out-of-control behavior
- Examples: tape, ropes, weighted blankets, belts, straps, handcuffs

Chemical

- Use of medication to control behavior or restrict movement
- Schools may not require a student to be on medication in order to attend school

Physical

- Physical restraint is a procedure with which a person(s) uses his or her body to effectively and immediately control or immobilize another. This is referred to in schools as "safe physical management", "safe crisis management", etc.
- It can be used as an emergency procedure to prevent injury to student or others in a crisis situation
- It is used as last resort option only when student poses a danger to seriously hurting

themselves or others

- It is NOT appropriate to use
 - to protect property
 - when student is non-compliant, confrontational, or verbally aggressive without substantial risk of immediate injury to self or others
 - as a consequence for inappropriate behavior
 - as a punishment
- Staff must be trained and certified if they are responsible for employing physical restraint
- Parents should be notified as soon as possible (within 24 hours both verbally and through written communication) if a child is restrained and provided a copy of all documentation

Seclusion

- When a student is placed in a room or location where they are alone (isolated) or prevented from leaving
- Should be considered as a last resort option for students who are out of control and pose a clear, present, and imminent physical danger to self or others
 - Employed by trained staff (2 staff) and use of established protocol- less restrictive measures have been employed and exhausted (where not effective)
 - The seclusion should last only as long as necessary to resolve risk of danger/harm
 - The student is permitted to use restroom and to drink water
 - Any medical signs of distress must be reported and acted upon
- Seclusion rooms have same physical requirements as time out rooms. These are specified on the next page.

Time out/cool down rooms/spaces

This is not the same as Seclusion and could be part of a student's Behavior Implementation Plan to help a child cool down and gain control of his/her behavior.

- Can be used to
 - protect property
 - when student is non-compliant, confrontational, or verbally aggressive without substantial risk of immediate injury to self or others
 - as a consequence for inappropriate behavior, **not** as a punishment
 - help the student settle down

The room for seclusion or time out should be free of electrical outlets, equipment or breakable glass, have proper ventilation, lighting, and temperature and be of reasonable size for student movement

-there should be no locks and the presence of trained staff- be able to see and hear student at all times

-students must have access to restroom and water

-used only for a short amount of time

KDE does have a guidance document on procedures and best practices for time-out rooms and also a Behavior Home Page

You can find this information at www.state.ky.us/agencies/behave/bi/to.pdf

V. Protections for Children Not Identified for Special Education

Any child who has not yet been determined to be eligible for Special Education under IDEA and is now in disciplinary trouble may still be protected. Your child would be protected if the school knew that the child was a child with a disability before the problem behavior took place.

The school is considered to know that a child is a child with a disability if:

- The parent of the child has expressed concern in writing (or orally if the parent cannot read and write English or has a disability that prevents a written statement) to school personnel that the child is in need of Special Education;
- The behavior or performance of the child demonstrates the need for these services;
- The parent of the child has requested an evaluation of the child; **OR**
- The teacher of the child, or other personnel of the school, has expressed concern about the behavior or performance of the child to the Director of Special Education or to other personnel.

Even if you did not make any request in writing, and no school person mentioned the problems to the Director of Special Education, you may still be covered. If the problems have been severe and ongoing, then the "behavior or performance of the child demonstrates the need for these services."

VIII. Juvenile Charges

Occasionally, schools will file criminal charges against students in Special Education. This is especially problematic if the charges are a reaction to behaviors that are related to your child's disability.

What should you do if juvenile charges are filed?

If the charge stays with the Court Designated Worker:

1. Give the Court Designated Worker a copy of the IEP
2. Tell the worker if the IEP is being followed by the school (give specifics)
3. Ask if the charge can be dropped

If the charge is referred to court:

1. Make sure your child has an attorney. If you cannot afford an attorney, ask the court to appoint one.
2. Give the attorney a copy of the IEP. Let him/her know if the plan is being followed (give specifics)
3. If the attorney is unfamiliar with IEPs or representing children with disabilities, tell him/her that P&A can provide free technical assistance to him/her. The attorney simply needs to call (502) 564-2967 and request technical assistance from a P&A attorney.



Chapter 5: What If...?

This chapter is devoted to additional questions about IEPs that are regularly posed to P&A advocates.

What if I disagree with something the other members of the ARC are saying needs (or does not need) to be in my child's IEP?

As a member of the ARC, you have the right to disagree with other members. Ideally, your disagreement should be noted in the conference summary. This is the summary of conversations and other decisions made that are not written in the other parts of the IEP. Check with the note taker before the end of the meeting to make sure it's there. If not, request that it be written into the summary.

If the disagreement does not get written into the summary, you may wish to write your disagreement on the P&A Parent Objection List found in **Chapter 7** of this booklet. You will need to ask for the note taker to make a copy (giving you back your original) and request that the List get attached to the conference summary when it is distributed.

If there is continued disagreement about this issue, you may wish to call another ARC to discuss this issue (especially if the Director of Special Education was not in attendance). You may also request one of the other formal resolutions processes found in **Chapter 6** of this booklet.

What if I think my child's IEP is not being followed?

According to federal and state law, your child is guaranteed the level of services that are specified in the IEP. Unfortunately, sometimes things do not go as planned after the IEP has been developed.

What to do depends upon the problem, but there are some general options to try before you go to more formal routes (for more information see **Chapter 6**). If it is a person who has not followed through on what was promised, contact him/her first to find out why. If it is a service written in the IEP then go to the Special Education teacher or therapist who is supposed to be delivering the service to find out more information.

Some initial steps to follow include:

1. Identify the problem.
2. Identify who might be able to solve the problem.

3. Discuss the problem with that person.

If you are not satisfied with the results of this discussion then you have the right under IDEA to ask for an ARC meeting anytime you need one. You may request an ARC meeting by contacting the principal of the school your child attends or by calling the Director of Special Education for your district. You should explain to him/her that you have tried to resolve a problem with your child's services, but have gotten nowhere. The Director of Special Education should make every effort to come to the ARC meeting at your request. If you request an ARC meeting by phone or in person, you should follow up with a letter to provide a record of your request (making sure to keep a copy for yourself).

Always remember to document in writing what steps have been taken to solve the problem. If you have had conversations with people who have promised to do things, follow up with a letter thanking them and writing what they agreed to do so that you have a record.

Sometimes the problem is not that the current IEP is not being followed, the problem may be that the current IEP is not appropriate to the needs of your child. If you feel that the current IEP is not meeting your child's needs then another IEP needs to be written or another evaluation needs to be done to determine what other services will benefit your child's education.

What if I think my child needs more services to make progress?

Step One-Request an ARC meeting in writing.

Step Two- Gather information that shows your child is not making progress

Step Three- Make sure that people are invited to the meeting who can provide information on progress and also people who might be needed to approve adding services

Step Four –Have the meeting to look at information that will help determine what additional services might be needed

What if I think my child needs more evaluations to determine needed services?

Step One-Request an ARC meeting in writing.

Step Two – Meet as an ARC to determine what additional assessments are needed in order to determine needed services.

If your child is receiving Special Education services, the school should provide educational testing if conditions warrant a re-evaluation, or if you or the teacher requests a re-evaluation. Federal regulations require that a complete re-evaluation be completed at least once every three years. If your child has not had educational testing done in the last three years or it has been nearly three years since it was done, a re-evaluation should be done to make sure the ARC has current information to use in decision-making.

If your child has not had an assistive technology assessment, ask the school to have one done.

If the ARC agrees that additional evaluations are necessary, be sure this is written into the IEP.

Step Three – Obtain the Services Recommended in the Assessments

Once you have the written assessment the ARC has the job of reviewing the recommendations. In most cases the ARC will agree to follow the recommendations provided by qualified professionals unless you agree to do something else. Let everyone discuss their ideas during the meeting, but keep returning to the simple statement, "We have paid a professional with expertise in this area to tell us what my child needs. I have not heard any reasons not to accept his/her advice."

What if the school wants to remove a service/support my child has been receiving?

There has to be documentation to show that the service/support is no longer needed. If the school wants to remove a service your child has been receiving and you think he/she still needs to have it, ask to see the documentation supporting their opinion. If you are not satisfied with the documentation given or if none is provided and the school insists on removing the service/support anyway, you may wish to go through the disagreement steps outlined in **Chapter 6**. You may also wish to use negotiation strategies found in P&A's booklet *How to Negotiate in ARC Meetings*.

What if the school says they will not evaluate my child for Special Education because he/she is doing well academically but is often in trouble at school, has been suspended and is not able to participate in all school activities?

You can remind the school that in order to determine that a child is a student who needs Specially Designed Instruction (SDI) in order to benefit from education, the school needs to look at a number of factors including functional performance, not just academics. In making an eligibility determination they need to draw on a variety of sources that could include RtI (see **Chapter 2** for more information) for behavior, physical conditions, adaptive behaviors and observations. They can look at interpersonal relationships, self-regulation, behavior management, organizational functioning, and transitioning to different places/activities in the classroom and building as issues that interfere with a student's learning.

You can show them copies of the times your child has been suspended or the times you have had to pick them up. Share notes and incidents that show behaviors that have kept your child from participating in school activities such as field trips which are a part of learning.

What if the school wants to change my child's placement?

One of the most important areas to consider when making sure your child's IEP is being fully implemented is placement. Your child's placement cannot be legally changed unless an ARC meeting is held to amend the IEP. No one person can make the decision to change placement.

Some examples of a change in placement include:

- Moving your child to a more restrictive setting (example: your child has been moved from a regular classroom to a self-contained classroom, which contains a small number of students who all have disabilities)
- Suspension beyond 10 total school days -- either all at once or adding up to 10 days during the school year (for more information see **Chapter 4**)

What if my child's pediatrician makes a recommendation about services? Does the school have to do it?

All information that is brought into an ARC should be considered by the team and can be used to make decisions. However, the ARC can either accept or reject recommendations from outside sources.

Summary

There are many other problems that may crop up, but the important thing to remember: **if it is in the IEP then your child has a legal right to receive it**. There are things that parents can do to make sure that the IEP is being followed as intended.

If the ARC refuses to provide the needed services in the IEP, be sure the conference summary states your disagreement with this decision. You may also want to complete the P&A Parent Objection Sheet (see **Chapter 7**) and ask that it be included in the conference summary.

If you cannot reach an agreement on an important issue then the IDEA gives parents options, in the form of procedural safeguards (see **Chapter 2**), to resolve disagreements. Procedural safeguards give every eligible student equal protection under the law. The school is required to offer you a list of procedural safeguards at each ARC meeting.



Chapter 6: Disagreements

While the goal of the ARC is for the members to agree on a specific specialized program for your child, it is common for there to be disagreements among the members. Most of the time, the disagreements can be resolved through meetings using negotiation strategies similar to the ones outlined in P&A's booklet, *How to Negotiate in ARC Meetings*. If disagreements cannot be resolved at the school system level, there are four additional ways to resolve disputes:

- I. Mediation
- II. Kentucky Department of Education (KDE) Complaint
- III. Due Process Hearing
- IV. Court Actions

I. Mediation

Mediation is a process in which parents and the school meet with a trained neutral person (the mediator) to try to resolve disputes. If the mediation is successful, a final agreement is developed. The agreement includes a resolution to the problem and a timeline in which actions to meet the resolution are to happen.

Mediation can be requested at any time but before it can be tried, both you and the school must agree to it. Also, going through this process does not "knock you out" of filing a written complaint or requesting a due process hearing.

If you are interested in this option, you may use a request for mediation form from the Kentucky Department of Education website: <http://www.education.ky.gov>

II. KDE Complaint

A Kentucky Department of Education (KDE) Complaint is a formal statement (or form found on the Kentucky Department of Education website) which alleges that a school district has violated a requirement of state or federal Special Education law.

A KDE complaint must be:

- Written (even though you may speak with a KDE consultant about it)
- Contain a signature
- Filed with KDE within one year of the violation

Written complaints may be filed by

- A parent of a student with a disability

- By any organization that believes IDEA has been violated or
- A person who believes IDEA has been violated

The form must detail what part of the law is not being followed and list supporting facts.

Within 60 days of the complaint, KDE investigates, if necessary, and issues a written decision. Both parties have 15 business days to file an appeal of the decision to the Commissioner of the Kentucky Department of Education.

A KDE complaint does not address the following issues:

- Violations of Section 504 of the Rehabilitation Act
- Claims of child abuse or neglect
- Matters under the sole authority of the school district, that includes employment of a teacher, assignments of teachers, or pupil assignments.

If you are interested in this option, you may wish to use either P&A’s KDE Formal Complaint Form found in **Chapter 7** or KDE’s own formal complaint form found at: <http://www.education.ky.gov>

III. Due Process Hearings

A due process hearing is a process in which a hearing officer resolves IDEA disagreements between parents and school districts.

The due process hearing may be requested on any matter involving:

- Identification
- Evaluation
- Educational placement and services
- The provision of a Free Appropriate Public Education (FAPE)

A due process hearing must be requested in writing and must be filed within three (3) years of the date the parent or district knew (or should have known) about the issue. There are certain exceptions to this rule which relate to omissions or misrepresentations by the school district.

According to Kentucky regulation, a due process hearing request needs to include:

- Your child’s name
- The address where your child lives
- Name of your child’s school
- A description of the problem
- Facts about the problem
- Proposed resolution

After a request for due process has been filed, parents and school must either go to mediation **or** have a resolution meeting. This is so that the district has an opportunity to resolve the dispute which led to the request for due process hearing.

The resolution meeting must take place within 15 days of the school receiving notice of the due process

request.

Important considerations for Resolution Meetings:

- Resolution Meetings are not confidential.
- The Resolution Meeting is not held if the parties agree to Mediation or if the parties agree to waive the meeting.
- Attorneys are only allowed at Resolution Meetings when each side has one present.
- If the problem is resolved, there will be a written, legally-binding agreement.
- If the problem is not resolved, the due process hearing is held.

If the school does not hold the Resolution Meeting within 15 days of receiving your due process request, you can ask the hearing officer to start the forty-five (45) due process timeline.

Placement during a Due Process Hearing :

Placement is in a “stay put”, with your child remaining in the last agreed upon placement **unless**:

- Your child is transitioning from First Steps, the Kentucky Early Intervention System
- You are appealing placement of your child in an interim alternative education setting due to Special Circumstances (for more information on this setting see **Chapter 4**).

Having an attorney may be necessary if you go to due process. During the hearing, a hearing officer listens to testimony from both sides and then issues a decision. The decision may be appealed within 30 calendar days of the hearing officer’s decision.

How long does the Due Process Hearing take?

The hearing process must be completed within 45 days from the time your letter is received by the Kentucky Department of Education.

Who schedules the Due Process Hearing?

The school makes arrangements that are convenient for you and the hearing officer. The hearing officer will notify you and the school five (5) days before the hearing to confirm these arrangements.

The hearing officer is appointed by the Kentucky Department of Education. The hearing officer must be totally impartial (not take sides). He/ she cannot work for the school district or any other agency responsible for educating or caring for your child. He /she cannot have any personal or professional interest that would cause a conflict when making a fair decision. Each school district keeps a list of the state’s hearing officers and their qualifications. You may ask to see a copy of the list.

What happens in a Due Process Hearing?

The purpose of the hearing is to explain to the hearing officer what you think is wrong with what the school is providing or not providing for your child. You should also present evidence concerning the kind of program you think your child should be getting. Some examples of evidence could be written evaluations or testimony by an expert in your child’s disability.

Who is usually present at the Due Process Hearing?

In addition to the impartial hearing officer and the school and its representative(s), you may have anyone with you who can help present your case. You might want to include your lawyer, community advocate, or

a Special Education professional (such as a psychologist or teacher) who has helped you decide what kind of placement you think is best for your child. If you have an outside evaluation completed, have the person who completed the evaluation present so that he or she can testify. Parents are not required to have an attorney; however, it is very helpful to have help from a trained advocate or attorney who is familiar with IDEA.

What are your rights at the Due Process Hearing?

Under the law, these rights are protected:

- You may bring anyone who can help represent your child.
- You may present testimony and information about your child from your observations or from what others have told you.
- You may require certain school officials to attend the hearing.
- You may cross-examine witnesses.
- The school must give you copies of any records they plan to use in the hearing at least five (5) days before the hearing. You may approve or disapprove the use of any records or evidence that was not made available to you at least five (5) days before the hearing.
- You must give the school copies of records you plan to use at the hearing at least five (5) days prior to the hearing.
- You may open the hearing to the public or have a closed hearing.
- Your child may be present.
- You may get a written or tape recorded record of the hearing.
- You will receive a written copy of the hearing officer's decision.

What happens when the hearing officer makes a decision?

The hearing officer has fourteen (14) days to send a written decision to the school and to you after receiving the transcript or the hearing. This will be sent to you by certified mail.

What about attorneys' fees?

If the hearing officer rules in your favor, he/she can order the school to pay your attorney's fees. However, if the hearing officer rules that your complaint was frivolous, unreasonable, without merit, or presented for an improper purpose, you may be ordered to pay the school system's attorney's fees.

Is the hearing officer's word final?

Yes, the decision is final unless you or the local school district files an appeal of the decision. Appeals are heard by the Exceptional Children Appeals Board or by a Civil Court (see below).

How do you request an appeal of the hearing officer's decision to the Appeals Board?

You may appeal the hearing officer's decision within thirty (30) days after receiving the hearing officer's written findings of fact and his/her decision. The appeal is made by sending a certified letter to the Kentucky Department of Education, a request for appeal, within thirty (30) calendar days of the date of the hearing officer's decision.

What does the Exceptional Children Appeal Board do?

The Appeals Board reviews the Hearing Officer's decision and decides if it was correct.

How do you request an Appeal of the Hearing Officer's decision to a Civil Court?

You may file a civil action appealing the Hearing Officer's decision within ninety (90) days of the Hearing Officer's decision or of the Appeal Board's decision. This can be done in state court or a federal district court.

If you wish to use KDE's due process request form: <http://www.education.ky.gov>

IV. Court Actions

A civil lawsuit is the final possible action a parent may take against a school. You will need to hire a private attorney. It would be a good idea to make sure that this attorney has knowledge and experience with Special Education law. Please remember: court actions may take a great deal of time, money, and the results may not benefit your child for several years.



Chapter 7: Samples and Examples

This chapter contains samples and examples of letters, forms, and parts of the IEP referred to in earlier chapters of this booklet. Please use the information in this chapter as a guide for your child's situation/ educational needs.

Additionally, you may need the official forms which are used in the IDEA official dispute resolution process. The Formal Written Complaint Form, Request for Mediation Form, and the Request for a Due Process Hearing Form, are all found at the following KDE web site:

<http://www.education.ky.gov>

This chapter includes:

- I. P&A Request for Evaluation Form
- II. P&A Request for ARC Meeting Form
- III. P&A Request to Review/Inspect Educational Records Form
- IV. P&A Parent Objection List
- V. P&A KDE Formal Complaint Form
- VI. Examples of Present Levels of Academic and Functional Performance
 - a. Communication Status
 - b. Academic Performance
 - c. Health, Vision, and Motor Abilities
 - d. Social and Emotional Status
 - e. General Intelligence
 - f. Transition Needs
 - g. Functional Vision and Learning Media Assessment
- VII. Examples of Present Levels and Corresponding Goals
- VIII. More Examples of Goals and Benchmarks/Objectives

After completing this form, send it to the Director of Special Education for your district by Certified Mail (return receipt requested) or hand deliver a copy to the School Board office. Make sure to keep a copy for yourself.

Request for Evaluation

Today's Date: _____

My child _____, is a student at _____

(name of school) in the _____ school district.

I believe he/she would benefit from Special Education and am making this referral requesting evaluation for the following reasons:

Your Name (please print): _____

Mailing Address: _____

City, State, Zip: _____

Daytime Phone: _____

Email Address: _____

This form was produced by KY Protection and Advocacy. Please duplicate as needed. 02/12 After completing this form, send it to the Director of Special Education for your district by Certified Mail (return receipt requested) or hand deliver a copy to the School Board office. Make sure to keep a copy for yourself.

Request for an ARC Meeting

Today's Date: _____

Name (Print): _____

Mailing Address: _____

City, State, Zip: _____

Daytime Phone: _____

Email Address: _____

Dear _____, (Director of Special Education's Name)

My child _____, is a student at _____

(School name) in the _____ school district. I would like to request

an ARC meeting to discuss _____

_____.

In addition to the ARC Team, I would also like to invite the following individuals to attend the ARC meeting:

I understand the meeting should be scheduled at a time convenient for as many participants as possible. The best times for me to attend would be: (list times and dates)

Please get back with me within 10 days from your receipt of this request with a proposed date and time.

I look forward to hearing from you soon. Thank you for your help.

Sincerely,

_____ Parent Signature

This form was produced by KY Protection and Advocacy. Please duplicate as needed. 02/12
After completing this form, send it to your child's Principal. Make sure to keep a copy for yourself.

Request to Review/Inspect Educational Records

Today's Date: _____

Parent's Name (Print): _____

Mailing Address: _____

City, State, Zip: _____

Daytime Phone: _____

Email Address: _____

Dear _____, (Principal's Name)

I am writing to schedule a time to come and review all of my child's records, including the due process folder and discipline records. My child, _____, is a student in the _____ grade at your school. I will also need copies of some or all of these records. I understand that there may be a minimal charge for duplicating the requested records. Please let me know where and when I can come in to see the records and copy them, as needed. I need these records by _____ (date). You can reach me during the day at _____ (daytime phone number).

Thank you for your help. I look forward to hearing from you soon.

Sincerely,

_____(Signature)

This form was produced by KY Protection and Advocacy. Please duplicate as needed.

02/12

Parent Objection List

ARC Meeting Date: ____/____/____

Issue #1: _____

ARC reached consensus: yes [] no []. I objected by saying: _____

Issue #2: _____

ARC reached consensus: yes [] no []. I objected by saying: _____

Issue #3: _____

ARC reached consensus: yes [] no []. I objected by saying: _____

Issue #4: _____

ARC reached consensus: yes [] no []. I objected by saying: _____

Issue #5: _____

ARC reached consensus: yes [] no []. I objected by saying: _____

The success of a complaint depends on the facts. You may wish to speak with P&A, your attorney, or the Kentucky Department of Education (KDE) Division of Learning Services before filing.

Today's Date _____

Office of Next Generation Learners

Division of Learning Services

Kentucky Department of Education

Capitol Plaza Tower, 8th Floor

500 Mero Street

Frankfort, KY 40601

To Whom It May Concern:

The following is a formal complaint against the _____ School System. My child, _____, is a student diagnosed with _____ who attends _____ school.

The following events or practices have taken place, and I believe the school has violated the Individuals with Disabilities Education Act (IDEA). These violations occurred (check one) _____ no more than one year before the date you will receive this complaint or _____ more than one year before the date you will receive this complaint because the violations are continuing. The dates of the violations are provided below in my supporting facts.

Area of violation: Failure to identify for special education and related services

Including, but not limited to: **(check all that apply and write in facts that support violation)**

- Failure to accept a referral for special education
- Failure to meet to consider the need for evaluation
- Failure to evaluate in a timely manner. We have been waiting for _____
- Failure to assess all suspected areas of disabilities or failure to do a full and complete evaluation
- Failure to pay for an independent evaluation when requested
- Failure to evaluate for assistive technology needs

Supporting Facts:

Area of violation: Failure to follow proper Admissions and Release Committee procedures

Including, but not limited to: **(check all that apply and write in facts that support violation)**

- Failure to have appropriate people at ARC meeting: _____ was missing
- Failure to schedule ARC meeting at a time and place convenient to parent
- Failure to give proper notice of the ARC meeting

Supporting Facts:

Area of violation: Failure to provide appropriate individualized education program

Including, but not limited to: **(check all that apply and write in facts that support violation)**

- Failure to have IEP goals for every weakness
- Failure to have appropriate related services on the IEP
- Failure to consider individual needs of the child, in particular: _____
- Failure to follow the IEP
- Failure to keep data on the following: _____
- Failure to place child in least restrictive environment with appropriate supplemental aids and services
- Failure to have transition plan
- Failure to consider for extended school year (ESY)

Supporting Facts:

Area of violation: Failure to follow proper suspension / expulsion procedures

Including, but not limited to: **(check all that apply and write in facts that support violation)**

- Failure to convene an ARC after ten cumulative days of suspension
- Failure to consider whether behavior was a manifestation of disability, prior to change in placement (Expulsion/ Suspension of more than 10 cumulative days)
- School or school employee filing petitions in Juvenile court

Supporting Facts:

Area of violation: Other

Supporting Facts:

My proposed resolution to this complaint is:

Please feel free to contact me if you need additional information.

Sincerely,

_____ (Signature)

Your name (Printed): _____

Relationship to Student: _____

Address: _____

Phone number: _____

****Original complaint forms must be sent to KDE and a copy to the school system.****

I certify that I sent a copy of this complaint form to the

_____ School System on _____ (date).

Examples of Present Levels of Academic and Functional Performance

We wanted to share some examples of the way Kentucky is now writing Present Levels and Goals. Although they are not written in parent friendly language and may contain language that is unfamiliar to you, we feel it is important for you to have this information. You should ask questions about anything you do not understand.

The examples for Present Levels and Goals are taken directly from the 2011 KDE Guidance Document for IEP Development which can be found on the KDE web site:

<http://www.education.ky.gov>

Present levels should give information and data on what a student can and cannot do that will lead to writing a measurable goal.

a. Communication Status

Example: Cory is non-verbal and communicates primarily through gestures, facial expression, eye gaze and close proximity. Parent report reveals that Cory demonstrates emergent understanding of cause and effect relationships at home. Teachers report that attending skills have improved, however Cory continues to be easily distracted and needs frequent redirection to maintain attention to a task/complete a task. Parent reports that she often physically moves Cory's head in an attempt to get him to focus on an object. Parents report that Cory is beginning to follow simple 1-step directions (i.e., "take this to Daddy").

Example: During conversational speech, Joey exhibits lateral distortions of the /s/ and /z/ phonemes which draws attention to his speech. Joey reports that he is teased by peers and that he is embarrassed to participate in class discussions including volunteering answers, reading aloud, serving as class leader and answering questions when called upon.

b. Academic Performance

Example: Roland cooperatively participates in math games designed to review basic multiplication facts and increase fluency. Roland fluently identifies basic multiplication facts for 0s, 1s, 2s, 5s, and 10s. Based on authentic assessments and after one verbal prompt, Roland can explain the use of multiplication tables to answer multiplication fact for 4s, 6s, 7s, 8s, and 9s.

Example: Dewayne is a quiet student, yet participates in class discussions when prompted. Per Curriculum Based Measures (CBM), Dewayne's Quantile score is 801. Quantile scores for same age/grade peers are 760Q to 1065Q. Per teacher observation, Dewayne independently uses his scientific calculator to complete math assignments, but needs supports when using his graphing calculator.

Example: Given independent reading assignment on instructional reading level text (2.0), Roland matches vocabulary definitions with words with 75% accuracy. Given oral presentation of grade level text (text

reader, peer buddy, shared reading) and following class discussion, Roland identifies main idea and detail with 75% accuracy. Given independent reading assignment on instructional reading level text (2.0), Roland identifies main idea and detail at 70% accuracy.

c. Health, Vision, and Motor Abilities

Example: Given observation, Juan bears weight on bilateral lower extremities and produces a reciprocal stepping pattern for short distances. He currently wears foot/ankle braces, and is beginning to use a rolling walker for ambulation training. Given observation, he currently ambulates a distance of 10 feet with minimal assistance.

Example: Difficulty with gross and fine motor tasks and visual perceptual deficits adversely affect Juan's ability to perform fine motor tasks, independently negotiate the school classroom, building and campus, and complete tasks involving self-care.

d. Social and Emotional Status

Example: Based on teacher input, Trish works well independently. Based on Scatterplot and ABC observation data, when Trish is in cooperative groups and non-structured settings (e.g., cafeteria during breakfast) and with same gender peers, she often makes verbal demands. An example of threatening statements includes "You better hurry up or I'm going to hurt you." An example of telling students what to do includes "Roll the dice to the side (with forceful loud tone)." She physically stands within close proximity to students and stares at them when they do not agree with her. As a result of threatening behavior, peers often comply with Trish's demands. The most recent data collected within Scatterplot of a two week period, Trish made 39 verbal threats to peers and had eight occurrences of physical aggression through hitting, kicking, or pushing peers in non-structured settings such as the cafeteria and playground (pushing on 6 events).

Example: Amanda is distracted by anything going on around her; she has a short attention span. Teacher observation suggests that when engaged in independent activity for a 15 minute time period, she requires an average of four (4) verbal prompts to maintain attention to the task. Similar data are noted when Amanda participates in small and large group activities. Amanda follows one step verbal directions at 90% accuracy and two step directions at 55% accuracy. Nondisabled age peers follow three or more step directions.

e. General Intelligence

Example: Amanda's deficits in general intelligence affect her ability to acquire and interpret information, problem-solve in content assignments and real-life situations and generalize learned skills to other activities or settings.

Example: Results of cognitive assessment indicate Amanda has significant deficits in verbal comprehension, verbal expression, problem solving, and both short and long term memory. Given two objects, she can identify how the items are alike 60% of the time. She has more success with concrete objects as opposed to pictures or words.

f. Transitional Needs

Example for Employment: Amanda's employment needs include the lack of work experience, difficulty applying self-advocacy skills, and deficits in reading, math, and writing. Given supervision, she demonstrates adequate work habits for task completion in real-life situations. She lacks skills in interviewing, writing resumes, and completing applications that are required for postsecondary training or placement. During the last two ILP sessions, Amanda worked independently for 5 minutes and then needed reader and scribe

assistance to complete the remaining sections. Given organizational prompts, she can follow written step-by-step directions (3 steps). Amanda is inconsistent in generalizing learning from one setting to another.

Example for Community Experiences: Parents report that Amanda helps the Sunday School teacher teach the lessons. She volunteers in the community by coaching a church soccer team. These activities involve interaction with younger children and older individuals. As stated previously, Amanda's reluctance to interact with same age peers (see baseline data under Social and Emotional Status) will adversely affect her ability to participate in community activities and organizations in adulthood.

g. Functional Vision and Learning Media Assessment

Example for Functional Vision: Rachel is able to see light by identifying shadows of people and objects in a brightly lit room. However, she is unable to identify details. She uses her vision to identify colors of clothing when dressing and to assist her with orientation to rooms (door openings, window location, etc.)

Example for Learning Media Assessment: Rachel uses a portable note taker in all classes to listen to downloaded text auditorily, complete class assignments, keep a schedule of assignments due, and take daily class notes. She has access to a laptop with screen reading software for editing materials, using the internet for research, checking emails and downloading text to listen to auditorily.

Examples of Present Levels with Corresponding Goals

For example: The information in this present level could lead to writing the goal that follows.

Present level : Roland has improved considerably in simple sentence construction. He volunteers during group discussion and participates in peer review for writing pieces. Roland independently uses prewriting strategies (e.g., list, column) 60% of the time. He benefits from prompts in the selection and completion of prewriting strategies. When given an authentic assessment consisting of a writing prompt that requires 6 or more sentences on a single topic, Roland constructs complete and correct simple sentences 70% of the time (capital letter, at least one noun, at least one verb, proper end punctuation); correctly uses commas in a series 80% of the time; and correctly applies an editing routine to ensure required elements of a simple sentence with 70% accuracy.

When provided paragraph models, Roland identifies the parts of a paragraph with 70% accuracy (e.g., topic sentence, supportive detail sentences). Using model paragraphs, he independently generates paragraph components with 40% accuracy (topic sentence, three or more supportive detail sentences, as measured by authentic assessment. Roland benefits from visual supports when completing writing tasks (e.g., cue cards, sentence and paragraph models, color coding of nouns and verbs, color coding part of a paragraph, and word banks).

Annual Measurable Goal: When given a writing prompt, Roland will write a clear, coherent paragraph with appropriate punctuation and verb tense to the proficient level on 3/5 assignments as measured by the attached scoring rubric.

Benchmark 1: Roland will write complete and grammatically correct simple sentences.

Benchmark 2: Roland will apply punctuation for effect.

Benchmark 3: Roland will write complete and grammatically correct complicated sentences.

Benchmark 4: Roland will construct complete paragraphs with topic sentence, supporting details and clincher sentence.

Benchmark 5: Roland will maintain the appropriate verb tense within a writing piece.

Method(s) of Measurement:

Indirect Measures: Rubric

Authentic: Portfolio of writing samples across time

More Examples of Goals and Benchmarks/Objectives

Example of Annual Measurable Goal: Given a 7th grade informational text based on Lexile range, Toby will read the passage and answer 5 literal and 5 inferential comprehension questions at 80% accuracy on 3 consecutive weekly reading assessments.

Benchmark 1: Given a 5.0 grade level informational text, Toby will read the passage and answer 5 literal and 5 inferential comprehension questions at 80% accuracy on 3 consecutive weekly reading assessments.

Benchmark 2: Given a 5.5 grade level informational text, Toby will read the passage and answer 5 literal and 5 inferential comprehension questions at 80% accuracy on 3 consecutive weekly reading assessments.

Benchmark 3: Given a 6.0 informational text, Toby will read the passage and answer 5 literal and 5 inferential comprehension questions at 80% accuracy on 3 consecutive weekly reading assessments.

Benchmark 4: Given a 6.5 informational text, Toby will read the passage and answer 5 literal and 5 inferential comprehension questions at 80% accuracy on 3 consecutive weekly reading assessments.

Method(s) of Measurement:

Authentic Assessment: Student Interview Conference

Indirect Measure: Permanent Product - point value applied to short answer responses

Example of Annual Measurable Goal: Given social skill instruction in following school and classroom routines, Phillip will demonstrate 100% of the key steps of the social skill on 5 occasions on 3 consecutive weekly checklists.

Short Term Objective 1: Given 5 opportunities to demonstrate following teacher directions in a structured setting, Phillip will demonstrate 100% of the key steps of the social skill on 5 occasions as measured on weekly checklists.

Short Term Objective 2: Given 5 opportunities to demonstrate offering an opposing opinion in a structured setting, Phillip will demonstrate 100% of the key steps of the social skill on 5 occasions as measured on weekly checklists.

Short Term Objective 3: Given 5 occasions of following adult redirection without verbal opposition in a non-structured setting (lunchroom, hallway, bus dock), Phillip will demonstrate 100% of the key steps of the social skill on 5 occasions as measured on weekly checklists.

Method(s) of Measurement:

Direct Measure: Checklist

Example of Annual Measurable Goal: Given a picture prompt, Sam will construct a sentence, relevant to the given topic, with at least three words by touching the correct words/pictures on a touch screen computer with 80% accuracy across 3 out of 5 sessions.

Short Term Objective 1: Given a picture prompt of a preferred item/topic, Sam will construct a sentence, relevant to the given topic, with at least three words by touching the correct words/pictures on a touch screen computer using word prediction software with 80% accuracy across 3 out of 5 sessions.

Short Term Objective 2: Given a picture prompt of core content concept item, Sam will construct a sentence, relevant to the given topic, with at least three words by touching the correct words/pictures on a touch screen computer using word prediction software with 80% accuracy across 3 out of 5 sessions.

Short Term Objective 3: Given a picture prompt of an activity from his daily schedule, Sam will construct a sentence, relevant to the given topic, with at least three words by touching the correct words/pictures on a touch screen computer using word prediction software with 80% accuracy across 3 out of 5 sessions.

Method(s) of Measurement:

Authentic Assessment: Compilation of Work Samples

Direct Measure: Checklist, Anecdotal Recording

Annual Measurable Goal: Joey will correctly produce the /s/ and /z/ phonemes in all positions of words when reading aloud a 3-5 word phrase using words selected from his classroom curriculum in 8 of 10 trials for 3 consecutive therapy sessions.

Short Term Objective1: Joey will correctly produce the /s/ and /z/ phonemes in the initial position of 20 words selected from his classroom curriculum in 8 of 10 trials for 3 consecutive sessions.

Short Term Objective 2: Joey will correctly produce the /s/ and /z/ phonemes in the final position of 20 words selected from his classroom curriculum in 8 of 10 trials for 3 consecutive sessions.

Short Term Objective 3: Joey will correctly produce the /s/ and /z/ phonemes in the medial position of 20 words selected from his classroom curriculum in 8 of 10 trials for 3 consecutive sessions.

Method(s) of Measurement:

Direct Measure: Direct Measure: Frequency count within conversational speech sample

Direct Measure: Probes – accuracy rate of pronunciation following picture prompt



Chapter 8: Other Laws That May Impact Education

While this booklet focuses on the Individuals with Disabilities Education Act, P&A wants you to know that there are other federal laws which could impact your child's education. These are:

- I. Section 504 of the Rehabilitation Act of 1973
- II. Americans with Disabilities Act (ADA)
- III. Family Education and Rights Privacy Act (FERPA)

I. Section 504 of the Rehabilitation Act

The Rehabilitation Act is an antidiscrimination civil rights law that provides access to services that people with disabilities receive in any place that gets public funding. This includes public schools. In order to be considered a person with a disability the student must have a physical or mental impairment which limits a major life activity. These include: learning, walking, breathing and caring for oneself.

This law has been used for students:

- Who are not eligible for an IEP, but still have disabilities that affect them in school,
- Who are released from having an IEP because they no longer are eligible, but still need some accommodations at school,
- Who are attending college/vocational school and previously had IEPs or 504 plans while in high school, and
- Who are attending college/vocational school and have a disability that began after high school.

Eligibility for accommodations through Section 504 is broader than for IEP accommodations. Students with diagnoses (including temporary conditions) that negatively impact learning but do not have the need to receive Special Education services may receive plans. Also, students who have been referred for IEPs may receive 504 plans during the evaluation period.

These plans give students the opportunity to have services, modifications or other assistance that would not be given to students without disabilities. For example: a student with diabetes who needs to have her blood tested during the school day and take insulin when necessary would qualify for a 504 plan of accommodations.

Like IEPs, accommodations for students are individualized. Some examples of these are:

- Preferential seating (student seating at front, near teacher, etc.)
- Visual daily schedule/agenda
- Assistance at end of day to get materials ready for home

- Extended time for tests/assignments
- Adult monitoring of agenda/homework sheet
- Movement breaks
- Physical access to school buildings/classrooms
- Support to participate in recess or physical education
- Services/supports to assist with health condition (Examples: student with diabetes testing blood sugar; student with epilepsy receiving emergency medication to stop a seizure)

Each school district has a 504 coordinator that you can contact to ask for a 504 meeting. Like the ARC, a group of people must decide if your child has a disability which affects a major life activity. This group will gather evaluation information and decide what accommodations or modifications the child might need in order to receive a Free Appropriate Public Education. (FAPE).

Parents should be involved in the 504 meeting and assist in developing appropriate accommodations and/or services. If parents and the school disagree there is a district grievance procedure and if it is not resolved then an Office of Civil Rights (OCR) Complaint can be made.

For more information:

Frequently Asked Questions about Section 504 and the Education of Children with Disabilities <http://www.ed.gov/about/offices/list/ocr/504faq.html>.

<http://www.hhs.gov/ocr/civilrights/resources/factsheets/504.pdf>

II. The Americans with Disabilities Act (ADA)

The Americans with Disabilities Act, a civil rights law, prohibits discrimination on the basis of disability by any public entity which includes schools. It was amended in 2008 and broadened the definition of disability. It also ensures that students have an equal opportunity to participate in the public school program.

While the ADA doesn't specifically address Special Education, it does require schools to provide necessary accommodations for students (and staff) with disabilities. It prohibits the schools from, in essence, punishing the students and staff for their disabilities. The ADA also requires schools to be physically accessible.

For more information:

Kentucky Office of the Americans with Disabilities Act Coordinator: <http://ada.ky.gov/>

Frequently Asked Questions document (FAQ) provides additional guidance on the requirements of the Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act (Section 504) <http://www2.ed.gov/about/offices/list/ocr/docs/dcl-504faq-201109.html>.

III. Family Education Rights and Privacy Act (FERPA)

The Family Education Rights and Privacy Act (FERPA) protects student privacy regarding school records. It gives parents/guardians of all students under 18 the right to see, correct and control access to their student records. At age 18, these rights transfer to the student.

For more information:

<http://www2.ed.gov/policy/gen/guid/fpco/ferpa>

Chapter 9: Glossary and Resource Guide

Achievement Test: A test over academic subjects such as Reading, Math, and Writing. These tests are often used in the Special Education evaluation process and examples include the Woodcock-Johnson II Test of Achievement and the WRAT-4.

Adaptive Behavior: Personal, independent, and social behaviors which are based on expectations of how a typical child would normally act and take care of him/ herself.

Adaptive Behavior Scale: A test that looks at a child's ability to perform self-help behaviors, such as eating, dressing, doing household chores, etc., and is completed by both the parent and the child's teacher.

Advocacy: Acting and speaking in support of a child or other individuals and groups.

ARC-Admissions and Release Committee- The ARC is made up of the parent, the child (if age appropriate), the regular education teacher, the Special Education teacher, and the district representative (Director of Special Education, Principal, Guidance Counselor, etc.). The ARC is responsible for all of the educational decisions for children who need Special Education.

Assistive Technology-Any device or service that helps students with disabilities do something they could not do without technology. AT devices include low-tech (example: highlighter), mid-tech (example: calculator) and high-tech (example: IPAD). For more information: www.katsnet.org

Audiology: A science dealing with hearing impairments, their diagnosis, and correction.

Baseline: Baseline performance describes the student's current performance of a skill or strategy in measurable terms (e.g., words per minute, % correct in 3 out of 5 trials, # minutes to sustain a behavior, level of prompts necessary to sustain a behavior) before intervention or treatment. The baseline serves as a starting point for IEP instruction.

Behavior Intervention Plan (BIP): A plan included in the IEP's of children who have behaviors that impact their learning or that of others. The BIP identifies problem behaviors being targeted for change and positive strategies to decrease those behaviors. KDE example of the form: <http://www.education.ky.gov>

Collaboration: A Special Education teacher works with children with disabilities in the regular education classroom, and/or works with the regular education teacher who implements the IEP services.

Commensurate with similar age peers- The student is performing within the same range of academic and functional performance as same age peers without disabilities. Commensurate with similar age peers does not necessarily mean that the student is functioning on grade level.

Consent- Parent gives permission in writing after being fully informed of everything for which consent is sought. Parental consent is voluntary and may be taken back at any time.

Counseling- Services provided by qualified social workers, guidance counselors, or other mental health professionals who assist students with academic planning and achievement. For more information please visit: <http://nichcy.org/schoolage/iep/iepcontents/relatedservices> .

Diagnostic test- A test used to identify or diagnose a child's problem areas.

Due Process- A hearing process that ensures all children will receive a Free Appropriate Public Education (FAPE). Due process includes procedural safeguards to protect the rights of children with disabilities and their parents.

Due Process Hearing- The part of due process in which disagreements between parents and schools can be

resolved in a court-like setting. An impartial hearing officer decides the appropriate plan for the child. Parents and school districts may have attorneys present. For more information and forms: <http://www.education.ky.gov>

Educational performance- A child's abilities in academic areas and non-academic areas. Academic areas may include reading, math, communication; progress in meeting goals in the general curriculum; and performance on state-wide and local assessments. Non-academic areas may include daily living activities, behavior, mobility, and mental health.

Extended School Year (ESY) – Special services provided outside of the regular school day or calendar. These services are only granted when data shows that a child is not able to return to previous learning levels after a school break and a reasonable amount of time has been given to regain lost skills.

Fine-Motor- The coordinated movement of small muscles (e.g. eyes, hands, and mouth) for purposes of manipulating small objects. Skills include: grasp, hand strength, visual-motor control, and small object control.

Free Appropriate Public Education (FAPE)- Special Education and related services provided to a child with a disability that:

- Is provided at public expense
- Includes preschool, elementary school, and secondary school education
- Applies to all children with disability, even those who have been suspended or expelled

For more information: <http://www.wrightslaw.com/info/fape.index.htm>

Functional Behavior Assessment (FBA) - The process of collecting information about problem behaviors so that positive behavior interventions can be created and problem behaviors are decreased. For more information on school-based FBAs: http://www.pbis.org/common/pbisresources/publications/PracticalFBA_TrainingManual.pdf and <http://www.pacer.org/parent/php/PHP-c79.pdf>

Goal (Instructional goal, annual goal) - A general statement that defines the target of instruction in measureable terms.

Gross Motor- A term which refers to the use of large muscle groups used in activities such as running, walking, jumping, throwing, etc.

Hearing Officer- The person selected by the Kentucky Department of Education who runs the due process hearing and makes impartial decisions about what is the appropriate program for the child.

Homebound Instruction- An educational placement in which a teacher provides instruction at a child's home. It should be reserved for children with health conditions that would make it difficult for them to go to school. This should not be a way to avoid developing an appropriate placement at school.

Inclusion- A civil right for students with disabilities in which they are welcomed and supported in learning alongside same age students without disabilities to the maximum extent possible.

Interim alternative education setting- The alternative setting chosen by the IEP team that allows the student access to the general curriculum, provides special education services, and addresses student behavior as described in the functional behavior assessment. School personnel may recommend up to a 45-day immediate suspension to an interim alternative education setting when at school or at a school function, a student has a weapon, has or sells illegal drugs, or inflicts serious bodily injury.

Interpreting- The range of services which translates spoken/written instruction into a student's native language so that he/she may be able to access educational services. For example: an American Sign Language interpreter for a Deaf student._

Independent Educational Evaluation (IEE) - An evaluation completed by qualified persons who are not employed by the school system your child attends. For more information: <http://www.wrightslaw.com/info/test.iee.steedman.htm>

Individual Education Program (IEP)- An education plan written to meet the individual needs of your child. Once drafted it is a legally binding guarantee of services to be provided to your child. For more information: <http://www.education.ky.gov>

Individual Learning Plan (ILP) - Mentioned under Transition Services Needs on the IEP form and must contain the student's course of study starting in the 8th grade. It is an online tool for use by all students to help them prepare for the future. It has many features and resources such as career exploration, resume building, goal setting, a place to keep track of activities and awards etc. Students can continue to use it after they leave school to store information and access resources if they use it at least once a year.

Intelligence Quotient (IQ) - A score from a test designed to measure intelligence. Tables are used to compare children's performance to the performance of same age peers. There is debate about whether these tests fairly and adequately measure intelligence or are a good prediction of academic performance.

Least Restrictive Environment (LRE) - The educational setting that provides your child with the most access to the general curriculum and same age peers possible based on his/her needs. This means that special services and supports allow your child to learn in a regular classroom as much as possible.

Lexile- A reading measure that provides information about an individual's reading ability or the difficulty of a text. It can assist in matching a reader with the appropriate difficulty level or text for decoding and comprehension. The Lexile reader measure can also be used to monitor growth in reading ability over time. For more information: <http://www.lexile.com/>

Local Education Agency (LEA) - In federal and state regulations this term is used to describe the local school district.

Manifestation determination- An ARC meeting to determine if behavior that would normally cause a child to be disciplined by the school is a direct result of the child's disability. If the ARC determines that the behavior is a direct result of disability, then the child cannot be disciplined in the same manner as peers and an FBA and/or BIP must be completed.

Mean-The average score on a test.

Notice- A full explanation of all of the procedural safeguards (rights) available to parents under IDEA, including attorney fees for parents who prevail in (win) administrative hearings or court actions; a description of the action proposed or refused by the school district; reasons the school district proposes or refuses to take action; description of any options considered and reasons those were rejected; description of each evaluation procedure, test, record, or report used. Notice must be given to parents at several different steps in the procedures described in this booklet. For more information: <http://www.fape.org/pubs/FAPE-24.pdf>

Occupational Therapy (OT)- Therapy that can be provided in the school setting to improve a child's ability to perform tasks for independent functioning relevant to their IEP goals. As well as independent functioning, OT also includes fine motor skills and sensory integration. School based therapy can only be provided if it is needed to achieve the IEP goals and is not meant to meet the child's total occupational therapy needs. For more information: <http://www.education.ky.gov>

Orientation and Mobility (O&M) -A service provided by a qualified person in which a student who is blind or has a visual impairment is taught how to safely and effectively move through his/her environment.

Physical Therapy (PT) - Therapy that can be provided in the school setting to improve functional gross motor skills identified by a child's IEP goals. The role of the Physical Therapist working in school is to assist the student in meeting IEP/educational goals and not the child's total physical therapy needs. **See link above under Occupational Therapy for more information.**

Placement- The setting in which a child will be educated (e.g. regular class, resource room, or self-contained classroom) which is reported as a percentage of time in the regular classroom on the ARC conference summary. This must be discussed and agreed upon in the ARC meeting.

Psychological Services- Services such as administering psychological and educational tests and other assessments, interpreting the results of those tests, and making recommendations and consulting with staff members to plan school programs to meet the special needs as indicated by the tests and procedures.

Quantile- A math measure that identifies a student's ability to think "mathematically" in a variety of ways: math skills, concepts, and applications. It provides an indication of how well a student understands mathematical concepts and skills at his or her grade level. For more information: <http://www.quantiles.com/>

Recreation- Services that teach/allow a student to participate in leisure, extracurricular, or recreational activities both inside and outside of school. This includes location of resources/programs and use of adaptive recreation equipment.

Regular Class Placement- The settings in which children without disabilities are educated (i.e., the regular classroom.)

Related Services- The federal regulations for IDEA define related services as "transportation and such developmental, corrective, and other supportive services as are required to assist a child with a disability to benefit from Special Education, and includes speech pathology and audiology, psychological services, physical and occupational therapy, recreation, including therapeutic recreation, early identification and assessment of disabilities in children, counseling services, including rehabilitation counseling, and medical services for diagnostic or evaluation purposes." The term also includes school health services, social work services in schools, and parent counseling and training.

Reliability- The consistency of results of a test. If a test is supposed to measure something stable, such as IQ, the results should be fairly close to the same if the test is re-administered.

Resource room- A type of classroom where a child can receive intensive instruction in specific subjects, such as reading or math, from a Special Education Teacher for part of his/her school day.

Response to Intervention (RtI)- A multistep system of intervention for all preschool to 12th grade students which includes screening in behavior, math, and reading.

School Health Services- A related service that includes nursing and/or other health-related services needed to allow the student to attend school daily and which are performed by a nurse or other trained person, but not those services which must be provided by a physician.

Self-Contained or Special Class- A type of Special Education placement in which a child receives most (or all) of his/her instruction in a class with children with disabilities.

Specially Designed Instruction (SDI)- SDI describes what the teacher does to adapt the content, teaching methods, and delivery of instruction to best meet the needs of the student. Specially designed instruction is also where the IEP should describe all instruction needed to be given to the student to use assistive technology devices, materials, or services.

Speech Language Pathologist (SLP)- A person qualified to identify children with speech language disorders; diagnose specific speech or language disorders; provide speech and language therapy; and collaborate with parents, children, and teachers about speech and language disorders.

State Education Agency (SEA) - In federal and state regulations this term is used to describe the Kentucky Department of Education.

Supplementary Aids and Services- Aids, services, and other supports such as large-print materials, braille, calculators and other assistive technology, behavior management, counseling, etc., that are provided to help children with disabilities to be educated alongside children without disabilities to the maximum extent possible.

Transition- In Kentucky, beginning at age 14 or when your child is in the 8th grade, the ARC must discuss preparation for your child to enter the adult world. At age 16, there must be written goals that reflect these preparations. Transition plans must address work, continuing education after high school, living situation, recreation/leisure, and community participation. For more information see: www.transitiononestop.org, <http://www.ncset.org/>, or <http://www.ncwd-youth.info/>.

Transportation- includes:

- Travel to and from school and between schools
- Travel in and around school buildings
- Specialized equipment (such as special or adapted school buses, lifts, and ramps), as needed to provide special transportation

Special Transportation information can be found at the following web address:

<http://www.education.ky.gov>

Valid- A test or intervention is valid if it is used or interpreted in the manner prescribed and measures what it claims to measure.

Vocational Education- Educational programs which prepare individuals for paid employment.

Arc (United States)	http://www.thearc.org/
American Diabetes Association	www.diabetes.org
Americans with Disabilities Act Technical Assistance	www.adata.org
Autism Society of America	www.autism-society.org
Best Buddies International	www.bestbuddies.org
Centers for Disease Control	www.cdc.gov
Cerebral Palsy Kids Center	www.kidscenterky.org
Children and Adults with Attention- Deficit/Hyperactivity Disorder	www.chadd.org
Council for Exceptional Children	www.cec.sped.org
Disability.gov	www.disability.gov
Institute on Community Integration at the University of Minnesota	www.ici.umn.edu
Job Accommodations Network	www.jan.wvu.edu
National Alliance for the Mentally Ill	www.nami.org
National Association for Down Syndrome	www.nads.org
National Attention Deficit Disorder Association	www.add.org
National Center for Learning Disabilities	www.nclld.org
National Council on Independent Living	www.ncil.org
National Information Center for Children and Youth with Disabilities	www.nichcy.org
National Parent Network on Disabilities	www.npnd.org
National Spinal Cord Injury Association	www.spinalcord.org
The Office of Special Education Programs (OSEP)	www.ed.gov/about/offices/list/osers/osep/index.html
PACER Center	http://www.pacer.org/
Self-Advocates Becoming Empowered	www.sabeusa.org
TASH	http://tash.org/
Tourette Syndrome Association	www.tsa-usa.org
United Cerebral Palsy Association	www.ucpa.org
The US Department of Education	www.ed.gov/index.ihtml
Wrightslaw	www.wrightslaw.com

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100 Fair Oaks Lane
Frankfort, KY 40601

502-564-2967

1-800-372-2988

www.kypa.net