



## Navigating IDEA With Precision

The Individuals with Disabilities Act (IDEA) ensures that eligible children with disabilities are provided a **free appropriate public education (FAPE)** provided in the **Least Restrictive Environment (LRE)**. The **Individualized Education Program (IEP)** describes the **special education and related services** the student will receive.

At a minimum, IDEA requires compliance; however, what parents are hoping for goes beyond compliance. Understanding what IDEA requires can help IEP teams work better together to support better outcomes.

**Check your knowledge of what IDEA requires by answering the following questions.** Click on the bookmark at the answer you choose, and you will be taken to the answer page for that question. There may be more than one correct answer. Read all the information on the answer page. From the answer page, click the bookmark at “Go to the Next Question” to go back to the next question.

### Question 1 (School location)

**My child has been determined eligible for Special Education, where will they go to school?**

- A. [Their neighborhood school](#)
- B. [As close as possible to home](#)
- C. [A location selected from a Continuum of Alternative Placements](#)
- D. [As determined by a knowledgeable group of people including the parents.](#)



peakparent.org



## Question 2 (Classroom Placement)

Within the school setting, what factors are important in determining the classroom placement?

- A. [The classroom location](#)
- B. [The child's circumstances](#)
- C. [The unique needs of the child](#)
- D. [Parental preference](#)

## Question 3 (Maximum Extent Appropriate)

What is something that should be done to the *maximum extent appropriate*?

- A. [Inclusion](#)
- B. [Participation in the mainstream](#)
- C. [Participation with nondisabled peers](#)
- D. [Grade-level achievement](#)





#### Question 4 (Content)

**As a student receiving special education, what should guide the content your student works on?**

- A. [General curriculum](#)
- B. [State standards](#)
- C. [Present level of educational performance](#)
- D. [Methodology](#)

#### Question 5 (Goals)

**What kind of goals does the IEP support?**

- A. [Guarantee of progress](#)
- B. [Good grades](#)
- C. [Measurable annual goals](#)
- D. [With a justification](#)



peakparent.org



### Question 6 (Special Education Program)

Which of the following are part of a special education program?

- A. [Specially designed instruction](#)
- B. [Related services](#)
- C. [Supplementary aids and services](#)
- D. [Specified frequency and duration](#)

### Question 7 (Participation)

Which of the following will your child participate in?

- A. [Extracurricular activities](#)
- B. [Physical education](#)
- C. [Behavior intervention plan](#)
- D. [Extended school year](#)

### Question 8 (What the Program Provides)

What do you hope the special education program will provide?

- A. [What is best for the student](#)
- B. [An appropriately ambitious program](#)
- C. [A basic floor of opportunity](#)
- D. [Some educational benefit](#)



peakparent.org



## Answers to Question 1

### **My child has been determined eligible for Special Education, where will they go to school?**

Placement is determined after the rest of the IEP is developed. The decision is based on the services your child needs and takes several other factors into consideration. Your child's placement must be in the Least Restrictive Environment.

### **Their Neighborhood School**

Maybe, but not required by IDEA. Unless the IEP of a child with a disability requires some other arrangement, the child is educated in the school that they would attend if nondisabled. [39 CFR §300.116](#) (c). In Colorado, this could be a public school of choice or a charter school. As public schools, charter schools must open their enrollment to any student who lives within the authorizing school district. For more information, see [Colorado Charter Schools and Special Education Overview](#).

### **As close as possible to home**

Yes, the child's placement should be as close as possible to home. [39 CFR §300.116](#) (c)

### **A location selected from a Continuum of Alternative Placements**

Yes, the *continuum of alternative placements* includes the different options where children can receive services. These options include placements such as:

- a general education class.
- a special education class.
- a special education school.
- at home, or
- in a hospital or other public or private institution.

[39 CFR §300.115](#)

### **As determined by a knowledgeable group of people including the parents**

Yes, the placement decision is made by a group of persons, including the parents, and other persons knowledgeable about the child, the meaning of the evaluation data, and the placement options. [39 CFR §300.116](#) (c)

### **[Go to next question \(2\):](#)**



peakparent.org



## Answers to Question 2

### **Within the school setting, what factors are important in determining the classroom placement?**

Placement refers to the range or continuum of educational settings available in the district to implement a student's IEP and the overall amount of time they will spend in the general education setting. The school district is required to have a range of placements where a child can be taught, including in the general education classroom.

#### **The classroom location**

Placement in special education is not the same as physical location. The classroom location is not a required consideration when determining placement.

#### **The child's circumstances**

To provide FAPE, an IEP, including placement, must be "reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances." [\*Endrew F. v. Douglas County School Dist. RE-1, 580 U.S. 386 \(2017\).\*](#)

#### **The unique needs of the child**

The IEP, including placement, is developed to meet the unique needs of the child. IDEA defines the term "special education" to mean specially designed instruction, at no cost to parents, to meet the **unique needs of a child** with a disability. Also, the Supreme Court in the *Endrew F.* case noted that "[t]he adequacy of a given IEP turns on the unique circumstances of the (student) for whom it was created."

#### **Parental preference**

Although parents must be included in the group that makes the placement decision, parental preference is not a basis for the decision. See [\*39 CFR §300.116\*](#) (c)

[\*\*Go to the next question \(3\).\*\*](#)



peakparent.org



## Answers to Question 3

### What is something that should be done to the maximum extent appropriate?

The words “maximum extent appropriate” are only used in relation to the Least Restrictive Environment (LRE). To the maximum extent appropriate, children with disabilities are (1) educated with children who are nondisabled. [34 CFR §300.114](#); (2) able to participate in extracurricular activities with children who are nondisabled. [34 CFR §300.117](#); and (3) provided supplementary aids and services to enable them to be educated with children who are nondisabled. [34 CFR §300.42](#).

#### **Inclusion.**

No. Inclusion is not mentioned in IDEA. The law requires that students with disabilities be educated in the least restrictive environment (LRE), meaning that they are educated with nondisabled peers to the maximum extent appropriate.

#### **Participation in the mainstream.**

No. Participation in the mainstream is not mentioned in IDEA. The law requires that students with disabilities be educated in the least restrictive environment (LRE), meaning that they are educated with nondisabled peers to the maximum extent appropriate.

#### **Participation with nondisabled peers.**

Yes. The least restrictive environment (LRE) is part of IDEA. Under [20 USC §1412\(a\)\(5\)](#) children with disabilities should be educated with “children who are not disabled” to the “maximum extent appropriate.”

#### **Grade-level achievement.**

No. While IEP goals are aligned with grade-level content standards, the words “maximum extent appropriate” are not used to describe grade-level achievement. IDEA uses the words “maximum extent appropriate” in the law and regulations related to the least restrictive environment (LRE).

[Go to the next question \(4\).](#)



peakparent.org



## Answers to Question 4

**As a student receiving special education, what should guide the content your student works on?**

### General curriculum

Yes. IDEA requires that students with disabilities be provided access to the general education curriculum. The goal of special education is to enable students with disabilities to make progress in the same grade level curriculum as their peers.

### State standards

Yes. The definition of FAPE states that FAPE means special education and related services that meet the standards of the State educational agency. [21 USC §1401\(9\)\(B\)](#)

### Present level of educational performance

Yes. IDEA requires that each IEP must include a statement of the child's present levels of academic achievement and functional performance. Consideration of performance is highly individualized. [20 USC §1414\(d\)\(1\)\(A\)\(i\)\(I\)](#)

### Methodology

IDEA does not specify methodologies that should be used. The IEP must include a statement of the special education and related services and supplementary aids and services, **based on peer-reviewed research to the extent practicable.**

[20 USC §1414\(d\)\(1\)\(A\)\(i\)\(IV\)](#)

Further “specially designed instruction” means adapting, as appropriate to the needs of an eligible child under this part, the content, **methodology**, or delivery of instruction— (i) To address the unique needs of the child that result from the child's disability; and (ii) To ensure access of the child to the general curriculum, so that the child can meet the educational standards within the jurisdiction of the public agency that apply to all children. [34 CFR §300.39\(b\)\(3\)](#)

**[Go to the next question \(5\).](#)**



peakparent.org





## Answers to Question 5

### What kind of goals does the IEP support?

The IEP must include a “statement of measurable annual goals, including academic and functional goals designed to -- (A) Meet the child’s needs that result from the child’s disability to enable the child to be involved in and make progress in the general education curriculum; and (B) Meet each of the child’s other educational needs that result from the child’s disability . . . [34 CFR §300.320\(a\)\(2\)\(i\)](#)

### Guarantee of Progress

No. IDEA does not provide a **guarantee of progress**. Measuring the progress that a student is making *toward* their annual goals is an essential part of the special educational process. If a student is not making meaningful progress toward their goals, this may be a sign that the IEP needs to be changed.

### Good grades

No. **Good grades** are not part of IDEA. When a student receives special education services, schools are also required to report on the student’s progress toward IEP goals, which is separate from course grades. A child does not have to fail or be retained to be considered for special education and related services. [34 C.F.R. §300.101\(c\)](#). Also, a child who is making good grades may still need specially designed instruction and related services.

### Measurable annual goals

Yes. The IEP must include a statement of **measurable annual goals**, including academic and functional goals, designed to— (aa) meet the child’s needs that result from the child’s disability to enable the child to be involved in and make progress in the general education curriculum; and (bb) meet each of the child’s other educational needs that result from the child’s disability. [21 USC §1414\(d\)\(1\)\(A\)\(i\)\(II\)](#)

### With a justification

No. IDEA does not require that a “**justification**” be provided for annual goals or other IEP content. The annual goals must be measurable, and the IEP must be reasonably calculated to enable the student to make progress toward the goals. See [Andrew F.](#)

[Go to the next question \(6\).](#)



peakparent.org



## Answers to Question 6

### Which of the following are part of a special education program?

Special education is **specially designed instruction** to meet the unique needs of an eligible child with a disability. The IEP must contain a statement of the special education and **related services** and **supplementary aids and services** to be provided to the child, as well as the projected date for the beginning of the services and modifications and the anticipated **frequency, location, and duration** of those services and modifications.

#### **Specially designed instruction**

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

[20 USC §1401\(29\); 34 CFR §300.39](#)

#### **Related services**

The term “free appropriate public education” means special education and **related services** that are provided pursuant to IDEA.

[20 USC §1401\(26\)\(A\); 34 CFR §300.34](#)

#### **Supplementary aids and services**

The term “supplementary aids and services” means aids, services, and other supports that are provided in regular education classes or other education-related settings to enable children with disabilities to be educated with nondisabled children to the maximum extent appropriate in accordance with [§1412\(a\)\(5\)](#) of IDEA.

#### **Specified frequency and duration**

The IEP must specify the projected date for the beginning of the services and modifications, and the anticipated **frequency, location, and duration** of those services and modifications. [20 USC §1414\(d\)\(1\)\(A\)\(i\)\(VII\)](#).

[\*\*Go to the next question \(7\).\*\*](#)



peakparent.org



## Answers to Question 7

**Which of the following will your child participate in?**

### **Extracurricular activities**

Yes. The IEP must include supports that will be provided for the child to participate in extracurricular and other nonacademic activities. [20 USC §1414\(d\)\(1\)\(A\)\(i\)\(IV\)](#)

### **Physical education**

Yes. Special education includes instruction in physical education.

[20 USC §1401\(29\)](#)

### **Behavior Intervention Plan**

Maybe. A behavior intervention plan (BIP) is a written improvement plan created for a student based on the outcome of the functional behavior assessment (FBA). The FBA should identify what is maintaining or causing a challenging behavior, and the BIP specifies the actions to take to improve or replace the behavior.

[20 USC §1415\(k\)\(1\)\(F\)](#)

### **Extended School Year (ESY)**

Maybe. Extended school year services must be provided only if a child's IEP Team determines, on an individual basis, . . . that the services are necessary for the provision of FAPE to the child. [34 CFR §300.106](#) The purpose of ESY services is to maintain a student's previously learned skills sufficient to prevent significant regression. [CDE](#)

[Information on ESY Services.](#)

**[Go to the next question \(8\).](#)**



peakparent.org



## Answers to Question 8

**What do you hope the special education program will provide?**

**What is best for the student.**

What is best for the student is **not** part of the standard for FAPE.

**An appropriately ambitious program**

This is part of the standard for FAPE. “[The IEP] must be **appropriately ambitious** in light of his circumstances, just as advancement from grade to grade is appropriately ambitious for most children in the regular classroom.”

[Andrew F. v. Douglas County School District RE-1, 580 U.S. 386 \(2017\)](#)

**A basic floor of opportunity**

This is part of the standard for FAPE. In the *Rowley* decision, the US Supreme Court concluded “that the “**basic floor of opportunity**” provided by the Act consists of access to specialized instruction and related services which are individually designed to provide educational benefit to the handicapped child.” [Board of Education, Hendrick Hudson Central School District v. Rowley, 458 U. S. 176 \(1982\)](#)

**Some educational benefit**

This is part of the standard for FAPE. In the *Rowley* decision, the US Supreme Court held that FAPE requires services that provide students with "some educational benefit." [Board of Education, Hendrick Hudson Central School District v. Rowley, 458 U.S. 176, 200 \(1982\)](#)



peakparent.org



## Additional Information

### Free Appropriate Public Education (FAPE)

34 C.F.R. §§300.17 & 300.101.

- **Special education and related services** at public expense delivered in conformity with the IEP in the LRE.
  - “Reasonably calculated to produce educational benefit.”
  - “Basic floor of opportunity.”

*Bd. of Educ. of the Hendrick Hudson Cent. Sch. Dist. v. Rowley*, 458 U.S. 176 (1982).

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

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

*Bd. of Educ. of the Hendrick Hudson Cent. Sch. Dist. v. Rowley*, 458 U.S. 176 (1982).

- **FAPE in the 10<sup>th</sup> Circuit U.S. Court of Appeals before *Andrew F.*** (see below)
  - This circuit has long subscribed to the *Rowley* Court's "some educational benefit" language in defining a FAPE.
  - "The Act does not require that States do whatever is necessary to ensure that all students achieve a particular standardized level of ability and knowledge. Rather, it much more modestly calls for the creation of individualized programs reasonably calculated to enable the student to make *some* progress towards the goals within that program."
- ***Andrew F. v. Douglas County Sch. Dist. RE-1*, 580 U.S. 386 (2017).** The majority opinion written by Chief Justice John Roberts rejected the 10<sup>th</sup> Circuit's "merely more than de minimis" standard. Some key language from the opinion (with emphasis added):



peakparent.org



- An “educational program must be **appropriately ambitious** in light of his circumstances, just as advancement from grade to grade is **appropriately ambitious** for most children in the regular classroom. The goals may differ, but every child should have the chance to meet challenging objectives.”
- "It cannot be the case that the [Individuals with Disabilities Education] Act typically aims for grade-level advancement for children with disabilities who can be educated in the regular classroom, but is satisfied with barely more than *de minimis* progress for those who cannot.”
- “When all is said and done, a student offered an educational program providing ‘merely more than de minimis’ progress from year to year can hardly be said to have been offered an education at all. For children with disabilities, receiving instruction that aims so low would be tantamount to sitting idly awaiting the time when they were old enough to drop out. . . The IDEA demands more. **It requires an educational program reasonably calculated to enable a child to make progress appropriate in light of the child’s circumstances.**”

### Special Education

- Specially designed **instruction** to address the unique needs of the child that result from the disability, and to ensure access to the general curriculum.
- It means individually adapting the content, methodology, or delivery of **instruction** to:
  - Address the unique needs of the student resulting from the disability; AND
  - Ensure access to the general education curriculum so that the student can meet the standards that apply to all children. *34 C.F.R. §300.39.*

### Related Services

- Related services mean transportation and such developmental, corrective, and other supportive services as are required **to assist a child to benefit from special education.** *34 C.F.R. §300.34.*

### Least Restrictive Environment (LRE)

*The Three Maximums*



peakparent.org



1. To the **maximum** extent appropriate, children with disabilities are educated with children who are nondisabled. *34 C.F.R. §300.114.*
2. To the **maximum** extent appropriate, children with disabilities are able to participate in extracurricular activities with children who are nondisabled. *34 C.F.R. §300.117.*
3. To the **maximum** extent appropriate, children with disabilities are provided supplementary aids and services to enable them to be educated with children who are nondisabled. *34 C.F.R. §300.42*

PEAK Parent Center partners with the Colorado Department of Education’s (CDE) Exceptional Student Services Unit (ESSU), to provide resources and information to support CDE’s Alternative Dispute Resolution (ADR) efforts. [Information on ADR](#) can be found on CDE’s website. This resource is provided for informational purposes to support collaboration in the IEP process and does not necessarily represent the policy or views of CDE. PEAK Parent Center is not a legal services agency and does not provide legal advice or legal representation. Any information contained in this document is not intended as legal advice and should not be used as a substitution for legal advice.



peakparent.org