

SmartStart: IEP Basics -- Overview

[Overview](#) | [Key Points](#) | [Links](#) | [Additional Resources](#)

This SmartStart is updated with references to the IDEA 2004 statute, the 2006 IDEA Part B regulations, and the 2008 amendments to the Part B regulations.

Overview

An individualized education program is the written document memorializing the collaborative effort between parents and district personnel to develop an educational plan for a student with a disability. The IEP describes the child's individual needs and proscribes the proper placement and services designed to meet those unique needs. *Schaffer v. Weast*, 44 IDELR 150 (U.S. 2005). This SmartStart addresses the basic contours of the requirement of the IDEA.

Key Points

These key-point summaries cannot reflect every fact or point of law contained within a source document. For the full text, follow the link to the cited source.

IEP -- DEFINITION AND DESCRIPTION

- The purpose of the IDEA is to provide a "cooperative process" between parents and schools, and a central component of this collaboration is the IEP process. *Schaffer v. Weast*, 44 IDELR 150 (U.S. 2005). See also [SmartStart: IEPs -- Mandatory Meeting Participants](#).
- The IDEA defines an IEP as "a written statement for each child with a disability that is developed, reviewed, and revised in a meeting in accordance with 34 CFR 300.320 through 34 CFR 300.324." 34 CFR 300.22. Among other requirements, an IEP must include a statement of the child's current educational performance, articulate measurable educational goals, and specify the nature of the special services that the district will provide. 34 CFR 300.22; and 34 CFR 300.320(a).
- As described by the U.S. Supreme Court, the IEP is a comprehensive statement of the educational needs of a child with a disability and the specially designed instruction and related services a district will employ to meet those needs. *Burlington Sch. Comm. v. Massachusetts Dep't of Educ.*, 556 IDELR 389 (U.S. 1985). See *Letter to Chambers*, 59 IDELR 170 (OSEP 2012) (The fact that some educational services "may also be considered 'best teaching practices' or 'part of the district's regular education program' does not preclude those services from meeting the definition of 'special education' or 'related services' and being included in the child's IEP."). See also [SmartStart: IEPs -- Contents](#).
- The IEP is the cornerstone of the IDEA that sets forth the FAPE that is offered to a child with a disability eligible to receive special education and related services under the IDEA. See 34 CFR 300.17. The failure of an IEP to address a child's educational needs will likely result in a denial of FAPE. See *Forest Grove Sch. Dist. v. T.A.*, 52 IDELR 151 (U.S. 2009) ("[W]hen a child requires special-education services, a school district's failure to propose an IEP of any kind is at least as serious a violation of its responsibilities under IDEA as a failure to provide an adequate IEP."); *Jefferson County Bd. of Educ. v. Lolita S.*, 64 IDELR 34 (11th Cir. 2014, *unpublished*) (ruling that a district violated the IDEA when it used a boilerplate IEP for a student with SLD and held him to the same academic standards as children without disabilities); and *S.B. v. New York City Dep't of Educ.*, 65 IDELR 264 (S.D.N.Y. 2015) (measurement methods for IEP goals were "more of an 'anything goes' laundry list" that lacked necessary specifics and individualization).
- In *Damarcus S. v. District of Columbia*, 67 IDELR 239 (D.D.C. 2016), an IEP team's repetition of a student's goals across multiple IEPs was a good indication that the IEPs weren't designed to produce progress. The District Court held that the district denied FAPE to the student with an intellectual disability by failing to address the student's lack of improvement. "An alarming number of goals and objectives were simply cut-and-pasted (typos and all) from one IEP to the next," the court wrote. Having identical goals year after year not only caused the student anxiety and frustration, the court observed, it was also a sign that the IEPs needed revision.

THE IEP IS A COMMITMENT TO PROVIDE SERVICES, NOT A GUARANTEE OF EDUCATIONAL PERFORMANCE

- A district's obligation to provide FAPE to a student with a disability is satisfied when the district provides the student with the personalized educational program necessary to allow the child to derive an educational benefit from that instruction. In other words, the FAPE requirement of the IDEA demands *access* to educational opportunity only, not the specific *achievement* of educational results. *Board of Educ. of the Hendrick Hudson Cent. Sch. Dist. v. Rowley*, 553 IDELR 656 (U.S. 1982) ("We ... conclude that the 'basic floor of opportunity' provided by the [IDEA] consists of access to specialized instruction and related services which are individually designed to provide educational benefit to the handicapped child.").
- The U.S. Circuit Courts of Appeal are split as to whether the IDEA requires "some educational benefit" or a "meaningful educational benefit." For example, in *O.S. v. Fairfax County School Board*, 66 IDELR 151 (4th Cir. 2015), the 4th Circuit ruled that the word "meaningful" (as used in *Board of Education of the Hendrick Hudson Central School District v. Rowley*, 553 IDELR 656 (U.S. 1982)) simply means "more than trivial." Thus, in the 4th Circuit's view, a child who makes nontrivial progress receives FAPE regardless of how that benefit is classified. *But see, e.g., D.B. v. Esposito*, 58 IDELR 181 (1st Cir. 2012) (holding that *Rowley*'s "some educational benefit" requires "meaningful" as opposed to "trivial" educational benefit). *See also* [SmartStart: FAPE -- Standards for Appropriate Education under IDEA](#).
- The IEP does not operate as a contract offering guarantees that a student will achieve a certain amount of academic proficiency. *Coale v. State Dep't of Educ.*, 35 IDELR 149 (D. Del. 2001). *See Schaffer v. Weast*, 51 IDELR 177 (4th Cir. 2009) (holding that the parents could not use the student's 10th-grade IEP to show that his eighth-grade IEP was inappropriate, as the eighth-grade IEP was reasonably calculated to provide FAPE at the time it was developed). *See also* [SmartStart: IEPs -- Statement of Goals and Objectives](#).
- The IEP must afford a student an opportunity for more than just "trivial advancement." *W.S. v. The City Sch. Dist. of the City of New York*, 67 IDELR 242 (S.D.N.Y. 2016) (district's inability to show that a child with autism could make educational progress in the 6:1:1 setting it proposed and further evidence that she had actually regressed in a similar setting in the past undermined its contention that the placement was appropriate); *E.S. and M.S. v. Katonah-Lewisboro Sch. Dist.*, 59 IDELR 63 (2d Cir. 2012, *unpublished*) (finding that a student's IEP, which was an exact copy of his IEP from a previous school year, did not provide him with a meaningful educational benefit); and *Woods v. Northport Pub. Sch.*, 59 IDELR 64 (6th Cir. 2012, *unpublished*) (ruling that although a child made some progress in the second grade, his regression in reading, writing, and math showed that his IEP was inappropriate).

VERBAL IEPs

- An IEP is, by definition, a written document. 34 CFR 300.22; and 34 CFR 300.320(a). Furthermore, at least one Circuit Court has held that an IEP must be documented in writing to be enforceable. *See Burilovich v. Board of Educ. of the Lincoln Consol. Schs.*, 32 IDELR 85 (6th Cir. 2000), *cert. denied*, 112 LRP 25341, 531 U.S. 957 (2000).

Links

- [SmartStart: IEP Basics -- The Meeting, the Document and the Process](#)
- [SmartStart: IEPs -- Contents](#)
- [SmartStart: IEPs -- Developing the Initial Document](#)
- [SmartStart: IEPs -- Mandatory Meeting Participants](#)
- [SmartStart: IEPs -- Description of the Document](#)
- [SmartStart: Placement -- Relationship Between IEP and Placement](#)

Additional Resources

Additional resources on this topic are available for purchase from LRP Publications:

- [The Nuts & Bolts of IEP Meetings: Attendance, Format & Participation](#) presented by Melinda Jacobs, Esq.
- [Your Big Picture, Real-Life Guide to the Entire IEP Process](#) by Dr. Derek Ihori and Dr. Alexia Melara
- [Getting the IEP Right: Tips to Avoid Substantive and Procedural Errors](#) presented by Nancy Fredman Krent, Esq.

Please share your experience and expertise. Forward any suggested additions or changes to this or other SmartStarts to SmartStarteditor@lrp.com.

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