



Autism Society of NORTH CAROLINA

IEP RESOURCE GUIDE INTRODUCTION TO AN IEP

2/25/08

What is an IEP? Those letters refer to an Individualized Education Program, which is required by IDEA (Individuals with Disabilities Education Act), a federal law. This is the law that guarantees a Free Appropriate Public Education (FAPE) for all children with disabilities who **need** special education and related services.

Who is covered by an IEP? A child with a disability aged 3 through 22 (if a student turns 22 during the school year, that student is allowed to finish the year) is eligible, if that child needs special education and related services. Preschool services are based upon the needs of the child and are not necessarily provided for a full day. A child must have a disability and must need “special education and related services” in order to qualify for an IEP. After high school, there is no requirement for services.

Why do some children with disabilities need an IEP? The purpose of an IEP is to provide the necessary assistance to allow a child to participate and progress in the regular education environment. The accommodations and modifications on an IEP help to level the playing field and do not provide an advantage to children with disabilities.

How is an IEP developed? An IEP is developed by a team, which includes the parents, a special education teacher, a regular education teacher, someone to explain evaluation results, and a school representative. If related services are involved (speech, occupational/physical therapy, etc.), then those persons are also included. The child with the disability is also invited, especially at age 14 and older. An IEP is revised and rewritten annually, although it may be amended at any time. Parents are members of the team that writes the IEP and play an active role in the process, working together with teachers and other service providers (speech therapists, occupational therapists, etc.).

A few important terms from the federal law, Individuals with Disabilities Education Act (IDEA):

FAPE: free appropriate public education

LRE: least restrictive environment

IEP: Individualized Education Program

There are numerous procedures and policies affecting IEPs; IDEA sets the minimum standards, while the NC Policies Governing Services for Children with Disabilities specifies the standards for North Carolina. In some cases, NC policies are even more comprehensive than IDEA (for example, in requiring a transition plan at age 14 instead of the federally-mandated age of 16).

RESOURCES:

<http://idea.ed.gov/explore/home>

<http://www.ncpublicschools.org/ec/>

Wrightslaw: Special Education, 2nd Edition

FREQUENTLY ASKED QUESTIONS:

1. **Do I have to sign the IEP?** While you do not have to sign, your signature merely indicates that you were present and participated; if you disagree, you can note on the form that you disagree and with which parts. The form says “present and participated in the writing and development of the IEP”—don’t you want it known that you were there and helped?
2. **Who is on the IEP team; is there a leader; do we vote in case of disagreements?** The IEP team is composed of the following people: the parents, the child with the disability (whenever appropriate, but especially at age 14 and above), at least one special education teacher (EC teacher), at least one regular education teacher, someone who can interpret evaluation results, and the LEA (Local Education Agency, or school representative). If related services are involved (speech, occupational/physical therapy, etc.), then those persons are also included. The LEA must be someone who can: provide or supervise special education, is knowledgeable about the general education curriculum, and is knowledgeable about the availability of resources of the school district (and can commit them). While someone from the school will conduct the meeting, there is no “leader” of an IEP team. All decisions are made by consensus (meaning all team members should agree or at least consent to the decision)—this is not a voting situation! In some cases, the school district may adamantly refuse a request, in which case it is time to consider other means of resolving the disagreement.
3. **Can the parents bring someone with them to an IEP meeting?** Yes. In fact, we often recommend that parents have someone with them for moral support; it can be anyone with “knowledge or expertise regarding the child” (DPI Policies). An IEP meeting can be an emotional time, and it is very helpful to have someone who can observe the interactions, take notes, and be supportive.
4. **How do I change my child’s placement?** It is a common misconception to confuse placement with location. In special education, *placement refers to the type and amount of special education services that a child receives*, not the location or the specific type of the classroom. When considering which parts of the day that a student can spend with non-disabled peers, don’t forget lunch, recess, morning announcement time, and specials (art, music, P.E., foreign language). From that point, it is a matter of calculating the minutes spent in the regular education class to determine whether the **placement** is Regular, Resource or Separate (see the separate sheet with examples). The type of classroom is not changed by the IEP team, but the amount of special education services is.

5. **Can I call an IEP meeting; how long do I have to wait; what if the school wants to meet at a time when I can't meet?** Before scheduling an IEP meeting, try a conference with the teacher. However, any member of the IEP team can request a meeting; it's always a good idea to make this request in writing, offer several times/dates when you are available, and request a response within some reasonable time. Be sure to follow up your request with a letter if a meeting is not scheduled. Meetings should be scheduled at mutually agreed upon times; it is reasonable to expect a meeting within about 10 days. Remember there are alternate ways of attending meetings (telephone/video conferencing).

6. **What do I do if I disagree with the IEP?** You have several options, ranging from further discussions to a lawsuit. It is usually advisable to start with the least confrontational method and proceed from there.
 - a. Call another IEP meeting and bring someone with you; you can record the meeting if you notify the school (they will also then record it).
 - b. Request a facilitated IEP meeting; the Department of Public Instruction (DPI) will provide a person to run the meeting, free of charge. This person is not involved in the discussions other than to manage the process; they keep people on track, focused, and civil.
 - c. Call DPI and lodge either an informal, verbal complaint (alleging a violation of law) or a formal, written complaint. These are investigated and resolved within 60 days. The school will be contacted, as will the EC Director for the school system. There must be a specified violation of either IDEA or NC Policies: a denial of a free and appropriate public education, refusal to educate in the least restrictive environment, or failure to implement the IEP, for example. However, DPI will not investigate if the complaint is about a poorly written or ineffective IEP.
 - d. Request mediation, also through DPI and free of charge. An impartial mediator will contact both parties (parents and school) to hear their positions, and then schedule a meeting to attempt a compromise. Typically, this process results in an agreement.
 - e. The last resort is to file for a due process hearing, a legal method. This must also be filed with DPI, the Office of Administrative Hearings and the school system's Superintendent or the Exceptional Children's Director. The statute of limitations for filing due process is one year; it can take quite some time to investigate and adjudicate. The paperwork is very detailed and must follow strict procedures as well. As with complaints to DPI, the reason must be related to the identification, evaluation or educational placement of a child with a disability, provision of FAPE or a manifestation determination.
 - f. For more detailed information on these options, please see DPI at <http://www.ncpublicschools.org/ec/policy/dispute>

7. **What if I disagree with the school system's evaluation/determination of eligibility?** If you disagree with the evaluation conducted by the school system or the determination of eligibility, you can request (in writing) an independent evaluation, to be paid by the public school system. The school system must agree to this (or file for a due process hearing) and provide for it promptly. While the school system may ask for a reason, they may **not** require one. Only one independent evaluation may be requested each time evaluations are performed.

8. **How often does the school system have to reevaluate my child/what if the school system tells me that my child does not need to be reevaluated?** The reevaluation process must occur at least once every 3 years, but not more than once per year (NC Policies are available at <http://www.ncpublicschools.org/docs/ec/policy/policies/2007policies.pdf>). During this process, the IEP team reviews the information available about the child: the team can decide that no further information is needed in which case no evaluations are performed. A reevaluation can be performed to assess only a related service area (speech, OT, etc.), or to determine continued eligibility, or it can be a comprehensive assessment—the IEP team decides the scope. The school must reevaluate if the parents or the teacher request additional data. However, the school may skip the reevaluation if the IEP team agrees that the information is not needed. Given that everyone changes, it makes sense to reevaluate at least every 3 years. It is a particularly good idea to have high school seniors evaluated well before they graduate. There is no timeline for performing a reevaluation, although it is supposed to happen in a timely manner.

9. **Who writes the goals and how?** You can help write the goals for your child by using the Standard Course of Study (or Extended Content) on the Department of Public Instruction website (<http://www.ncpublicschools.org/curriculum> or <http://www.ncpublicschools.org/curriculum/ncecs>); you can then bring your draft IEP to the meeting. The goals are usually written in the IEP meeting by the IEP team: the parents, the EC teachers, the LEA (school representative), the regular ed teachers and any related service providers (OT, speech, etc.). Often, the EC teacher will write a draft IEP in advance to save time and have a starting point. It is helpful to ask for the draft prior to the actual meeting so that you can review it. The goals are based on the child's educational and functional needs; this information should follow from the Present Levels of Educational Performance. The goals should also align with the North Carolina Standard Course of Study for the appropriate grade level of the child (see <http://www.ncpublicschools.org/curriculum/> for a listing) and address any parent concerns. For each area of need, there will be a separate page; on it will be a statement of the Present Level of Educational Performance (which includes specific information about the child's performance), an Annual Goal, and Short Term Objectives. The Annual Goal is a broad statement of what the child needs to accomplish by the end of the year that the IEP encompasses, while the Short Term Objectives are the steps needed to achieve that goal. The federal IDEA '04

has eliminated the requirement for short term objectives, so it is only mandatory for children who take alternate assessments (EXTEND 1, 2 or NCCLAS). As of January 2008, most school districts are keeping the short term objectives for now.

- 10. What happens to an IEP when a family moves from one area of NC to another?** If a child moves from one part of NC to another, the new school system must provide **comparable services** (meaning similar to the old school system's). While the new school system may call an IEP meeting to make some changes, based on their observations of the child, the old IEP is in effect until that time.

TIPS

Did you know that a school system has a specific timeline it must follow when a parent of a child asks for an initial evaluation? If a parent suspects that their child might be a child with a disability and requests an evaluation in writing, the school system has 90 days to:

- a. Perform an evaluation of the child, especially in the area of the suspected disability (for autism, specific required screenings and evaluations must be performed)
- b. Decide whether the child is eligible for special education services
- c. Meet to present their results to the parents
- d. Complete an IEP if the child does have a disability
- e. Begin to provide special education services

All assessments and other evaluation materials should be “administered in the child’s native language or other mode of communication and in the form most likely to yield accurate information on what the child knows and can do academically, developmentally, and functionally”. (<http://idea.ed.gov>)

Did you know that a child moving from another state must be provided special education services? The school system is required to provide **comparable services** while beginning the process of evaluation and placement. Although the school system must base its services upon the previous state’s IEP, the child is treated as newly referred to the special education process. This means that the school system has 90 days in which to administer the evaluation assessments (if the IEP team decides that new evaluations are needed; NC can accept the previous state’s evaluations), write a new IEP, decide on the placement (amount of special education services) and begin to provide those services.

*Did you know that all members of the IEP team do **not** have to be present at all meetings?* If the parents (in writing) and the school agree, a member of the IEP team can be excused from attending under two circumstances:

1. The team member’s area of curriculum or related services is not being discussed or modified during that meeting, OR
2. The team member submits written input into the development of the IEP prior to the meeting.

Did you know that an IEP can be amended without holding an IEP team meeting? After an IEP has been written for a school year, the parents and the school can agree to make written changes to the annual IEP without a meeting. If this is done, then the entire IEP team must be notified of the changes. The parents must request a revised copy of the IEP with the amendments included.

Did you know that an IEP team member does not have to be present in the room to be a part of the meeting? IDEA ’04 permits video conferencing and conference calls as alternative forms of meeting; this may be especially helpful to parents who cannot leave their work or home to attend.

Did you know that the school and the IEP team can change an IEP without the parents? If a school has tried and cannot reach the parents, or the parents do not show up for a scheduled meeting, then the school can proceed with the IEP meeting and make changes (but the school must document their attempts to contact the parents).

Did you know that children who are placed in a private school by their parents are entitled to some special education services? The private schools, including religious schools, must meet certain criteria to be defined as elementary and secondary schools. Also, changed in IDEA '04, those services must be provided where the private school is located (not where the parents reside). However, the services provided may be limited in scope and often are limited to speech therapy. Each school system apportions funds for this expense category differently; ask how the system spends its 6B Grant money.

Did you know that a child should have some sort of Behavior Intervention Plan (BIP) if the IEP indicates that he/she has behaviors that impede the learning of his/hers or that of others? If a child has behaviors that affect his/her learning, then there should be a process for addressing those behaviors and replacing them with more acceptable ones. A Functional Behavior Assessment (FBA) and a Behavior Intervention Plan can be useful tools to analyze the function (or purpose) of behaviors and develop effective plans for changing them; both of these are developed by the IEP team and become a part of that document. Please see our **Suspension Resource Guide** for details.

Did you know that the list of accommodations and modifications on the IEP form is not all-inclusive? The parents and teachers can suggest other creative ways to support the student and the teacher. Guided notes, a second set of textbooks to be kept at home, and teacher-produced class notes are some examples.

Did you know that a child cannot have the diagnosis of Developmentally Delayed by 3rd grade? By the age of 8, or upon entering 3rd grade, a child must be reevaluated and receive another diagnosis. Often, these children are diagnosed with autism (which includes PDD-NOS, Asperger's Syndrome, etc.).

Did you know that the Area of Eligibility on the IEP can be marked differently? While most students with autism will have "Autistic" marked, some children have other conditions (for example, cystic fibrosis or a mental illness). For children under 8 years old, "Developmentally Delayed" may be marked. The next section, "Additional Areas of Need", can be used to note co-existing, secondary conditions such as ADHD, Specific Learning Disabilities, etc.

Did you know there are ways to get more time/more help for your child? The amount and type of assistance that a student receives is determined by the needs as documented on the IEP. If you have concerns that your child has greater needs than are being addressed by the IEP, you would want to gather data to justify your claim: review any past IEPs, EOG or EOC scores, and district assessment scores, for example. Some questions to consider: has your child made sufficient progress on the Annual Goals in the past? Could

your child spend more time with nondisabled peers (Least Restrictive Environment), but lacks the support to do so? In requesting additional educational support for a student, remind the IEP team that your child needs this in order to be successful and make progress on the IEP Annual Goals; a school system should not use staffing, scheduling or finances as reasons for denying assistance (whether of personnel or materials). It may also be helpful to remind the team that additional supports are sometimes needed initially, but can be faded over time as the student learns the skills necessary to become more independent.

Did you know that not all children with autism (or other disabilities) will qualify for an IEP? IDEA only provides coverage for a child with a disability “who, by reason thereof needs special education and related services.” For a child with a disability who does not need special education, a Section 504 plan may be an option. Section 504 of the Rehabilitation Act of 1973 provides protection from discrimination based upon a child’s disability, if that disability substantially limits a major life activity (such as talking, walking or learning). Any facility which receives federal assistance is covered by this civil rights law; complaints about a Section 504 Plan must be filed with the Office for Civil Rights in Atlanta, GA.

Did you know that not all disputes with the school system have to involve an attorney? If there are disagreements that cannot be resolved by the IEP team, consider the options available through the Department of Public Instruction (DPI): formal complaints, facilitation, mediation, and due process hearings. Once an attorney begins to represent a parent/child, the school system must also engage their attorney...which means that the school system will no longer speak directly to the parents. The situation can become more volatile, more antagonistic, and less open to negotiation. Consider also what your goals are: what do you hope to gain by legal action? Will your child benefit, or will the process take longer than your child will be in that situation?

WHAT IS AN IEP?

IEP = Individualized Education Program.

It is required by IDEA (Individuals with Disabilities Education Act), a federal law that was reauthorized in 2004. As stated in the law, the purposes are “to ensure that all children with disabilities have available to them **free appropriate public education** that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment, and independent living.”

The purpose of an IEP is to provide the necessary assistance to allow a child to participate and progress in the regular education environment.

WHO IS COVERED BY AN IEP?

A child with a disability aged 3 through 22 (if a student turns 22 during the school year, that student is allowed to finish the year) is eligible, if that child needs special education and related services. Preschool services are based upon the needs of the child and are not necessarily provided for a full day. The location also depends upon the availability of openings (some openings are in preschools contracted by the school system to provide services).

Child with a disability is defined specifically to mean a child with a disability “who, by reason thereof needs special education and related services.”

WHAT SHOULD BE THE PROCESS OF WRITING AN IEP?

Basic steps:

1. When either a parent or a teacher suspects that a child might have a disability, a **written** request should be made to the special education teacher, a regular education teacher or the principal, requesting an evaluation. If a teacher initiates the request, the school system must attempt to obtain informed consent from the parents. Once the written request has been turned in to the school, the school system has 90 days to:
 - a. Perform an evaluation of the child, especially in the area of the suspected disability (for autism, specific required screenings and evaluations must be performed)
 - b. Decide whether the child is eligible for special education services
 - c. Meet to present their results to the parents
 - d. Complete an IEP if the child does have a disability
 - e. Begin to provide special education services
2. An Invitation to Conference is sent to the parents (hopefully about ten days in advance), stating the purpose of the meeting, date/time, and who will be present. This should be returned promptly to the school with alternate dates/times if the listed one is not convenient; it should be at a mutually agreed upon time.
3. The teachers (regular and special education) should collect information indicating the student’s Present Level of Performance. An IEP must include “a statement of the child’s present level of academic achievement and functional performance including how the child’s disability affects the child’s involvement and progress in the general education curriculum...”

4. Under “Consideration of Special Factors”, the first two areas are especially important: Student’s overall strengths and Parent’s concerns. Given the extremely small space for comments, we recommend that parents write “see attached” in this space and attach a brief summary of your child’s strengths as well as your concerns. Each child has areas of strength, and some of these will not be apparent in the school environment. This is your opportunity to share these with the school; perhaps your child appreciates dry humor, or is very creative. If your child has autism, then you must have some concerns about their education, their social skills, or their ability to function in the school and outside the school.
5. For each area of need, the team must write “a statement of measurable annual goal, including academic and functional goals, designed to 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...” For example, there might be a page with math goals, another for reading, another for organization, another for social skills, etc.
6. While each school district may use a different IEP form, the information included must be the same as on the IEP from the DPI website (<http://www.ncpublicschools.org/ec/policy/forms/statewide/>). The IEP team will proceed through the form, filling out the sections as needed. Many Exceptional Children teachers will have completed a draft IEP in advance (be sure to ask for it prior to the meeting so that you can review it in advance); you can always make changes as you discuss the form in the IEP meeting.
7. Section III—Least Restrictive Environment (LRE) considers the accommodations and modifications that the child will need. While the current IEP form on the DPI website lists a variety of possible accommodations, future IEP forms will have a blank area. These are the supports that the child will need in order to access the regular education curriculum; they do NOT offer an advantage, they merely level the playing field.
8. Next, the IEP team considers where the child can participate in the regular education environment: for which classes or times can the child be with non-disabled peers? For each class/activity, the team must also list which of the above accommodations are needed in that class/activity. For example, if the child will be in the regular education classroom for reading, it must be marked if the child needs graphic organizers, read aloud, etc.
9. The section on testing lists which accommodations will be used, which test type will be taken, and why alternate assessments might be appropriate.
10. The placement (LRE), the accommodations/modifications, and the type of testing all help decide the amount of special education services the child needs (frequency and location of services). This will determine what type of classroom the child is placed in: regular education, resource or separate (there are others as well). The special education services can be listed as sessions per week, per month or per reporting period; the location can be either in a special education classroom or in the total school environment (in a regular ed. classroom).

11. Now for the discussion about the type of classroom; this should *follow* the previous sections on the least restrictive environment, the accommodations, the type of tests taken, and the frequency and location of services. It should NOT precede those discussions—it is not acceptable to discuss the type of classroom before discussing the type of services needed, although that mistake is not uncommon. The decision between Regular, Resource and Separate is primarily a mathematical one: how many minutes will the child spend with non-disabled peers, and how many minutes will the child spend in a separate classroom? Each of these three categories requires a certain percentage of the school day (6.5 hours for most elementary students) to be spent with non-disabled peers (Regular 80% or more; Resource 40-79%; Separate 39% or less). The team is also required to explain why the student is removed from non-disabled peers, as well as how and when parents will be informed of the student’s progress toward the annual goals (must be at least as often as regular education reports).
12. Eligibility for extended school year is the next area; there are specific requirements in order to qualify for this service. A student might be eligible if:
 - a. Educational regression over the summer is significant and takes longer than nine weeks to recover, or
 - b. An important skill (such as toileting) is emerging, and the long summer break could result in the loss of the skill, or
 - c. An important skill (such as reading) is likely to be lost without the reinforcement and consistency of school.
13. Finally, the IEP team must sign to signify that the “following were present and participated in the development and writing of the IEP”. Only those who were present and participated should sign (not someone who was in the room for only a brief time). Signing does NOT mean that you agree with everything—you can note your objections in the margins, if you have very strong objections. If you don’t sign, there is no concrete evidence of your presence besides informal minutes; if you think you might lodge a complaint or protest, it might be useful to make it clearly known that you were present.
14. At the very end of the meeting, be sure to review the minutes that were taken for accuracy (especially if there was a conflict of opinion). Do not leave an IEP meeting without a copy of the IEP, a copy of the minutes, and copies of any other papers that were discussed.

See a sample IEP form, from DPI website

(<http://www.ncpublicschools.org/docs/ec/policy/forms/english/dec4-form.pdf>)

LEAST RESTRICTIVE ENVIRONMENT PLACEMENT

Based on a 6.5 hour school day (390 minutes)

Regular Classroom: 80% or more of the day with non-disabled students
LEAST RESTRICTIVE

80% = 312 minutes (5 hours, 12 minutes) or more with non-disabled students

Example: A student in the Regular placement would receive special education services for 20% (78 minutes or 1 hour, 18 minutes) or less of the day.

Resource: 40% - 79% of the day with non-disabled students

40% = 156 minutes (2 hours, 36 minutes)

79% = 308 minutes (5 hours, 8 minutes)

Example: A student in the Resource placement would receive special education services between 21% (82 minutes or 1 hour, 22 minutes) and 60% (234 minutes or 3 hours, 54 minutes) of the day.

Separate: less than 39% of the day with non-disabled students
MOST RESTRICTIVE

39% = 152 minutes (2 hours, 32 minutes)

Example: A student in the Separate placement would receive special education services for 61% (238 minutes or 3 hours, 58 minutes) or more of the day.

Note: Rounding errors exist. When daily schedules vary during the week, it might be necessary to look at placement based on a weekly time frame instead of a daily time frame.

General Testing Modifications for Students with Autism:

These modifications to tests and testing situations have been used effectively with elementary to college age students with autism.

- It will be helpful for students to have a quiet place free from distractions where they can complete the test.
- If needed, there should be extra time allotted for taking breaks, asking questions or for just working on the test.
- It may be necessary to have part of the test be oral or completed on a computer (e.g. essays) if the student has fine motor problems.
- Break down the sections of the test so that the student does not feel overwhelmed. It may be necessary to cut up or separate the test into parts or put pages into folders that are completed and then placed into a finished envelope or folder. Number the sections so that the student knows in what order to complete the test.
- The parts of the test can be organized in a pocket folder with the left pocket where they get the work that needs to be done and the right side where they deposit the finished portions of the test.
- Highlighting the directions or key words is a visual cue that helps the student get started and focus their attention on what they need to do to complete the test.
- It will be helpful for students to have extra written directions or reminders to ask questions if they need help, e.g. “If you have a question raise your hand” or attach a reminder to the student’s desk.
- If the student needs to take breaks make sure that they know (write it down) that there is a limit to how many they can take and how long the breaks are. The student should know this ahead of time.
- Breaks can consist of getting a drink, using the bathroom, stretching, deep breaths, whatever is useful to the student and appropriate to the situation. It will be helpful to have these parameters written down for the student to refer to during the testing period. Timers can be used to help a student know when their break is up and it is time to get back to work.
- Any test event should appear on a student’s daily schedule and/or calendar. If the test is going to be given over a period of several days then the student should be made aware of this.
- It will help some students to have the areas of the test written down for them and then they can cross off those they have finished. This gives them some visual information about how much they have left and what they need to do.
- The student should have a container with pencils, ruler, calculator, erasers, extra paper, copy of schedule, guidelines for taking the test.

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