



Special Education Manual

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Overview

Access, Expectations, Achievement

The Tennessee Department of Education is committed to supporting districts and schools in graduating students with the knowledge and skills necessary to embark on their chosen path in life. This mission extends to all students, including students with disabilities, and is grounded in the following beliefs:

All Students are General Education Students First	Student Success Starts with Strong Leaders
 Special education is not a place; it is the most intensive intervention along a continuum of student supports.	 Leaders must foster a collaborative and inclusive culture.
 All students can learn and demonstrate growth.	 Educators are the key to student success and should be supported instructionally and professionally.
 All students can achieve meaningful postsecondary outcomes.	 The use of high-quality instructional materials are required for all teachers for all students.

Research and practice have demonstrated that several factors are necessary to significantly improve outcomes for students with disabilities. These guiding principles should drive the IEP team’s decisions when developing a student’s educational program.

- Students will be provided with individualized, meaningful instruction and services.
- Students with disabilities will be held to high expectations.
- Teachers will use high-quality materials and instructional resources to identify access points and scaffolds in the curriculum to ensure student participation and progress in grade-level standards.
- Parent(s) are provided meaningful opportunities to participate in the development, review, and revision of their child’s individualized education program (IEP).
- Students will be provided appropriate supplementary supports and services in the general education classroom to the greatest extent possible to ensure access and participation.
- Effective systems of behavior support are provided at the school, class, and individual levels.
- Teachers and staff are trained and have the necessary skills and knowledge to educate students with disabilities so they can reach their academic and functional goals.
- Students will be prepared to transition to postsecondary life and become productive adults living with the maximum independence practicable.

Special Education is One Option Across a Continuum of Student Supports

Special education is only one part of the larger continuum of services and supports available to all students. It is not a location where struggling students are sent to be served separately from non-disabled peers. As described in the RTI² Framework, all students participate in Tier I instruction; however, some students may need additional intervention and support provided through Tier II or Tier III intervention, while others may require the most intensive intervention and support provided through special education. A student's eligibility for special education does not exclude their participation in tiered support. Decisions about the student's educational supports must be grounded in data and individualized for the student based on their unique needs. The continuum of support and services and guide for data-based decision-making are outlined in the [RTI² Manual](#).

The foundation for ensuring the needs of a student with a disability are met is the Individualized Education Program (IEP). The IEP is a document that outlines the annual plan of educational supports and services necessary for a student with a disability to demonstrate growth in the general curriculum through their individualized goals and is guided by state and federal laws and regulations.

It is important to note that students with disabilities may also belong to other subgroups (e.g., English learners (EL), migrants, immigrants, homeless, neglected and delinquent, economically disadvantaged, etc.). Belonging to a student group does not exclude a student from special education and related services. In fact, if eligible as a student with a disability, these students may require additional accommodations and supports so they can access special education and related services.

Document Purpose

The purpose of this document is to provide important guidance to IEP Teams on the requirements and purpose of the IEP components and processes, so teams are prepared to develop high-quality, compliant, and instructionally appropriate IEPs for students with disabilities who are enrolled in Tennessee public schools. Developing a meaningful and individualized IEP is the foundation for a student's success and a pathway to positive postsecondary and career opportunities.

The IEP Team

The IEP Team is the group of individuals, responsible for making decisions about the educational programming for a student with a disability, or one being evaluated for a disability. Collectively, the team determines the student's eligibility for special education and following that decision, must initially develop, and annually review and revise, the IEP of a student with a disability.

The IEP Team is comprised of the members¹ outlined in items 1 through 7. For students whose postsecondary goals and transition services will be considered at the IEP team meeting, see the additional transition services participants in item 8.

1. The parents² of the child
2. Not less than one regular education teacher of the child (if the child is, or may be, participating in the general education environment)
3. Not less than one special education teacher of the child, or where appropriate, not less than one special education provider of the child
4. A representative of the public agency who –
 - a. is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children with disabilities
 - b. is knowledgeable about the general education curriculum
 - c. is knowledgeable about the availability of resources of the public agency
5. An individual who can interpret the instructional implications of evaluation results, who may be a member of the team described in 2 through 6
6. At the discretion of the parent and/or the public agency, other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate
7. Whenever appropriate, the child with a disability
8. Transition services participants:
 - a. The child with a disability must be invited to participate in the IEP Team meeting if the team will consider postsecondary goals and the transition services needed to assist



¹ See 34 C.F.R. § 300.321.

² A child's "parent" can be (1) the biological or adoptive parent of the child, (2) a legal guardian, (3) a person who has custody of the child, (4) a surrogate parent appointed to represent the child, or (5) a person with caregiving authority for the child, including, but not limited to, a foster parent if the biological or adoptive parent's authority to make educational decisions on the child's behalf has been terminated. See 34 C.F.R. § 300.30; State Board of Education Rule 0520-01-09-.02(11). Please see State Board of Education Rule 0520-01-09-.02(11)(d) for requirements related to surrogate parents and State Board of Education Rule 0520-01-09-.02(11)(e) for requirements related to foster parents.

the child in reaching those goals. (See [Student Involvement](#) for additional information.)

- b. If the child does not attend the IEP Team meeting, the school must take other steps to ensure the child's preferences are considered.

To the extent appropriate and with the consent³ of the parents or a child who has reached the age of majority, the school must invite a representative of any participating agency that is likely to be responsible for providing or paying for transition services.

During the IEP Team meeting, [team members](#) (including the parent) will review and discuss the student's current performance and educational needs and develop a comprehensive educational program for the student.

Areas to be considered by the IEP team are:

- current information and consideration of special factors
- overview of student performance
- student strengths
- parent input and concerns
- limited English proficiency
- blindness or visual impairment
- deafness or hard of hearing
- communication needs
- assistive technology needs
- patterns of behavior
- postsecondary transition plan (for students ages 14 or older, or others determined necessary)
- present levels of academic achievement and functional performance (PLAAFP)
- measurable annual goals (MAG)
- supplementary aids and services
- support or training needed by school personnel
- assistive technology
- accommodations and/or program modifications necessary for access to general education
- special transportation
- special education and/or related services

BEST PRACTICE

Provide parents with all documents such as assessment data, progress monitoring, checklists, and all other relevant data prior to attending the IEP meeting. If the parent requests an interpreter, a meeting with the interpreter may take place with all relevant data prior to the IEP meeting so the parent is adequately prepared for the meeting with concerns, comments, and questions.

³ Both the Individuals with Disabilities Education Act (IDEA) and the Family Educational Rights and Privacy Act (FERPA) require LEAs to obtain parental consent prior to sharing personally identifiable information (PII) from a student's education record with a third party. See 34 C.F.R. § 99.30; 34 C.F.R. § 300.610. To constitute informed consent, the consent must (1) be in writing, (2) specify the records that may be disclosed, (3) state the purpose of the disclosure, and (4) identify the party or class of parties to whom the disclosure may be made. See 34 C.F.R. § 99.30(b).

- determination of the need for an extended school year statement explaining the student's level of participation with non-disabled peers (least restrictive environment)

Excusing a Member from an IEP Meeting⁴

Certain members of the IEP team may be excused from an IEP meeting under specific conditions. These conditions will vary depending on whether the team member's area of expertise will be discussed or modified in the meeting. The parent and the school system must agree in writing that the member's attendance is not necessary. The federal regulations outline the most effective practices for ensuring full participation by all IEP team members.

ATTENDANCE NOT NECESSARY

- A member of the IEP Team shall not be required to attend an IEP meeting, in whole or in part, if the parent of a child with a disability and the local educational agency agree that the attendance of such member is not necessary because the member's area of the curriculum or related services is not being modified or discussed in the meeting.

EXCUSAL

- A member of the IEP Team may be excused from attending an IEP meeting, in whole or in part, when the meeting involves a modification to or discussion of the member's area of the curriculum or related services, *if—*
 - the parent and the local educational agency consent to the excusal; and
 - the member submits, in writing to the parent and the IEP Team, input into the development of the IEP prior to the meeting.

Parent and Student Involvement

Parent Participation and Involvement

Parent involvement is not only a legal requirement but also leads to improved student outcomes. Schools must give parent(s) the opportunity for meaningful participation in IEP Team meetings when discussing identification, evaluation, educational placement, and the provision of a Free Appropriate Public Education (FAPE) to their child.⁵ Parent(s) offer valuable input about their child's needs and strengths that can greatly assist in the development of a meaningful IEP. Further, a strong, positive relationship has been identified between parent involvement and improved student academic achievement, across families of all economic, racial/ethnic, and educational backgrounds and for students at all ages.⁶

⁴ See 34 C.F.R. § 300.321(e).

⁵ See 34 C.F.R. § 300.501(b).

⁶ Anne T. Henderson, Karen L. Mapp, and Amy Averett, "A New Wave of Evidence: The Impact of School, Family, and Community Connections on Student Achievement," (Austin, TX: National Center for Family & Community Connections with Schools, 2002).

To foster a collaborative relationship between the child's home and school, the local education agency (LEA) should communicate regular updates, offer opportunities for family involvement in school events, and share information regarding a child's academic and functional performances. Families should be encouraged to share successes and challenges at home and in the community that may impact the student's education and progress at school.

The parent is entitled to meaningful participation in their child's IEP. The LEA must take steps to ensure one or both parents are present at each IEP meeting.

Parent(s) of homeless, migrant, and/or immigrant students are entitled to the same meaningful participation in their child's education, which may require advanced supports and considerations. The following federal laws protect students and their parent(s) in specific categories explained below (or any combination of categories).

Homeless Parent Involvement

According to the McKinney-Vento Homeless Assistance Act⁷, the parents of homeless children and youths are to be informed of the educational and related opportunities available to their children and be provided with meaningful opportunities to participate in the education of their children. The team should work with the LEA homeless liaison to secure necessary transportation.

Migrant, English Learner, and Immigrant Parent Involvement

The Migrant Education Program, originally authorized under Title I, Part C, of the Elementary and Secondary Education Act (ESEA), protects migrant children and youth as does Title III for English learners who may also be identified as migrant students. It is important to note that students must meet the criteria to be identified as a migrant student. All migrant students are not English learners (ELs). Potential ELs are identified and screened for ESL service eligibility.⁸

Title III of the Every Student Succeeds Act (ESSA) ensures that EL students, including immigrant children and youth, attain English proficiency and meet the same challenging academic content and achievement standards that other students are expected to meet.⁹ School districts must inform the student's parent(s) about how they can be active participants in assisting their children to learn English, achieve at high levels in core academic subjects, and meet the same challenging state academic content and student achievement standards that all children are expected to meet.¹⁰

⁷ See generally 42 U.S.C. § 11432(g).

⁸ See 20 U.S.C. §§ 6391 through 6399 (2015).

⁹ See 20 U.S.C. § 6391 (2015).

¹⁰ See 20 U.S.C. §§ 6391 through 6399 (2015).

Student Involvement

Promoting self-determination of children and youth with (and without) disabilities is a critical instructional focus across the lifespan. Student involvement and leadership in the development and participation in their own IEP can be an opportunity to teach self-advocacy skills. While the IDEA requires LEAs to “invite a child with a disability to attend the child’s IEP team meeting if a purpose of the meeting will be the consideration of the postsecondary goals for the child and the transition services needed to assist the child in reaching those goals,”¹¹ student participation prior to the age of 14 better prepares them for the transition process.

Meaningful student involvement in their IEP Team meeting requires purposeful advanced planning and should be customized for the individual student based on their strengths and needs. To promote student involvement, prepare students by reviewing the IEP with them in advance of the meeting.

Notice of an IEP Team Meeting

IEP meetings can be held for several reasons, including:

- Review educational status and determine what data, if any, are needed to complete an evaluation/re-evaluation
- Review the results of the initial evaluation/re-evaluation and determine eligibility for special education and related services
- Review and/or develop an IEP
- Consider educational placement (includes a change in educational placement, graduation, and termination of eligibility)
- Consider a manifestation determination based upon a disability prior to a disciplinary action/hearing
- Consider the need for a functional behavior assessment (FBA)
- Consider the need to create or revise a behavior intervention plan (BIP)
- Consider the need to develop or revise a transition plan
- Review anticipated date of graduation or exit from special education
- Other appropriate purposes as determined by the IEP team



The IDEA requires that an LEA, when convening an IEP meeting, sends the **parent(s)** a notice of meeting that informs them of who will be attending the meeting.¹² The LEA must provide written notice to the child’s parents at least ten calendar days prior to a meeting, including when and where the meeting will take place, so that they may arrange to attend and participate. The LEA and the child’s parents may mutually agree to waive the notice requirement and meet prior to ten calendar days.¹³

¹¹ 34 C.F.R. § 300.320(b).

¹² See 34 C.F.R. §§ 300.321(a)(1), -.322(a); State Board of Education Rule 0520-01-09-.15(1).

¹³ See State Board of Education Rule 0520-01-09-.15(1).

The **student** should be provided with a notice of meeting if the purpose of the meeting will be the consideration of postsecondary goals and the transition services needed to assist the student in reaching those goals.¹⁴ Furthermore, once the student has reached the age of majority (i.e., when a student reaches the age of 18), the student must be provided with a notice of any IEP meeting, unless a valid conservatorship or power of attorney is in place.¹⁵

The IDEA's provisions regarding parent participation state the following: *Each public agency must take steps to ensure that one or both parent(s) of a child with a disability are present at each IEP team meeting or are afforded the opportunity to participate* (34 C.F.R. § 300.322).

This includes:

- Notifying parent(s) of the meeting early enough to ensure that they will have an opportunity to attend;
- Scheduling the meeting at a mutually agreed upon time and place; and
- Coordinating appropriate supports for full participation of non-English-speaking parent(s) in their native language.

The public agency's notification to parent(s) must include the following:

- Purpose, time, and location of the meeting;
- Participants' titles;
- Notice that the parent(s) and public agencies have the right to invite other people with knowledge or special expertise about the child, including related services personnel as appropriate, and that the party inviting the individual makes the determination that the invitee possesses the requisite knowledge or special expertise regarding the child;
- Notice that parent(s) may request that the Part C service coordinator or other representative of the Part C system be invited to attend the initial IEP meeting for a child previously served under Part C of the IDEA in accordance with 34 C.F.R. § 300.321; and
- Notice of the participation of a translator/interpreter, if needed.

The purpose of the meeting will guide the proposals and subsequent team decisions. The LEA must clearly document those considerations and decisions in a Prior Written Notice.

Notice of Procedural Safeguards

The IDEA requires schools to provide parent(s) of a child with a disability a notice containing a full explanation of the procedural safeguards available under the IDEA¹⁶, and the U.S. Department of Education and Tennessee laws and regulations. A copy of the Procedural Safeguards, including translated versions, can be found on the [Special Education Legal Services webpage](#).

¹⁴ See 34 C.F.R. § 300.321(b)(1).

¹⁵ See State Board of Education Rule 0520-01-09-.21 (noting that all special education rights vest in the child when the child turns 18-years-old unless a valid conservatorship or power of attorney is in place).

¹⁶ See 34 C.F.R. § 300.504.

Dispute Resolution Options

The goal is for schools and families is to arrive at mutually agreeable decisions regarding the educational programming of students, and that any disagreements be resolved at the local level; however, if agreement is not reached, the Notice of Procedural Safeguards explains each of the formal dispute resolution procedures, which include:

**Administrative
Complaint**

Mediation

**Due Process
Hearing**

The [Quick Guide to Special Education Dispute Resolution Processes in Tennessee](#) provides an overview of each resolution option to assist educators and families with settling disputes.

Additional special education legal resources can be found on the [TN Department of Education Special Education Legal Services webpage](#).

Prior Written Notice

Prior written notice (PWN) is a requirement in the IDEA. It is designed to give parent(s) time to determine whether they are satisfied with the action(s) and or change(s) recommended by the IEP team. Prior written notice is given to the parent(s) *after* the decision is made, but *before* the implementation of the decision.

Under 34 C.F.R. § 300.503(a), the public agency (LEA) is required to provide prior written notice documenting the **proposal to initiate** or the **refusal to initiate** any of the following:

Evaluation

Identification

Educational Placement

Provision of a free appropriate public education (FAPE)

Evaluation decisions requiring a PWN:

- Proposal to conduct an initial evaluation
- Proposal to conduct a reevaluation
- Proposal to conduct other evaluations (e.g., functional behavior assessment, occupational/physical/speech-language therapy assessments, etc.)
- Refusal to conduct an evaluation
- Refusal to provide an independent educational evaluation (IEE)

Identification decisions requiring a PWN:

- Determination of eligibility
- Change to, or addition of, an eligibility category
- Termination of eligibility

Education placement decisions requiring a PWN:

- Initial placement determination
- Refusal to change placement when requested by a parent
- Change in educational placement or least restrictive environment (LRE)
- Unilateral parental placement in a private school

Provision of FAPE decisions requiring a PWN:

- Proposal of an initial IEP
- Amendment of an IEP
- Changes in accommodations or modifications
- Refusal to change a special education or related service

The parent(s) must be provided with a description of the action(s) that the LEA proposes or refuses to take, as well as an explanation of why the LEA is proposing or refusing to take said action(s).

The content of the notice must include:

1. Description of the action(s) that the LEA proposes or refuses to take;
2. Explanation of why the LEA is proposing or refusing to take said action(s);
3. Description of each evaluation procedure, assessment, record, or report the agency used as a basis for the proposed or refused actions;
4. Description of other factors that are relevant to the agency's proposal or refusal sources for the parents to contact to obtain assistance in understanding the provisions of the notice;
5. Description of other options that the IEP Team considered and reasons why those were rejected;
6. Statement that the parents of a child with a disability have protection under the procedural safeguards, and if the notice is not an initial referral for evaluation, how a copy of the procedural safeguards can be obtained; and
7. Sources for the parent to obtain assistance in understanding the provision of the IDEA.

For each of the required components and further explanation of each, see the [Prior Written Notice one-pager](#).

The notice must be:

1. Written in language understandable to the general public; and
2. Provided in the parent's [native language](#) or other mode of communication the parent uses, unless it is clearly not feasible to do so.

If a parent's **native language or other mode of communication** is not a written language, the school must take steps to ensure that:

- The notice is translated orally or by other means to the parent in their native language or other mode of communication.
- The parent understands the content of the notice.

For a person with deafness or blindness, or for a person with no written language, the mode of communication is what the person normally uses (i.e., sign language, Braille, or oral communication).

Native Language

Per 34 C.F.R. § 300.29, native language—when used with an individual who has limited English proficiency (LEP)—means the following:

1. The language normally used by that person, or, in the case of a child, the language normally used by the child's parent(s); and
2. In all direct contact with a child (including evaluation of the child), the language normally used by the child in the home or learning environment.

Reporting Progress

Progress reports are sometimes the only communication that a parent may receive regarding their child's performance between IEP meetings. Schools must provide parents of students with disabilities regular progress reports, so that parents can be informed of their child's performance and progress toward IEP goals. Schools should issue progress reports at least as often as they issue report cards, but may issue progress reports more frequently if appropriate.¹⁷ Progress reporting should include quantitative and qualitative information so that a parent understands if their child is making gains, or for some reason not progressing, toward achieving their annual IEP goals within their child's IEP.

When a student is not making progress as expected, the IEP Team should convene to determine why progress is not occurring and consider amending the IEP accordingly. Continued lack of progress with no corrective actions proposed or implemented by the school may constitute a denial of FAPE.

Referrals, Evaluations & Eligibility

To provide appropriate services and supports to students suspected of having an educational disability, the team must first appropriately evaluate and determine the presence of an educational disability and how, if

¹⁷ See 34 C.F.R. 300.320(a)(3)(ii).

at all, the disability adversely affects educational performance. This begins within the pre-referral process and extends through evaluation and eligibility determination.

All procedures and requirements governing the referral, initial evaluation, and re-evaluation of students with disabilities, including the evaluation and eligibility standards for each of the 16 recognized disabilities may be found on the department's [Special Education website](#) on the [Evaluation and Eligibility webpage](#).

An IEP meeting must be held to review a student's evaluation results and determine his/her eligibility for special education services. Once a child has been found eligible for special education and related services, an IEP must be developed within 30 calendar days.¹⁸ However, for children transitioning from Part C Tennessee Early Intervention Services (TEIS) to Part B who did not participate in the TEIS Extended Option, the IEP must be developed and implemented by the child's third birthday, even if that date falls before the standard 30-day timeline. Access [Timelines in Special Education](#) for additional timeline requirements.

Child Find

The Child Find mandate, included in the IDEA, requires schools to seek out, identify, and evaluate all youth (ages 3–22) with disabilities, whether or not they are homeless or enrolled in public or private school, regardless of the severity of their disability. In addition, Child Find responsibilities apply to students who are migrants, ELs, and those in correctional facilities.¹⁹

Due to the impact of an unidentified educational disability, effective, ongoing efforts must be made to inform the general public of the Child Find responsibilities placed upon school districts to locate all children who may need special services. To achieve the overall goal of locating and effectively serving all children in the state of Tennessee with potential disabilities that could impact learning, each LEA is encouraged to develop a comprehensive approach that encompasses the following three components:

1. *Child Find*: Each LEA is encouraged to designate a Child Find coordinator whose duties include the development and implementation of effective, ongoing Child Find efforts within all the schools operated by the LEA.
2. *Interagency Cooperation*: Staff in other agencies that serve children often have opportunities to interact with children and their families and gain insights that may not occur within the local school setting. Districts are encouraged to develop partnerships with all agencies in their geographic region that serve children.

Interagency cooperation should include:

- Homeless shelters
- Migrant tutor or recruiters
- Refugee resettlement agencies
- Preschools

¹⁸ See 34 C.F.R. § 300.323(c)(1).

¹⁹ See 34 C.F.R. § 300.111 (general child find regulations); 34 C.F.R. § 300.131 (child find regulations regarding parentally placed private school children with disabilities).

- Private schools and homeschool collaboratives
 - Residential settings
3. *Public Awareness:* Effective school screening programs and collaborative working relationships with other agencies serving children will result in many children who have special needs being identified; however, these efforts may still miss some children who need services.

Child Find Public Awareness Tools and Strategies

Types of media to consider in an awareness campaign:

- Letters to parent(s) that are translated/interpreted as needed
- Social media
- Public service announcements on radio or television (English and Spanish stations)
- Newspaper
- Local news stations
- Posters/flyers
- Brochures in public community spaces
- Newsletters to schools and other agencies
- School website

Locations to promote awareness campaign:

- Parent/teacher associations/organization meetings
- Cultural centers
- Local libraries
- Churches / religious centers
- Civic organizations
- Residency areas with higher migrant populations
- Physician/pediatrician's offices and healthcare facilities
- Childcare providers and Head Start
- Homeschool co-op centers

Prevention and Early Intervention

It is the responsibility of school districts to seek ways to meet the unique educational needs of all children within the general education program prior to referring a child to special education.²⁰

Tennessee's approach to teaching and learning is called Response to Instruction and Intervention (RTI²). The purpose of RTI² is to tailor instruction to meet the needs of all students and to provide additional supports when they are needed. By implementing RTI² with fidelity, school districts can provide timely and appropriate supports to students who are having trouble reaching grade level expectations. As a reminder, the purpose of all student supports, including tiered interventions is to address and close any skills gaps in order for the student to make meaningful progress with Tier I grade level standards and instruction.

²⁰ See *Ja. B. v. Wilson Cnty. Bd. of Educ.*, Case No. 3:22-cv-00955, 2022 WL 326273 (M.D. Tenn. Feb. 2, 2022) ("The Individuals with Disabilities Education Act's (IDEA) child find provision does not demand that schools conduct a formal evaluation of every struggling student.")

Pre-Referral Interventions

The RTI² Framework is a model that promotes practices for an integrated system connecting general education, special education, and other student services through high-quality, scientifically research-based instruction and intervention within a tiered system of supports. Students who have been identified as “at risk” will receive appropriate interventions in their identified area(s) of deficit as determined by school-based data teams through the data-based decision-making process.

This framework of prevention and early intervention is a problem-solving system designed to provide students with the instruction, specific intervention, and supports they need. The three tiers within the framework work to provide scaffolded support and appropriate interventions with increasing intensity along a continuum. Interventions should be based on the identified needs of the student using evidenced-based practices. Examples of tiered intervention models include Response to Instruction and Intervention (RTI²), which focuses on academic instruction and support, and Response to Instruction and Intervention for Behavior (RTI²-B), which focuses on behavioral supports. Within the RTI² and RTI²-B Frameworks, academic and behavioral interventions are provided through Tier II and/or Tier III interventions (see [RTI² Manual](#), & [RTI²-B Manual](#)).

These interventions are *in addition to*, and not in place of, instruction (i.e., Tier I). It is important to recognize that ALL students should be receiving appropriate standards-based access considerations and scaffolds, intervention, and reteaching, as needed in Tier I, and that Tiers II and III are specifically skills-based interventions designed to support students who need them with greater access and opportunity in Tier I.

It is important to document data related to the intervention selection, interventions (including the intensity, frequency, and duration of the intervention), progress monitoring, intervention integrity and attendance information, and intervention changes to help teams determine the appropriate response to student needs which may include more intensive supports. This also provides teams with information when determining the least restrictive environment needed to meet a student’s needs.

Referral

If an individual between the ages of 3 and 21 is suspected of having an educational disability at any time, they may be referred by the student's teacher, parent, or outside sources for an initial evaluation based on referral concerns.²¹ School districts are not required to refer all students with academic or behavioral struggles for an initial evaluation, but school districts should do so when it becomes clear that a student is unable to make expected progress without specially designed instruction. **The use of RTI² strategies may not be used to delay or deny the provision of a full and individual evaluation to a child suspected of having a disability.**²²

²¹ See 34 C.F.R. § 300.301(b).

²² See U.S. Dep't of Educ., [Memo to State Directors of Special Education](#) (Jan. 21, 2011).

LEAs should establish and communicate clear written referral procedures to ensure consistency throughout the LEA. Upon referral, all available information relative to the suspected disability, including background information, parent and/or student input, summary of interventions, current academic performance, vision and hearing screenings, relevant medical information, and any other pertinent information should be collected and must be considered by the referral team. The team, *not an individual*, then determines whether it is an appropriate referral (i.e., the team has reason to suspect a disability) for an initial evaluation. The school team must obtain informed parental consent and provide written notice of the evaluation.

Once written parental consent is obtained, the LEA must conduct all agreed upon components of the evaluation and determine eligibility within 60 calendar days of the LEA's receipt of parental consent.²³

Parent consent for an evaluation must not be construed as consent for the initial provision of special education and related services.²⁴

For information about the difference between a screening and an evaluation, please see [Appendix A: Effective Implementation of the Screening Process](#).

Parent Request for Referral and Evaluation

An LEA's Child Find obligation extends to a parent's verbal or written request for their child to be evaluated for a suspected disability. Along with other provisions, the procedural safeguard notice **requires** a [copy of the procedural safeguards](#) to be given to the parents upon initial special education referral or **parent request for special education evaluation**.²⁵

Further, 34 CFR 300.503, prior notice by the public agency, outlines the notification requirements when an LEA **proposes to initiate** or **refuses to initiate** the special education identification and/or evaluation procedures.

If a parent refers their child for an evaluation, the LEA must meet within a reasonable time to consider the request following the above procedures for referral.

If the LEA agrees that an initial evaluation is needed, it must evaluate the child. The school team must then obtain informed parental consent for the assessment plan in a timely manner and provide written notice of the proposed evaluation.

If the LEA does not agree that the student is suspected of having a disability, it must provide prior written notice to the parent of the refusal to evaluate. The notice must include the basis for the determination and an explanation of the process followed to reach that decision. If the LEA refuses to evaluate or if the parent refuses to give consent to evaluate, the opposing party may request a due process hearing.

²³ See 34 C.F.R. § 300.301(c)(1).

²⁴ See 34 C.F.R. § 300.300.

²⁵ See 34 C.F.R. § 300.504(a)(1).

Evaluation

Referral information and input from the student's team will support the identification of specific areas to be included in the evaluation. It is advised that LEAs have clear referral and evaluation procedures that are consistently followed for all students suspected of a disability, rather than separate processes for given [assessment specialists'](#) domains. If a third-party evaluator (contracted specialists) is used by the LEA, it is the responsibility of the LEA to ensure that contracted staff are appropriately licensed and are conducting evaluations following the Tennessee Evaluation and Eligibility Standards. A single and comprehensive process across a LEA will help ensure students are evaluated in *all areas* of a suspected disability and *appropriately* identified.

Evaluations shall be performed by a multidisciplinary team using a variety of sources of information that are sensitive to cultural, linguistic, and environmental factors or sensory impairments.²⁶ The LEA is responsible for ensuring that each evaluation is conducted appropriately by qualified assessment specialists.²⁷ The required evaluation participants for evaluations related to suspected disabilities are outlined in the Standards for Special Education Evaluation and Eligibility Standards. Copies of the standards for each of the sixteen disability categories recognized in Tennessee can be found on the [Special Education Evaluation & Eligibility webpage](#).

The Evaluation and Eligibility Standards establish the evaluation procedures necessary for each disability area being considered, including the evaluation participants. A description of the various assessment specialists who may be involved in the evaluation of children who are suspected of having a disability is included in [Appendix B: Assessment Specialists](#).

Evaluations are not only conducted to determine the presence of a disability but also to help identify the programming needs of the student so they can access and make progress in the general education curriculum.²⁸

Cultural Considerations for English Learners (EL)

To determine whether a student who is an EL has a disability, **it is crucial to differentiate a disability from a cultural or language difference**. To determine whether an EL is a student with a disability, it is essential to collect a variety of data and make informed diagnostic decisions prior to determining eligibility for special education. Often, factors associated with learning a new language may simulate a language or learning disability.

Suggested sources of data to be considered when evaluating an EL:

- Comprehensive case history

²⁶ See 34 C.F.R. § 300.304.

²⁷ See 34 C.F.R. § 300.304(c)(iv) and (v).

²⁸ See 34 C.F.R. § 300.304(b)(1)(ii).

- Non-verbal measures
- Classroom observations
- Family/caregiver interview that includes information regarding the student's development, proficiency with the primary or home language (L1), the exposure and development of English language (L2)
- Level of ESL instruction
- Developmental comparison to other children or siblings with similar cultural and language exposure
- Exposure and support at home for the development of the first language
- Language sampling
- Dynamic and informal assessments
- Appropriate standardized language proficiency measures
- Speech and language differences (presence of phonemes in a language, pragmatic expectations, sentence structure and grammar rules, etc.) between the primary/home language and English

One reason ELs are sometimes referred for special education is a deficit in their primary or home language. No matter how proficient a student is in his or her primary or home language, if cognitively challenging native language instruction has not been continued, he or she is likely to demonstrate a regression in primary or home language abilities. According to Rice and Ortiz (1994)²⁹, students may exhibit a decrease in primary language proficiency through:

- Inability to understand and express academic concepts due to the lack of academic instruction in the primary language;
- Simplification of complex grammatical constructions;
- Replacement of grammatical forms and word meanings in the primary language by those in English; and
- Convergence of separate forms or meanings in the primary language and English.

These language differences may result in a referral to special education because they do not fit the standard for either language, even though they are not the result of a disability. The assessor must keep in mind that the loss of primary or home language competency negatively affects the student's communicative development in English. Consideration should be given to the use of an interpreter, nonverbal assessments, and/or assessment in the student's primary language.

In addition to understanding the second language learning process and the impact that first language competence and proficiency has on the second language, the assessor must be aware of the type of alternative language program that the student is receiving.

²⁹ L.S. Rice and Alba A. Ortiz, "Second Language Difference or Learning Disability?," *LD Forum* 19, no. 2 (1994): 1113.

The assessor should consider questions, such as:

- In what ways has the effectiveness of the English as a second language (ESL) instruction been documented?
- Was instruction delivered by a qualified ESL teacher?
- Did the student have meaningful access to Tier 1 instruction in the general education classroom?
- Is the program meeting the student's language development needs?
- What are the documented results of the instruction?
- Were the instructional methods and curriculum implemented for a sufficient period of time to allow changes in the student's skill acquisition or level?

The answers to these questions will help determine if the language difficulty is due to inadequate language instruction or the presence of a disability. Only after documenting problematic behaviors in the primary or home language and in English, and eliminating extrinsic variables as causes of these problems, should the possibility of the presence of a disability be considered.

It is particularly important for a general education teacher and an ESL teacher/specialist to work together to meet the linguistic needs of EL students. To ensure ELs are receiving appropriate accommodations in the classroom and for assessment, school personnel should consider the following when making decisions:

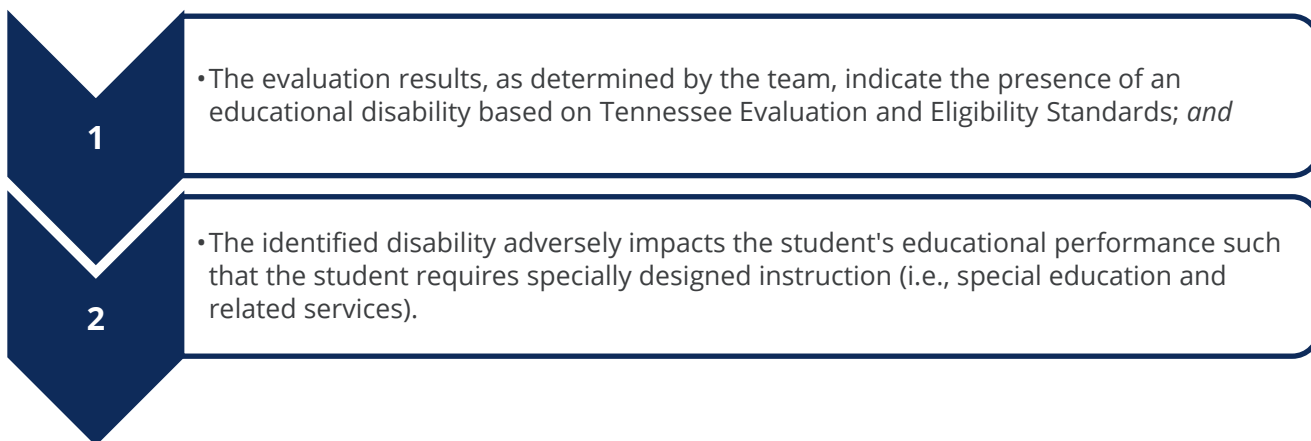
- Student characteristics such as:
 - Oral English language proficiency level
 - English language proficiency literacy level
 - Formal education experiences
 - Native language literacy skills
 - Current language of instruction
- Instructional tasks expected of students to demonstrate proficiency in grade-level content standards
- Appropriateness of accommodations for content areas

More information can be found on the department's [English Learners webpage](#).

Eligibility

After completion of the evaluation, the IEP Team must meet to review the results and determine if the student is eligible for special education services.³⁰ Eligibility decisions for special education services are determined by the IEP Team, not an assessment specialist or other individual.

Special education eligibility is two-pronged³¹:



Upon review of the evaluation, the IEP Team should consider the following questions before identifying a student as a **student with a disability**:

- Were the Tennessee evaluation and eligibility standards followed for the suspected disability?
- Were all areas of suspected disability areas considered and evaluated?
- Were there any factors that may have influenced the student's performance in the evaluation?
- Were the administered assessments aligned with the referral concerns identified by the IEP Team?
- Do the assessment results accurately represent the student's skills and educational performance?
- Was the student's primary language, culture, and preferred mode of communication considered?
- Is there evidence of the need for specially designed instruction; can the student's needs be met with general education supports or tiered interventions?
- Did the evaluation consider the impact on the student's functional, social, behavioral, and academic areas?

The parent is provided a copy of the written evaluation report completed by assessment specialists (e.g., psychoeducational evaluation, speech and language evaluation report, occupational and/or physical therapist report, vision specialist report, etc.).³² After the team determines eligibility, the parent is provided a

³⁰ See 34 C.F.R. § 300.306.

³¹ See 34 C.F.R. § 300.8(a).

³² See 34 C.F.R. § 300.306(a)(2). Please note that state law also requires school districts to provide a copy of an evaluation report to a student's parent at least 48 hours in advance of an IEP team meeting if the evaluation report will be used if determining the student's eligibility for special education or in developing a draft IEP. See T.C.A. § 49-10-103(d). If the school LEA provides a copy of the

copy of the eligibility report and a prior written notice documenting the team's decision(s).³³ If the student has been found eligible as a student with an educational disability, an IEP is developed within 30 calendar days.³⁴ However, for children transitioning from Part C Tennessee Early Intervention Services (TEIS) to Part B who did not participate in the TEIS Extended Option, the IEP must be developed and implemented by the child's third birthday, even if that date falls before the standard 30-day timeline.

Timeline Extension Requests

An extension of the evaluation timeline may only be requested in the following instances:

1. Pursuant to 34 CFR 300.309(c), there must be written mutual agreement on an extended timeframe by the child's parents and a group of qualified professionals pending determination of the existence of a specific learning disability via the responsiveness to intervention process;
2. The child's parent repeatedly fails or refuses to produce the child for the evaluation;³⁵
3. The child enrolls in another LEA after the timeframe has begun and a determination of eligibility was not completed by the LEA that commenced the initial evaluation process, the succeeding LEA is making sufficient progress to ensure completion of the evaluation, and the parent and the succeeding LEA agree on a specific timeframe within which the evaluation will be completed;³⁶ or
4. The child's parents and a group of qualified professionals mutually agree to an extended timeline pending determination of the existence of a specific learning disability via the responsiveness to intervention process.³⁷

Timeline extensions cannot be granted due to scheduling or staffing issues.

Re-evaluations

A re-evaluation must be conducted **at least every three years** or earlier if conditions warrant.³⁸ Re-evaluations may be requested by any member of the IEP team prior to the triennial due date (e.g., when teams suspect a new disability or when considering a change in eligibility for services). This process involves a review of previous assessments, current academic performance, and input from a student's parents,

evaluation report to the student's parent prior to the IEP team meeting, and the school LEA does not amend the evaluation report prior to the IEP team meeting, the school LEA is not required to produce a second copy of the evaluation report to comply with 34 C.F.R. § 300.306(a)(2). If the school LEA provides a copy of the evaluation report to the student's parent prior to the IEP team meeting, but the school LEA amends the evaluation report prior to the IEP team meeting (e.g., due to receiving a late input or observation form), the school LEA must provide a finalized copy of the evaluation report to comply with 34 C.F.R. § 300.306(a)(2).

³³ See 34 C.F.R. § 300.306(a)(2).

³⁴ See 34 C.F.R. § 300.323(c)(1).

³⁵ See 34 C.F.R. § 300.301(d)(1).

³⁶ See 34 C.F.R. § 300.301(d)(2) and (e).

³⁷ See 34 C.F.R. § 300.309(c)(1).

³⁸ See 34 C.F.R. § 300.303.

teachers, and related service providers, which is to be documented on the Re-evaluation Summary Report (RSR).³⁹ The documented previous assessments should include any results obtained as part of an evaluation for eligibility or any other additional assessments. Teams will review the RSR during an IEP meeting *before* deciding on and obtaining consent for re-evaluation needs. It is advised that the IEP Team meet at least 60 calendar days before the re-evaluation due date, but sooner if necessary.

Even if a student has a current eligibility, if there is suspicion of another or different disability that may result in necessary programming changes, or if a member of the IEP Team believes the student may require additional special education or related services, a delay in conducting a reevaluation may result in a denial of FAPE.

Depending on the student's needs and progress, re-evaluation may not require the administration of tests or other formal measures; however, the IEP Team must thoroughly review all relevant data when determining each student's evaluation needs.

Some reasons for requesting early re-evaluations may include:

- Concerns, such as lack of progress in the special education program
- Acquisition by an IEP team member of new information or data
- Review and discussion of the student's continuing need for special education (i.e., goals and objectives have been met and the IEP team is considering the student's exit from his/her special education program)
- New or additional suspected disabilities (i.e., significant health changes, outside evaluation data, changes in performance leading to additional concerns)

The IEP Team may decide an evaluation is needed or not needed, to determine continued eligibility.⁴⁰ All components of the RSR must be reviewed prior to determining the most appropriate decision for re-evaluation. Reasons related to evaluating or not evaluating are listed below.

Evaluation is NOT needed:

- The team determines no additional data and/or assessment is needed. The IEP team decides that the student will continue to be eligible for special education services with his/her currently identified disability/disabilities.
- The team determines no additional data and/or assessment is needed. The IEP team decides that the student will continue to be eligible for special education services in his/her

³⁹ See 34 C.F.R. § 300.305(a).

⁴⁰ See 34 C.F.R. § 300.305(a)(2).

primary disability; however, the IEP team determines that the student is no longer identified with his/her **secondary** disability.

Evaluation is needed:

- The team determines additional data and/or assessments are needed for program planning purposes only. This is an evaluation that is specific to address and gather information for goals, services, or accommodations/modifications. An eligibility cannot be determined or modified from information gathered during program planning. If a change in eligibility is being considered, an evaluation addressing all required components of the suspected eligibility category/categories must be conducted.
- The team determines an evaluation is needed to determine the presence of a disability or disabilities and the need for special education and related services. An evaluation is necessary anytime a team is considering a change in the primary, secondary, or tertiary disabilities. Eligibility is not determined until the completion of the evaluation. Evaluation(s) must adhere to Standards for Special Education Evaluation & Eligibility pursuant to [State Board of Education Rule 0520-01-09-.11](#) for the disability area(s) being considered.

When a student's eligibility area is changed following an evaluation, the student's IEP should be reviewed by the IEP Team and updated appropriately.

Transfer Students

In-State Transfers

When a student transfers between districts within Tennessee (i.e., an in-state transfer), the new LEA must take reasonable steps to obtain the child's records from the former LEA.⁴¹ If the student transfers between districts during the school year, the new LEA will need to review transferring records in a timely manner (e.g., meet within 10 school days of enrollment, create a new IEP within 30 calendar days) and provide comparable services from the date of enrollment until which time an IEP is finalized.⁴² If all components (e.g., evaluation criteria supporting eligibility, signed eligibility report, signed IEP, etc.) are provided to the new LEA, the IEP team does not need to complete a new eligibility report, and the student's eligibility date remains the same.

The IEP team should meet to:

- Discuss the current IEP from the outgoing LEA;

⁴¹ See 34 C.F.R. § 300.323(g).

⁴² See 34 C.F.R. § 300.323(e).

- Determine if any changes need to be made based on current present levels of academic and functional performance; and
- Create a new IEP (either an addendum or annual) to either:
 - Adopt the current IEP,
 - Revise the IEP, or
 - Develop a new IEP.

A prior written notice must document the team's decisions.

If components are missing from an in-state transfer student's records, the IEP team will initiate a reevaluation to review existing evaluation data to determine what assessments are needed to make a decision about the student's continued eligibility and need for special education services.⁴³ Once assessments are complete, the IEP team will reconvene to determine the student's eligibility for services and complete a new eligibility report.

Out-of-State Transfers

When a student transfers to a LEA in Tennessee from another state, the team will need to request and review transferring records in a timely manner (e.g., meet within 10 school days of enrollment) and provide comparable services of the current IEP from the date of enrollment until which time both the Tennessee eligibility and IEP are finalized.⁴⁴ IEP teams are recommended to document all attempts to obtain student records in the TN PULSE contacts section.

If an out-of-state transfer student's records, including the most recent psychological or speech and language report(s), and IEP are *complete and sufficient for determining eligibility*, **the IEP team will complete an eligibility report**. The referral date will be entered as the date the LEA was made aware that the student previously received special education services, and the consent date will auto-populate within the TN PULSE system to reflect the referral date. The team should upload all out-of-state records including the appropriate assessment documentation forms to the student's TN PULSE documents tab. The IEP team should discuss the current IEP, determine if any changes need to be made based on current present levels of performance, and create a new IEP either by adopting the current IEP or developing/implementing a new IEP. A prior written notice must be provided to the parent(s) documenting the team's decisions.

If an out-of-state transfer student's records are received by the LEA, but the records are *not complete or sufficient* for determining Tennessee eligibility, the IEP team will **proceed with conducting a reevaluation summary review (RSR)** to determine what assessments are necessary. The referral date will be entered as the date the school LEA was made aware that the student previously received special education services, and the consent date will be entered as the date the parent signed consent for additional assessments via the RSR. The IEP team should consider the need to provide comparable services from the date of

⁴³ See 34 C.F.R. § 300.305(a).

⁴⁴ See 34 C.F.R. § 300.323(f) and (g).

enrollment and document all decisions, including the outcome of the RSR meeting, via a prior written notice.

Once assessments are complete, the IEP team will reconvene to review evaluation results and determine eligibility according to Tennessee state disability definitions and standards. At this time, an eligibility report will be completed and signed to reflect the eligibility or non-eligibility. If the student is found eligible, an IEP must be created within 30 calendar days to reflect the eligibility date and data collected from the re-evaluation/assessment.⁴⁵

If an out-of-state transfer student's records are unable to be obtained after numerous attempts to retrieve them, the IEP team will consider the information provided by the parent as a request for an initial evaluation. The team will obtain parental consent via the initial consent form and must complete the evaluation and eligibility determination within 60 calendar days.⁴⁶ If the student is found to be eligible, the IEP team must reconvene to finalize the IEP within 30 calendar days from the date of the eligibility determination.⁴⁷ However, for children aging out of the Part C TEIS Extended Option to Part B, the IEP must be developed and implemented before the first day of school, even if that date falls before the standard 30-day timeline.

For additional clarification on the out-of-state transfer process, please refer to the [Out-of-State Process Flowchart in Appendix C](#).

Student Records for Homeless and Migrant Students

Student records from other states and districts are to be available, according to the Every Student Succeeds Act (ESSA), for all migrant students on the Migrant Student Information Exchange (MSIX), the national migrant data. This database includes space for schools and districts to indicate whether or not the student has an IEP. Tennessee is obligated to provide this information when a student leaves a LEA in Tennessee, even if moving within the state.⁴⁸ This information is shared with the state and then moved onto the national database via the Individual Student Record, which the LEA migrant contact is to complete. Each LEA in Tennessee is required to have an assigned migrant liaison who is trained on and has access to the MSIX, the national migrant database.

⁴⁵ See 34 C.F.R. § 300.323(c)(1).

⁴⁶ See State Board of Education Rule 0520-01-09-.05(1)(f).

⁴⁷ See 34 C.F.R. § 300.323(c)(1).

⁴⁸ 34 C.F.R. § 200.85.

Individual Education Program (IEP)

The stated purpose of the IDEA⁴⁹ is “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.**”

While each IEP is written as a year-long program for the student, it is important for IEP teams to annually discuss the student’s future goals, even at a young age, and the desired outcomes of the child’s parents. Student and parent’s input about goals for postsecondary life can lay the foundation for IEP goals, courses of study, accommodations, supplementary aids and supports, special education and related services, and even diploma type.

Once a student is found eligible and determined to be a student who needs special education and related services, the IEP Team has **30 calendar days**⁵⁰ to hold an initial meeting to develop an instructionally appropriate IEP. However, for children transitioning from Part C (TEIS) to Part B who did not participate in the TEIS Extended Option, the IEP must be developed and implemented by the child’s third birthday, even if that date falls before the standard 30-day timeline.

The IEP is the program that will be implemented by the school and is individualized and designed to ensure the student can make progress on their measurable annual goals related to their identified areas of need, despite their disability. IEPs are written for a year, but any member of the IEP Team may call a meeting prior to the IEP end date to consider amending the IEP if changes to the student’s programming are needed.⁵¹

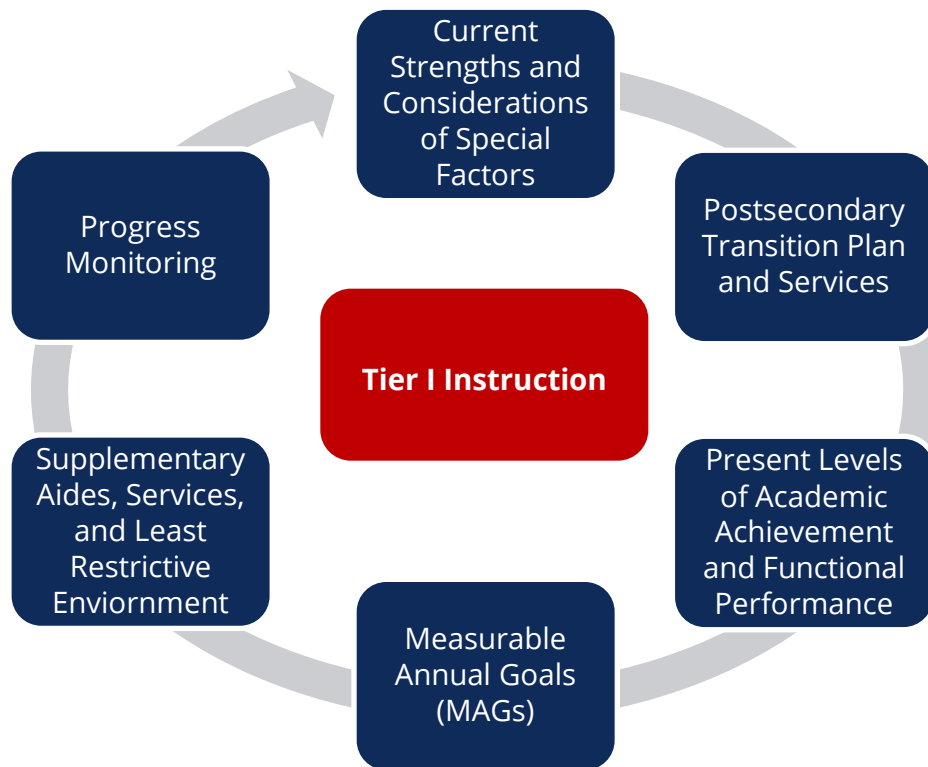
PLAN FOR ADULTHOOD

Even for young children, the IEP Team should be planning and developing IEPs with postsecondary goals in mind and determine what is necessary at the present time to assist the student in achieving the greatest level of independence possible, so they leave high school prepared for adulthood.

⁴⁹ 34 C.F.R. § 300.1(a).

⁵⁰ See 34 C.F.R. § 300.323(c)(1).

⁵¹ See 34 C.F.R. § 300.324(b)(1).



IEP Components

Current Information and Considerations of Special Factors

The *Current Information and Considerations of Special Factors* section is an introduction and provides a strong foundation for educational planning and instructional decision-making to be developed in the rest of the IEP. This section is intended to capture pertinent information about the student that will guide the IEP team in making appropriate programming decisions based on the input and responses gathered by the team.

Each item within the Current Information and Consideration of Special Factors section should be discussed at least annually with the IEP team and not pre-determined or pre-filled by case managers. This information will inform the IEP team of overarching student needs for IEP development.

Overview of Student's Current Performance

The overview of a student's performance should include *current* information (within the last year) about the student's interests, academic and non-academic strengths, areas of concern, and the impact on the student's progress in grade-level, standards-based learning. When writing an IEP, the overview of student performance should be relevant to supporting the student as a learner and active participant in the school environment. For children ages 3-5, this overview may include relating with caregivers and peers, acquisition of knowledge and skills (e.g., pre-academics, communication, problem-solving, play), and appropriate behavior to get one's needs met (e.g., toileting, safety awareness) across a variety of preschool activities and environments. Information about the student's current academic and non-academic strengths and needs should be grounded in success and strengths, rather than highlighting deficits.

Information in this section may come from a variety of sources including, but not limited to, student work samples, general education teacher input, special education teacher input, parent input, classroom observation data, behavior logs, student input, and if appropriate ESL teacher input and Related Services provider input.

Parent Input and Concerns

The *Parent Input and Concerns* section encourages parents to share not only areas of concern but successes, and short-term and postsecondary goals for their child. To ensure meaningful participation in the development of the IEP, parent input and concerns must be considered and reflected in the IEP. Input provided by the parent(s) or any concerns they have for their child's current performance should be provided in a thorough narrative written using the parent's words whenever possible. Information to be addressed in this section may include but is not limited to, academic concerns, social and behavior concerns, interactions with peers and educators, or any relevant information that may affect the child's performance at school or, for children ages 3-5, participation in appropriate preschool activities.

If the parent did not attend the meeting, attempts should still be made to include his/her input through questionnaires or interviews.⁵² If attempts to gain parent contact and input are unsuccessful, note the dates and ways attempts have been made.⁵³ *Do not leave this section of the IEP blank.*

Parent Prevocational/Postsecondary Input and Concerns

The IEP Team is required to develop a plan that leads to postsecondary success; therefore, discussion about the student's postsecondary goals should be considered annually. This section allows for additional input from the parent regarding any current prevocational or postsecondary desired outcomes or concerns they may have for their child. It should be provided in a thorough narrative format, using as much of the parent's words when possible. Information to be addressed in this section can include but is not limited to, social and adaptive concerns, interactions with peers and educators, work-related skills, community resources and involvement, or concerns about an upcoming transition. The LEA is obligated to consider postsecondary transition under once a student is at least 13 years, 1 day during the span of any given IEP cycle.⁵⁴ When applicable, the IEP team will complete the Postsecondary Transition sections of the IEP.

Description of the Adverse Impact of the Disability on the Student

The adverse impact statement is an explanation of *how* the student's disability affects his/her involvement and progress in the general curriculum and grade-level standards. For preschool children, describe how the child's disability affects his/her participation in age-appropriate activities, even if the child is not currently enrolled in a school setting. This statement should validate the second prong of eligibility, which indicates that the student's disability impacts them to such a degree that other interventions and support available in

⁵² See 34 C.F.R. § 300.322(c).

⁵³ See 34 C.F.R. § 300.322(d).

⁵⁴ See State Board of Education Rule 0520-01-09-.12(2) (requiring postsecondary goals, courses of study, and transition services to be included in the first IEP that will be in effect when the student turns 14-years-old).

general education are insufficient for the student to access and progress in the general curriculum or age-appropriate activities.⁵⁵

The adverse impact description is not where interventions, services, accommodations, and/or modifications that may be considered needed are to be documented; those will be addressed in other sections of the IEP. Additionally, the description of the adverse impact of a disability should be directly aligned to the identified deficits and based on current data and evidence; the adverse impact statement is not predictive of potential needs in the future.

If the IEP Team lacks evidence of an educational impact on a student's participation and progress in the general curriculum or age-appropriate activities, then the IEP Team should consider the need for a re-evaluation to determine if the student continues to meet the standards to be identified as a student with a disability.

Special Factors to be Considered

The following special factors must be considered for every student annually.⁵⁶ Discussing each question will guide the IEP Team in the development of an appropriate IEP to include necessary services, assistive technology, accommodations, and other supports.

- English proficiency – if the student has limited proficiency in the English language, explain their primary language and/or mode of communicating to ensure the student is provided educational supports (ESL services, etc.) to access instructional content and participate in school.
- Blind or visually impaired – if the student is blind or has a vision impairment, the IEP Team must consider how the student will access instructional content and navigate their environment. The team should discuss the student's access to printed language and whether Braille is necessary, or if the student can read printed text. Consider the need for accommodations and/or assistive technology to access instructional materials and the educational environment.
- Deaf or hard of hearing – if the student is deaf or is hard of hearing the IEP Team must consider the student's mode of communication (oral communication, sign language, etc.), their access to academic instruction, and necessary communication supports to actively participate with hearing and other non-hearing peers and instructors/staff in the classroom and throughout the school. The IEP Team should consider necessary special education and related services, including educational interpreter services, and/or assistive technology, to ensure access to instructional content and communication.
- Communication – if the student does not have a consistent, reliable, and effective mode⁵⁷ of communication, the IEP Team must consider necessary supports, so the student can meaningfully

⁵⁵ See 34 C.F.R. § 300.8(a).

⁵⁶ See 34 C.F.R. § 300.324(a)(2).

⁵⁷ The mode of communication is the way or ways in which an individual engages and shares their thoughts and feelings with others. For many students, their mode of communication is oral language, but it may also be sign language, an augmentative and alternative communication (AAC) system, gestures, or a combination of any of these.

engage with familiar and unfamiliar peers and adults across settings. Communication expands to every educational and social setting and is an essential life skill. The IEP Team will want to ensure the student has or is learning an effective mode of communication so they can independently express thoughts, opinions, ideas, knowledge, and needs.

- Assistive technology – assistive technology (AT) may be necessary for any student, regardless of disability area, to access instruction and participate across educational settings. The IEP Team should consider AT needs across all developmental domains, including cognitive, academic, adaptive, communication, physical, social-emotional, and behavior. If needs for AT are identified, the IEP Team should describe the current barriers so the appropriate assistive technology supports can be provided. It is important to understand that not all AT is electronic or highly sophisticated. To better understand AT and the types of supports available, refer to [Appendix D What is Assistive Technology](#).
- Patterns of behavior – if the student exhibits a *pattern of behavior*, such as self-injurious behaviors, and/or behaviors that may put other students, staff, or faculty at risk, a functional behavior assessment (FBA) must be proposed and conducted upon parental consent.⁵⁸ For additional information about FBA and behavior intervention plans, see the section: [Special Education Support for Behavior](#).



Postsecondary Transition Plan

The transition plan is the road map that facilitates the movement from high school to postsecondary life. Through a high-quality transition plan, IEP teams develop actionable steps to make the student's postsecondary goals attainable. The goal of public schools is to prepare students, from the time they enter the school system, for career and college readiness and adulthood.

The IDEA defines transition services as a “coordinated set of activities for a child with a disability that is designed to be within a results-oriented process that is focused on improving the academic and functional achievement of the child with a disability to facilitate the child's movement from school to post-school activities.”⁵⁹

The IEP Team must address transition services in the student's first IEP that will be in effect when the student turns fourteen years old.⁶⁰ The transition plan portion of the IEP is not a compliance component, but a student-centered tool for the IEP Team to consider the student's preferences, interests, strengths, and needs to aid in the development of appropriate programming and services so the student is equipped and prepared to achieve *their* postsecondary goals.

⁵⁸ See State Board of Education Rule 0520-01-09-.24(3).

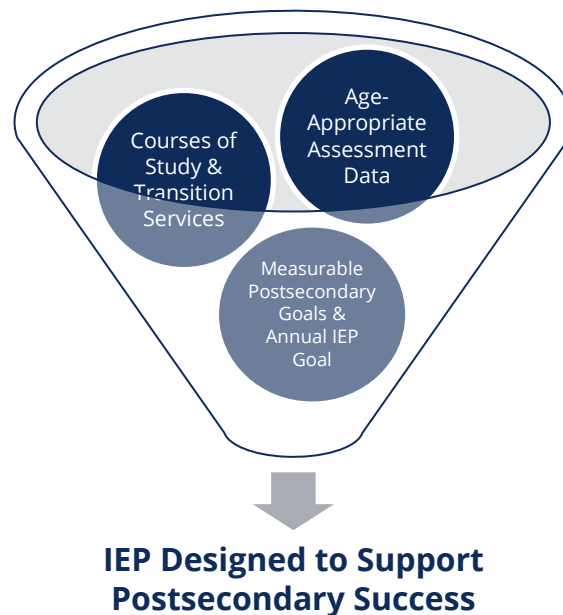
⁵⁹ 34 C.F.R. § 300.43(a)(1).

⁶⁰ See State Board of Education Rule 0520-01-09-.12(b). Please note that the State Board of Education Rule imposes additional requirements beyond the regulations implementing IDEA. See 34 C.F.R. § 300.320(b) (requiring transition services in the student's first IEP that will be in effect when the student turns 16-years-old.)

The transition plan begins by considering current student data in the areas of:

- Academic skills,
- Career interests and aptitudes,
- Self-determination skills and opportunities, and
- Independent living skills.

This data should be gathered from multiple sources and include formal and informal transition assessments examining multiple domains and assist the IEP Team in determining the need for transition services and supports in the areas of training, education, employment, and if appropriate, independent living skills. The student's postsecondary goals and the assessment data will guide the student's courses of study, needed transition services, and annual IEP goal/s. Work-Based Learning (WBL) and Registered Apprenticeship experiences—including community-based instruction and paid and unpaid employment—may further enhance and steer postsecondary goals.



Strong Predictors of Postsecondary Success

- Career Technical Education (CTE)
- Goal Setting
- Inclusion in General Education
- Paid Employment / Work Experience
- Program of Study
- Self-determination / Self-advocacy
- Transition Program
- Youth Autonomy / Decision Making

All students should be prepared and given the opportunities to achieve their postsecondary goals, which begins with presuming competence and identifying the student's strengths and interests. Decisions about courses of study, including CTE courses, diploma options, postsecondary pathways, or other transition experiences must not be based on a student's disability category. All decisions should be individualized and student-centered; students who are served under any given disability category should not be presumed to have the same transition-related needs as another student with a similar disability (e.g., students eligible under intellectually gifted may not wish to attend a four-year college or participate in dual enrollment; likewise, a student with an intellectual disability may choose to enroll in a college program). The student's plans should be driven by their transition assessments and MPSGs.

Student Invitation to IEP Team Meetings

LEAs must invite a student to any IEP team meeting where the student's postsecondary goals or the transition services needed to meet those goals will be discussed. Postsecondary goals and transition services must be considered on at least an annual basis beginning with the first IEP that will be in effect when the student turns 14-years-old.⁶¹ A student invitation should be created separate from the parent invitation. The student should be notified as soon as the meeting date is set; he or she should be afforded the same time consideration as a parent. A copy of the student's invitation should be placed in his or her permanent file for documentation.

Age of Majority

When a student reaches the age of 18 (age of majority), the rights of the parent(s) transfer to the student, unless the parent has a valid conservatorship or power of attorney.⁶² Notification of the age of majority rule must be explained to parent(s) and student at least one year prior to the student's eighteenth birthday.⁶³ When there are concerns about the student's ability to participate in the process of educational decision-making, school LEA personnel should continue to work closely with the parent(s) to ensure that appropriate decisions are made and that the student has maximum opportunity to participate and lead their IEP team.⁶⁴

Transition Assessments

The purpose of transition assessment is to identify student preferences, interests, needs, and strengths (PINS). These assessments are a portion of the transition PLAAFP and inform transition planning, including measurable annual goals (MAGs). Transition assessment is an individualized, ongoing process that incorporates meaningful participation by the student and family. Age-appropriate transition assessments must include information about the academic achievement and functional performance of the student.

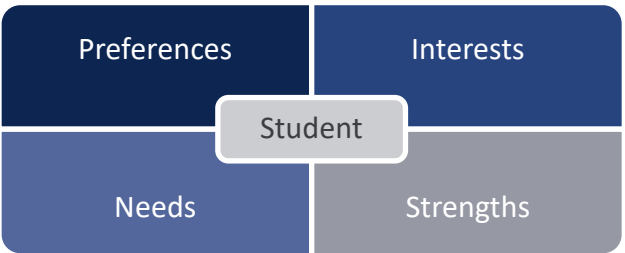
⁶¹ See 34 C.F.R. § 300.321(b)(1); State Board of Education Rule 0520-01-09-.12(2)(b).

⁶² See State Board of Education Rule 0520-01-09-.21.

⁶³ See 34 C.F.R. § 300.520(a).

⁶⁴ If the student's parent does not have a valid conservatorship or power of attorney over the student after the student reaches the age of 18, the LEA may still invite the student's parent to the IEP team meeting as an individual with knowledge or special expertise about the student, but consent for evaluations and the provision of services must be provided by the student.

Previous, pre-vocational assessment data can also be reviewed as a part of this assessment process to inform current assessment.



Transition assessment instruments and methods must be selected to help the student determine career interests, strengths, and aptitude for tasks related to student's preferred employment, education, training, and independent living. Assessment must be individualized and can be both formal and informal. Visit TransitionTN.org for examples of age-appropriate transition assessments.

Formal Assessments	Informal Assessments
Formal instruments must be valid and reliable and be chosen based upon the characteristics of the target population the assessment was designed for. Some standardized assessments require that the administrator of the test meet certain criteria. Assessment questions are based on the needs, preferences, and interests of the students.	Informal assessment tools are used to verify and supplement formal assessment data. The type of informal assessment instrument chosen will depend on the type of information that is being sought. Because informal assessments are not standardized, they may be given more than once and by more than one person. Examples of informal assessments: • interviews • questionnaires • observations • interest inventories • situational assessments • curriculum-based assessments
Questions to consider when selecting an assessment: • Will the results be helpful to the educators, student, parent(s) and others in developing instructional programs? • Is the test reliable and valid? • Does the test compare the student's performance to an appropriate norm group or criteria?	

- Do the testing procedures require the student to perform in ways that accentuate their abilities as well as their needs?
- Are the tests written and administered in a language understandable by the student?
- Does the student have enough experience to relate to the situations presented in the test?

Assessments should be based on the skills the students will need to be successful in all life roles, and the supports they will need before, during, and after the transition to adulthood, and include these areas⁶⁵ :

- Functional Academics
- Community Participation
- Recreation and Leisure
- Financial/Money Management
- Health
- Independent Living Skills
- Personal Management
- Postsecondary Education
- Self-Determination
- Social Skills/Interpersonal Skills
- Transition/Mobility
- Technology Skills
- Employment/Career Development

A student's preferred activities and interests typically change as he or she matures. Similarly, the student's desired postsecondary goals may change as the student and parents are informed of results of transition assessments, academic achievement, and functional performance, or as the student develops career awareness and more varied life experiences. Therefore, the IEP Team should address the Postsecondary Transition Plan at least annually to determine if the plan is still relevant and appropriate.

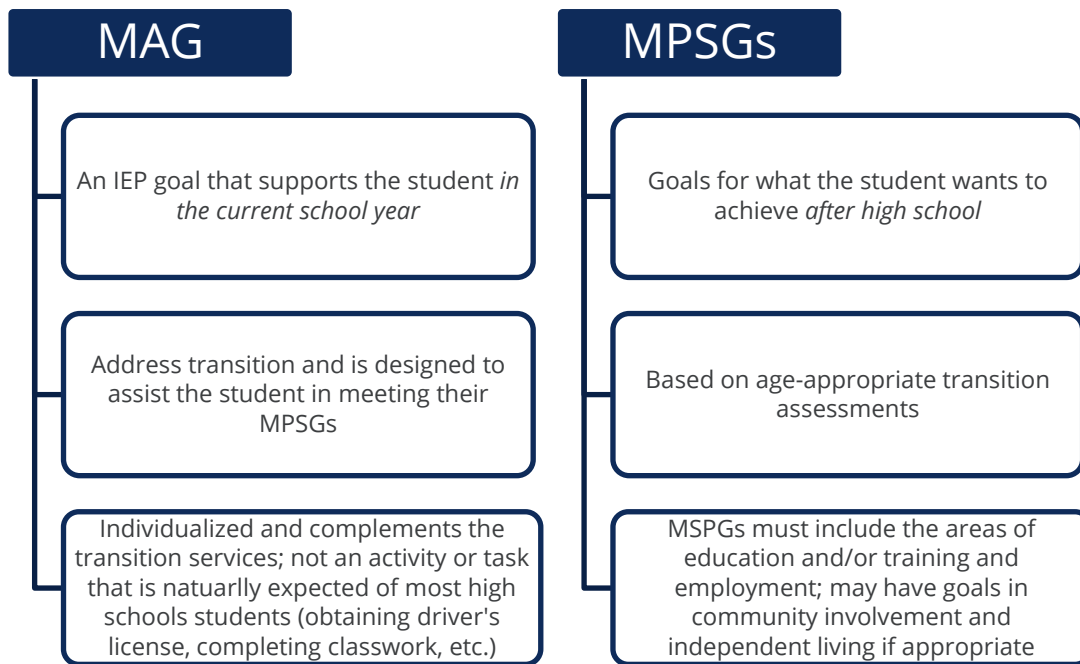
Measurable Annual and Postsecondary Goals

The postsecondary transition plan, beginning with the IEP during which the student will turn 14, must include MPSGs in the required areas of training, education employment, and, where appropriate, independent living skills.⁶⁶ Additionally, students ages 14 and above (or younger if determined necessary by the IEP Team) must have at least one measurable annual goal (MAG) directly related to the MPSG and

⁶⁵ "Age-Appropriate Transition Assessment," *Transition Tennessee*, accessed October 2, 2023, <http://transitiontn.org/age-appropriate-transition-assessment/>.

⁶⁶ See 34 C.F.R. § 300.320(b); State Board of Education Rule 0520-01-09-.12(2)(b).

designed to assist the student in achieving the MSPGs.⁶⁷ An effective practice is to write triangulated annual goals⁶⁸ that incorporate the student's postsecondary goal(s), skill deficit(s), and industry standards.



Characteristics of Measurable Postsecondary Goals⁶⁹:

- The goal can be measured or observed.
- The goal reflects the preferences, interests, strengths, and needs of the student.
- The goal is directly connected to current data in the present level of academic achievement and functional performance (PLAAFP).
- The MSPG is an outcome, not the steps toward the goal.
- The outcome indicated is postsecondary and not achieved until after the completion of secondary school.
- The goal Includes "will" statements, not "want" statements.
- The MSPG is updated annually.

⁶⁷ See State Board of Education Rule 0520-01-09-.12(c).

⁶⁸ "Developing a High-Quality Transition Plan," *Transition Tennessee*, accessed July 13, 2017, <http://transitiontn.org/developing-a-high-quality-transition-plan/>

⁶⁹ Lori Y. Peterson, Jon P. Burden, Jennifer M. Sedaghat, June E. Gothberg, Paula D. Kohler, and Jennifer L. Coyle "Triangulated transition goals: Developing relevant and genuine annual goals," *Teaching Exceptional Children* 45, no. 6 (2008): 46-57.

Course of Study

For students with an IEP, the focused plan of study will become the course of study on the IEP. It is a multi-year description of coursework necessary to achieve the student's desired MPSGs, from the student's current year to the anticipated exit year. At a minimum, the course of study should identify the courses and functional skills that the student will need to meet their postsecondary goals, as well as graduation diploma requirements. This description gives the student the opportunity to see the relationship between high school courses and achieving their MPSGs.

As students approach the end of middle school, preparations begin for transitioning to high school. Each student, including students with disabilities with the assistance of their family and school personnel, will develop a focused plan of study. Prior to ninth grade, or age 14, all students will develop an initial four-year plan of focused and purposeful high school study. For students with disabilities, the plan of study must be developed within the IEP to be in effect when the student turns 14 (or younger if determined appropriate by the IEP team). The plan will be reviewed annually and will connect the student's academic and career goals to school.

State Board of Education Rule:

0520-01-09-.12 INDIVIDUALIZED EDUCATION PROGRAM (IEP) REQUIREMENTS

(2) Except when a written explanation to the contrary is included, the IEP of a child with a disability must include:

- (a) Prevocational assessments for students in kindergarten through grades six (K-5), inclusive, or students of comparable chronological age;
- (b) Appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to training, education, employment, and where appropriate independent living skills for the first IEP to be in effect when the student turns fourteen (14)* years old as part of the transition plan;
- (c) Courses of study, transition services, and annual IEP goals that will reasonably enable the student to meet the postsecondary goal in the first IEP that will be in effect when the student turns fourteen (14)* years old as part of the transition plan.

State Board of Education Policy:

HIGH SCHOOL POLICY 2.103 Graduation requirements: All students shall have access to a rigorous education that prepares them for success in postsecondary education and the workforce. All coursework shall be aligned to the Tennessee Academic Standards for each subject and course.

Policy Implications:

- A. The student, parent, and faculty advisor or counselor will jointly prepare an initial four-year plan of focused, purposeful high school study.
- B. An integral aspect of the planning process is the assumption that the student will be involved in some form of postsecondary education/training. The plan should contain information about career options and long-term goals, including an elective focus area, access to dual enrollment or other postsecondary options, and diploma pathway. The plan of study will be reviewed annually by the student and faculty

advisor or counselor, and revised based on changes in the student's coursework, interests, and/or postsecondary goals. Results of various types of assessments will also be used in adjusting the plan of study.

- C. High school and middle grades faculty will collaborate in planning curriculum and the transition between middle grades and high school (Tennessee State Board of Education, 2013). options, and diploma pathway. The plan of study will be reviewed annually by the student and faculty advisor or counselor, and revised based on changes in the student's coursework, interests, and/or postsecondary goals. Results of various types of assessments will also be used in adjusting the plan of study.
- D. High school and middle grades faculty will collaborate in planning curriculum and the transition between middle grades and high school (Tennessee State Board of Education, 2024).

Transition Services: A Coordinated Set of Activities

Transition services are a part of the coordinated set of activities, designed within an outcome-oriented process that promotes movement from school to achievement of MPSGs.⁷⁰ To meet the IDEA's transition services provisions, the IEP must contain the services and supports needed to assist the student to gain the skills and experiences necessary to reach his or her desired post-school goals. As with any special education and related services, the LRE requirements apply to transition services, including employment-related transition services, and apply equally to the employment portion of the student's program and placement.⁷¹

Students may require additional supports beyond special education interventions, which are categorized as 'Transition Services' within the postsecondary transition plan of the IEP. The IEP team must annually address the instructional activities, environments, and services necessary for the student to achieve their postsecondary outcomes. Partners within the school community who can assist with transition services include: school counselors, general education teachers, career and technical teachers, special education teachers, related service providers, extracurricular activities, and transition school to work personnel.

It is equally vital to involve external partners, such as agencies likely to offer or fund services.⁷² The IEP team should actively engage the student and their parent in this collaborative process. While the school cannot require parent(s) to accept responsibility for providing a transition service, many choose to participate actively in the team. Transition services must be tailored to each student's unique characteristics and needs.

For students preparing to exit high school, critical considerations include transportation, medical care, insurance, conservatorship/estate planning, and interpersonal and social adjustments, all integral to addressing primary transition service areas.

⁷⁰ See 34 C.F.R. § 300.43.

⁷¹ U.S. Dep't of Educ., ["A Transition Guide to Postsecondary Education and Employment for Students and Youth with Disabilities,"](#) at *8 (Aug. 2020).

⁷² See 34 C.F.R. § 300.321(b)(3) (requiring the LEA, with the parental consent, to invite a representative of any participating agency that is likely to be responsible for providing or paying for transition services.)

Transition service areas to be considered:

Instruction	
	<u>Instruction</u> refers to formal instruction that takes place in the school, home, or community, including community-based instruction, academic and career/technical education courses, self-determination and self-advocacy training, and extracurricular activities.
Related Services	
	<u>Related services</u> are supportive services assisting with transition services in special education and beyond
Related Services	
	<u>Community experiences</u> are transition services occurring in the community, delivered by the school or other agencies, which provide students with the opportunity to practice skills in the actual settings in which they will be used.
Employment & Postsecondary Living	
	<u>Employment and postsecondary living</u> objectives are experiences provided by the school or other agencies that provide the education and training needed for a future career and important adult activities.
Daily Living Skills	
	<u>Daily living skills</u> are those required for day-to-day functioning.
Functional / Vocational Evaluation	
	<u>Functional/Vocational evaluation</u> is an assessment process focused specifically on providing information about job or career interests, aptitudes, and skills

Outside Agency Representation at IEP Meetings

Other agencies, such as vocational rehabilitation, are valuable resources and offer services to students in secondary schools, including pre-employment transition services.⁷³ Schools are encouraged to invite agency representatives to IEP meetings in which transition services and postsecondary goals will be discussed.⁷⁴ If other agencies are invited, parental consent (or consent of students who have reached age of majority) must be obtained each time an agency is invited.

The financial responsibility for meeting a student's transition goals is not meant to apply solely to the education system, but also to the agencies that the IEP team involves in meeting the transition objectives set out in the IEP. Each agency or service provider has a different set of criteria for eligibility and may have a waiting list for services. Begin the transition planning process early to coordinate logistics and schedules and ensure the student and family understand available options and resources.

Outside agency participants may include:

- Career Center–Workforce Investment and Opportunities Act (WIOA) program
- Tennessee Division of Rehabilitative Services (Vocational Rehabilitation)
- Pre-ETS Providers
- Independent living center staff
- Disability support staff from a postsecondary educational or technical school
- Person knowledgeable about assistive technology
- Person knowledgeable about financial benefits such as supplemental security income (SSI) and Medicaid or Medical assistance (MA)
- Personal care or health care providers, including mental health care providers
- Probation officer or teacher from a juvenile justice center
- Leisure and recreation service providers
- Transportation agency staff
- Child Advocacy Centers (CASA)
- Tennessee Center for Decision Making Support
- Disability Rights Tennessee (DRT)
- Medicaid Alternative Pathways to Independence (MAPs)

Visit www.transitiontn.org for a comprehensive list of supports and partnerships.

⁷³ Tenn. Dep't of Human Services, "[Pre-Employment Transition Services](#)."

⁷⁴ See 34 C.F.R. § 300.321(b)(3).

Summary of Performance

LEAs are required to “provide the [adult student or parent] with a summary of the [student’s] academic achievement and functional performance, which shall include recommendations on how to assist the child in meeting the child’s postsecondary goals” upon exiting special education for one of the following reasons:

- The student earns a traditional high school diploma, **or**
- The student exceeds the age of eligibility for a free appropriate public education (FAPE), which is through the end of the school year that the student turns 22 years of age.⁷⁵

The Summary of Performance is intended to provide a snapshot of the relevant information about a student so, if shared with adult service providers, postsecondary education or training institutions, or employers, they can better prepare to support the youth’s transition. The information in the Summary of Performance helps establish the student’s eligibility for accommodations and supports in postsecondary and employment settings under Section 504 of the Rehabilitation Act and the Americans with Disabilities Act. Additionally, if the student plans to apply for Vocational Rehabilitation services, the Summary of Performance can be very helpful when completing their referral and assessment. The Summary of Performance is closely tied to the transition-focused IEP, but it is a separate document that condenses and organizes the information from the plan and is a key part of the transition planning process.

Though a Summary of Performance is commonly thought of as a school exit document, it is best practice to compile it over time with joint effort from the entire IEP team. Prior to the exit IEP meeting, the IEP team should gather work samples, assessments, observations, and IEP team input to determine the most pertinent and helpful information to include to help a student reach their measurable postsecondary goals.

Even though the Summary of Performance must be completed during the student’s final year of high school, the exact timing will vary based on the student’s measurable postsecondary goals. If a student is transitioning to higher education, the student may need to provide the Summary of Performance to apply to college. Likewise, students may need this information to apply for disability services at agencies like Vocational Rehabilitation. In many instances, it would be appropriate to wait until the spring of the student’s final school year to complete the Summary of Performance to provide the most updated information on the student’s performance. Make sure to complete the Summary of Performance during the student’s final school year with enough time to best communicate which supports will help them meet their post-school goals.

The more involved the student is in the development of the Summary of Performance, the more meaningful it will be for them after they leave school and are navigating postsecondary or employment pathways.

⁷⁵ See 34 C.F.R. § 300.305(e)(3).

The student can be involved in the development of their Summary of Performance process in the following ways:

- Review what a Summary of Performance is on a regular basis with the student. Explain the different sections and how it will help them after they leave school.
- Use the Summary of Performance as a teaching tool to guide a conversation with the student about their disability, strengths, and needs and ask the student questions such as “How do you learn best?”, “How does your disability affect your schoolwork?” Keep having these conversations every year so the student is prepared to answer these when it is time to develop the Summary of Performance.
- In the last year of high school, the Summary of Performance could be a capstone project. Have the student think of creative ways to present their Summary of Performance as a graduation project. For example, they could present the Summary of Performance as a video or other multimedia project. They could also present this information visually, like in a one-page profile. A one-page profile is a way for the student to highlight their resume and skills visually.

Visit the [Summary of Performance Guidance document](#) for additional information on writing the Summary of Performance.

Present Levels of Academic Achievement and Functional Performance (PLAAFP)

The PLAAFP provides the foundation for the data-based decisions the IEP Team will make about the student’s IEP goals, supplemental supports, accommodations, modifications, and special education and related services for the year. The PLAAFP provides the team with a comprehensive description of student performance relative to the developmental or grade-level expectations for a particular area. The PLAAFP informs decisions about interventions, supports, services, and the student’s LRE.

Development of the PLAAFPs

Assessment Area

The assessment area represents the academic and non-academic domains and the data related to that domain that will be presented to the IEP Team. When developing an initial IEP, or immediately following an evaluation, it is best practice to include all assessment data by respective domain within the IEP so the team can identify the areas of exceptionality and those requiring MAGs and specialized instruction. The PLAAFP represents current data and should be written in terms that a non-educator can interpret, so there is a common understanding among the IEP Team about the student’s performance, strengths, and needs.



Present Level of Performance

The PLAAFP should clearly describe the student's current skills for each area identified and/or considered as exceptional based on data collected from multiple sources, which may include evaluations, observations, work samples, performance on prior IEP goals, curriculum-based measures, criterion-referenced measures, developmental checklists, team concerns, and more. Present levels should reflect how the student is performing in the context of school within that domain (assessment area).

PLAAFPs Should:	PLAAFPs Should Not:
• Be comprised of multiple sources of data	• Be a single test or measure
• Be written in positive terms	• Be a list of student deficits
• Include information about how the student typically performs within their school environment, or • Include information about the child's participation in everyday preschool routines and activities	• Be isolated to a single observation or performance on a test or activity that does not represent a typical school or authentic preschool experience (e.g., observations during 1:1 testing)
• Include enough clear and detailed information for the team to determine whether or not the student's performance is exceptional, indicating that they cannot make progress without specialized instruction.	• Be predictive of future potential deficits or describe supports that <i>may be of benefit</i> to the student.
• Include recent data that will inform the current need for supports and services (historical data is not necessary; data that was collected more than one year ago, is not considered 'present')	• Be repeated from the previous years PLAAFPs. (If the student is not demonstrating progress in an area, the team should consider the need for additional data and/or necessary changes to supports and services.)
• Indicate specifically how the student's performance impacts access to and progress in the general curriculum or, for preschool children, in age-appropriate activities.	• Be a list of scores, or a vague description with no explanation of how the student's performance impacts access and progress.

Does the Student's Performance Require Specialized Instruction?

An area is determined exceptional if the student's needs have been determined to be impacted to such a degree that the student's needs cannot otherwise be met without special education or related services. If exceptional, the PLAAFP should easily identify the skill deficits requiring an IEP goal. If the PLAAFP does not inform a goal, then the team may need to consider whether the domain is exceptional or whether it may be better supported with non-specialized instruction. The determination of the exceptionality of any PLAAFP is made by the IEP Team, based on collected and interpreted data, and is not the decision of any single team member.

Impact of Mastery of Standards

The impact statement within a PLAAFP indicates whether or not the student's performance, based on reported data, directly interferes with the student's ability to progress in grade-level standards. The impact of mastery of standards statement should explain specifically how the student's deficit in the given area is preventing them from accessing content or participating in the educational environment.

- In the case of giftedness, include an explanation of identified needs for learning beyond current grade-level standards.
- For preschool children, describe how the current skill level impacts his/her participation in age-appropriate activities.
- For non-academic areas, explain the impact on the student's access and participation in general education activities.

Sources of Information

Sources of information are all the data sources used for the current year's PLAAFPs, including the dates those data were obtained. It may include various tests, score types, non-standardized measures, and observations.

Measurable Annual Goals (MAGs)

MAGs are IEP goals written for the student to ensure they can access and advance in the general curriculum, or, for preschool children, in age-appropriate activities, to the greatest extent possible, considering the circumstances of their disability. To address a student's specific deficit identified within a PLAAFP, a MAG is developed by the IEP Team when the team determines a PLAAFP area is exceptional, requiring special education or related services.

Special education is intended to support a student in progressing in the general education curriculum; therefore, the IEP goals should be directly connected to the knowledge, skills, behaviors, and strategies necessary for the student to access and progress in grade-level content or achieve age-appropriate functional skills and **not** to perform non-contextual activities that are unrelated to the education content or environment.

Components of a Strong MAG	
Skill	What specific skill is the student working to achieve?
- The skill should be directly related to an exceptional PLAAFP. - The skill should be observable and measurable. - The skill should be aligned to the curriculum or an age-appropriate functional skill. - The skill should be something that the student has multiple opportunities to practice throughout the day. - The skill addresses a deficit/barrier that is preventing the student from achieving the goal. The skill <i>should not</i> simply be an academic standard that will be taught in the current grade or an expectation that exists for all students in that grade (e.g., learn to form letters for a kindergartner, letter or numeral naming for a preschooler, come to class on time, follow teacher directions, etc.).	
Condition	What conditions are necessary for the goal to be achieved?
Examples: - Specific setting or environment (in the general education setting, in English Language Arts, during recess, in a noisy environment, during turn-taking games, music and movement activities, etc.) - Particular materials or content (math calculation problems, a grade-level passage, words with CVC patterns, keyboard, pretend play items, adaptive scissors, picture schedule, etc.) - Specific scenarios (engaging in unstructured time with peers, during group work, when observably frustrated, when given independent work, when given a multi-step direction, when transitioning between activities, etc.) - Visual or verbal prompts. - Minimum level of assistance. - A list of calming strategies. - Using a communication system. - Other supports or accommodations necessary for the student to achieve the goal with the greatest level of independence possible.	
Criterion for Accuracy	What are the criteria for determining if the student has met the goal?
Examples of possible criteria: - Accuracy - the number of correct responses expected - Frequency - the number of times the student will demonstrate a behavior or skill - Standard for behavior - the minimum expectation for the student to demonstrate; level of accepted performance for demonstration of mastery - A particular score on a rubric - Completion of a work product - Recorded data	

Example 1: *The student will select and implement one of their available calming strategies to avoid a verbal outburst when presented with a non-preferred academic task in science class.*

Example 2: *The student will be able to speak clearly enough to read a grade-level paragraph (of at least X # of words) to an unfamiliar listener so that the listener understands X% of words.*

Example 3: *The student will use visual supports to verbally provide at least four elements of a story in sequence (who, when, where, what happened, outcome) when retelling an event or story as measured by a story retell rubric.*

Example 4: *During daily routines and activities and given adapted (as needed) toys and materials, Child will explore/investigate (e.g., bang, close, dump, flip, open, pound, pull, push, put in, scoop, shake, squeeze, turn) three different objects in order to make something happen (i.e., intentionally cause an effect to take place), each day for two weeks by the end of the IEP.*

When developing MAGs, it is important that the IEP Team identify the *barrier* that is interfering with the student's ability to independently demonstrate a particular functional behavior or grade-level standard.

A MAG is not simply a written expectation of what an adult wants the student to do. The MAG is intended to address the underlying skill deficits that are preventing the student from performing an academic task or non-academic behavior.

To develop strong MAGs, the IEP Team should ask:

- What does the student need to be doing that they are not already doing that is impacting educational progress?
 - What specific skills are necessary to do that?
 - What strengths can be used to build upon skill development?
 - What needs to be taught that is beyond the standard instruction provided in general education; why is specialized instruction necessary?
- What strategies does the student lack that are preventing them from consistently performing a skill or expected behavior?
- What is the student's baseline data related to the targeted skill or behavior?
- What is the most critical area of need for the upcoming year (IEP)?
- What skill deficit is most impacting progress or participation?
- What opportunities will the student have to practice the skill identified in the goal?
- Will the goal contribute to meaningful participation or educational benefit?
- Is the skill within the goal directly related to the general education environment?
- Can the goal be understood and observed by non-specialists?
- Will observers be able to determine whether the student has met the expected criterion for success at the end of the IEP period?

Short-term Objectives

Short-term objectives are required for students who are assessed on an alternate assessment⁷⁶ but may be included for any student as appropriate. Short-term objectives are required for each MAG and follow the same format: condition, behavior/skill, and criteria. As with MAGs, the focus of short-term objectives is on increasing access and participation. Short-term objectives are connected to the MAG and are smaller skills that are required to achieve the larger, more integrated skill in the MAG. Short-term objectives should not be a repetition of the MAG in smaller time frames but are the skills that could “sabotage” or prevent the student from achieving the MAG if they are not acquired by the student. This is important, particularly for students who are eligible for the alternate assessments because their rate of learning is typically slower, and it is difficult to determine if they are on track to meet the goal. Supporting all the skills needed for the goal, and identifying skills the student needs more support on earlier, can ensure the student makes appropriate progress.

Measurable annual goals are larger skills that require the integration and synthesis of many smaller, more discrete skills. For students on the alternate assessment, identifying these smaller skills within the short-term objectives assist the team in planning and delivering meaningful instruction, intervention, accommodations, and/or modifications to meet the larger goal.

MAG Example:

- When given a field of three picture symbols for preferred activities, Alison will select a symbol and then engage in the activity within five minutes with no more than one verbal prompt.

STO Examples:

- When given picture symbols of preferred activities, Alison will match the symbol to the correct activity with 90 percent accuracy.
- When given a field of up to three choices, Alison will make a selection using gestures, pointing, or picture exchange no more than one verbal prompt.

As with MAGs, the focus of short-term objectives is on increasing access and participation. The skills within the short-term objectives may support multiple skills the student is working on beyond the goal to which they are aligned. Interlacing these skills in as many natural ways as possible within daily instruction and intervention will support the student's mastery and generalization.

⁷⁶ See 34 C.F.R. § 300.320(a)(2).

Short-term objectives are:	Short-term objectives are not:
• Skills that need to be directly taught • Student behaviors that demonstrate understanding and application of skills • Separate skills required to meet the goal • Skills and behaviors that a student must master to achieve independence that are generalized beyond the school setting	• Accommodations • Interventions or programs of the curriculum • Projected timelines of mastery aligned to progress reporting • Skills specific to the classroom or school setting only

Determining Participation in the State Assessment

Title I of the Every Student Succeeds Act (ESSA) requires that all students with disabilities be included in state assessments LEA.⁷⁷ Students with the most significant cognitive disabilities may participate in the alternate assessment, but states must ensure that for each subject, the total number of students assessed using the alternate assessment must not exceed 1 percent of the total number of all students in the state who are assessed in that subject.⁷⁸

Students with disabilities enrolled in Tennessee public schools must participate in the assessment system in one of the following ways:

1. General grade-level assessment (TCAP Achievement and End of Course (EOC), with or without accommodations
2. Alternate assessment based on alternate academic achievement targets

IEP teams **must** first consider student participation in the general grade-level assessment, using accessibility feature(s) and/or accommodation(s), before considering student eligibility and participation in the alternate assessments. The Alternate Assessment Eligibility Determination Worksheet is required in TN PULSE (the statewide IEP management system) if the IEP Team selects that a student will take the alternate assessment. If all three criteria within the worksheet are not met, the student is *not* eligible for the alternate assessment. For information on the alternate assessment eligibility criteria refer to the [alternate assessment webpage](#). For preschool children, the IEP team will indicate that the child will not participate in state assessments by selecting “No, student is in preschool” in TN PULSE.

⁷⁷ See generally 34 C.F.R. § 200.2.

⁷⁸ See 20 U.S.C. § 6311(b)(2)(D).

Non-Participation of Students with Disabilities in the Tennessee Assessment Program

Section 504 of the Rehabilitation Act of 1973 and Title II of the American Disabilities Act of 1990 prohibit individuals with disabilities from being excluded from the participation in, being denied the benefits of, or being subjected to discrimination by any public entity or any program or activity receiving federal financial assistance.⁷⁹ Students with disabilities must be included in state, regional, and LEA large-scale assessments, with results from assessments reported and findings aggregated with the total school population. There can be no exemptions from state assessments based on a student's disability.

Neither the IEP team nor the 504 committee can make decisions for non-participation in state assessments. Please review the opt-out memo in [Appendix E](#).

Supplementary Aids, Services, and Least Restrictive Environment

Supplementary aids and services mean aids, services, and other supports that are provided in general education classes, including early childhood classrooms, other education-related settings, and in extracurricular and nonacademic settings, to enable children with disabilities to be educated with nondisabled children to the maximum extent appropriate.⁸⁰

Students with disabilities should be provided individualized supports and a continuum of alternate placement to ensure they have access to grade-level instruction or for preschool, age-appropriate activities and opportunities to participate with non-disabled peers, and do so with the greatest level of independence.⁸¹ Not all students require a special educator within the general education setting during core instruction. Many students can access core instruction without a special education teacher or a Paraeducator. However, if the IEP team determines that a student's needs cannot be met without the support of a special educator or paraeducator, the IEP should include data and a description of the student's unique needs within the present level of academic achievement and functional performance (PLAAFP). Additionally, the IEP service should be directly connected to an IEP goal or objective; para educational support is not simply an adult in a classroom as needed, but rather a special education or related service provided under the direction of a licensed specialist to address a specific deficit area.

LEAs must educate students with disabilities in the general education classroom with appropriate aids and supports, referred to as "supplementary aids and services" to the extent appropriate. Less restrictive options should be considered when determining a student's needs in core instruction and intervention related to a student's area of deficit.

⁷⁹ See 29 U.S.C. § 794; 42 U.S.C. § 12132.

⁸⁰ See 34 C.F.R. § 300.42.

⁸¹ See generally 34 C.F.R. §§ 300.114 through -.117.

Supplementary aids and services may include:

- Supports or training for school personnel
- Assistive technology devices or services
- Accommodations
- Program Modifications
- Special education and related services
- Classroom aide or one-to-one assistant

Support or Training for School Personnel

The IEP must describe the supports for school personnel that will be provided on behalf of the student for the student to advance toward attaining the annual goals, to be involved in and progress in the general curriculum, or for preschool children in age-appropriate activities, and to participate in extracurricular and other nonacademic activities.⁸² Supports for school personnel are those that would help a provider or school staff to work with the student more effectively. Supports for school personnel are those necessary to meet the unique and specific needs of the student.

Examples of supports for school personnel may include:

- Training in the implementation of unique behavior supports
- Training in the use and programming of a communication system
- Training on safety precautions or protocols related to medical conditions
- Assistance with curricular modifications
- Attending a training for implementation of specific programming needs
- Necessary collaboration between professionals to implement interventions

Assistive Technology, Supports, and Services

The IEP must describe any assistive technology, supports and/or services needed for the student to access their education, including whether the use of a school-purchased assistive technology device is required to be used at home or in other settings for the student to receive a FAPE.⁸³

The IDEA defines an **assistive technology device** as *"any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve the functional capabilities of a student with a disability."*⁸⁴ Assistive technology devices can range from "low technology" items like pencil grips, markers, or paper stabilizers to "high technology" items such as voice synthesizers, Braille readers, or voice-activated computers.

⁸² See 34 C.F.R. § 300.320(a)(4).

⁸³ See 34 C.F.R. § 300.324(a)(2)(v); see also U.S. Dep't of Educ., [Dear Colleague Letter](#) (Jan. 22, 2024).

⁸⁴ 34 C.F.R. § 300.5.

The IDEA defines **assistive technology service** as *“any service that directly assists a child with a disability in the selection, acquisition, or use of an assistive technology device.”*⁸⁵

The term includes:

- a. The evaluation of the needs of a child with a disability, including a functional evaluation of the child in the child’s customary environment;
- b. Purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by children with disabilities;
- c. Selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing assistive technology devices;
- d. Coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;
- e. Training or technical assistance for a child with a disability or, if appropriate, that child’s family; and
- f. Training or technical assistance for professionals (including individuals providing education or rehabilitation services), employers, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of that child.

When a student needs assistive technology, the IEP team should consider what instruction the student might require use the assistive technology, as well as any supports and services the student and/or the student’s teachers may need, including training, programming, and device maintenance.

The IEP must describe any assistive technology supports and/or services needed for the student to access his/her education.⁸⁶ Assistive technology (AT) covers a wide range of tools, including non-electronic, low-technology items such as pencil grips and magnifying glasses to high-technology such as a computerized communication system. The term “AT” is often misunderstood to apply exclusively to the communication domain; however, AT tools and systems apply to multiple learning domains including cognitive, academic, adaptive, physical, social/emotional, and communication.

Compliance with provisions for assistive technology extends beyond the evaluation or acquisition of the equipment. The IEP team must consider how the student will use the AT successfully to access FAPE. **The assistive technology equipment must be accessible to the student at all times and used in all settings necessary to support the student in accessing educational curricula and materials.** This may mean that both general and special education and related service professionals help support a student’s use of assistive technology when required in the student’s IEP.

⁸⁵ 34 C.F.R. § 300.6.

⁸⁶ See 34 C.F.R. § 300.320(a)(4).

Successful implementation of AT requires IEP team members to consider factors beyond an assistive technology evaluation and selection of appropriate equipment and/or devices, such as:

- What training might be needed for the student, the student’s educational team, and the student’s family, as appropriate, to successfully utilize the equipment and/or device and its importance related to meeting the student’s educational needs?
- What technical assistance might be needed for learning the equipment and/or device as well as troubleshooting?
- How does the IEP Team ensure the AT equipment and/or device is customized for the individualized needs of the student?
- How will the AT equipment and/or device be maintained (including programming a computerized communication system) and repaired?
- How will collaboration occur among professionals working with the student to ensure appropriate implementation of the AT equipment and/or service?

Refer to the [Appendix F Assistive Technology FAQ](#) for additional information about the provision of AT in school.

Accommodations

Accommodations provide equitable access during instruction and assessments and do not change the construct being assessed nor compromise the integrity or validity of the assessment or content. An accommodation is defined as a change in the routine conditions under which students access and participate in instruction and assessment. *Accommodations change how (not what) the student is taught or expected to learn.* **Accommodations are intended to reduce or mitigate the effects, or level the playing field, of a student’s disability; however, accommodations do not reduce learning expectations or change the student’s grading or resulting scores.**

The accommodations provided to a student on accountability assessments must be *generally consistent* with those provided for classroom instruction and classroom assessments. It is critical to note that although some accommodations may be appropriate for instructional use, they may not be appropriate for use on a standardized assessment. There may be consequences (e.g., not counting a student’s test score) for the use of some accommodations during state assessments. Educators should become familiar with policies regarding accommodations during assessments.

Accommodations should:	Accommodations should not:
• Enable students to participate more fully in instruction and assessments and better demonstrate their knowledge and skills • Be based upon individual student need, and not upon the category of disability, level of instruction, or program setting	• Remove instructional content or standards • Eliminate participation or opportunities within general education • Be introduced only for high-stakes testing • Be provided solely as a way to help ensure proficiency

• Be aligned with and part of daily instruction • Be provided on a regular basis during instruction • Foster and facilitate independence for students, not dependence • Provide access not advantage	
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It is important to ensure that performance in the classroom and on assessment is influenced as little as possible by a student's disability. Providing effective accommodations during instruction and assessment is critical to achieving this important goal.

When IEP Teams select accommodations for a student's IEP in TN PULSE, they must indicate the necessary accommodation and determine when the accommodation will be provided – during academic subject/s, non-academic setting/s, or testing.

In some cases, the accommodations used in instruction may not be allowed on a test because it would invalidate the results of the test (i.e., when the performance no longer reflects what the test was designed to measure).

In these instances, teachers should be sure to adequately inform the parent(s) and student of the assessment guidelines and accommodation limits.

Some of the accommodations available to students with disabilities include:

• Adult transcription • Allow student to type or record assignment • Audio recorded textbooks/materials • Audio recorder • Braille • Copy of peer's class notes • Eliminate answer choices • Extended time* • Flexible setting • Give directions in small, distinct steps • Highlighted textbook/study guides • Highlighter • Large print • Oral presentation • Place marker • Planned, preferential seating	• Provide copies of pages/items vs. student copying from test/board • Recordings of teacher lectures/discussion • Reduce/minimize distractions (visual, auditory, tactile, movement, and/or social) • Repeat oral instructions verbatim • Rest or breaks • Scribe • Student responds using a recording device, played back and transcribed by student • Unique testing accommodation request • Visual representations for math (students with Visual Impairment only) • Custom accommodations are available
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** When indicating extended time, the IEP Team must clearly enter the additional time to be provided (example: additional ½ time; double the time, etc.); when extended time is provided for testing, the student must remain in the testing setting for the duration of the time indicated within the IEP accommodation, even if they complete testing sooner.*

When determining appropriate accommodation use, IEP teams should consider the four areas below:

Presentation How are the materials presented?

- For example, provide large-print or Braille, pre-teach vocabulary, or use media/technology.

Response How does the student respond?

- For example, student dictates responses to a scribe, uses word processor for writing, or responds orally for formative tests.

Setting What is the environmental setting?

- For example, the student works at a table instead of desk, or in a group of two rather than four; uses noise cancelling headphones when completing assignments, dim lights in the classroom; test in a small group or a separate setting.

Time What are potential needs related to time or scheduling?

- For example, the student completes small portions of an assignment at a time; has extra time to complete a large project; or takes tests in short intervals or at a specific time of day.

Selecting Accommodations Based on Individual Student Need

As part of each annual IEP meeting, accommodations are considered and discussed individually for each content area, course, setting, and assessment.⁸⁷ Any accommodation selected by the IEP Team must directly relate to the impact of the student's deficit(s) and increase their access to Tier 1 instruction and assessment, or, for preschool children, to age-appropriate activities. The IEP team should select the appropriate accommodations for each subject and/or course for the individual student as needs vary by content area. A necessary accommodation in one course or subject may not be needed in another. The selection of accommodations in a student's IEP should be based on individual and observed student needs.

An accommodation does not eliminate the need for the student to continue to learn new skills in the identified deficit(s) but rather minimizes the impact of the deficit while learning the skills. For example, a student may require read-aloud to access grade-level texts; however, this does not negate the need for the IEP team to consider additional reading interventions and supports. Each member of the IEP team must be informed of responsibilities related to implementing the student's IEP.⁸⁸ Those responsibilities include selecting, administering, and evaluating accommodations during instruction and assessment. Educators should collect data on the student's use and success with a provided accommodation to ensure the

⁸⁷ See 34 C.F.R. §§ 300.320(a)(4), -.324(b)(2).

⁸⁸ See 34 C.F.R. § 300.323(d)(2).

student is using the accommodation and that it is providing the intended educational access. Accommodations indicated within a student's IEP must be used consistently for instruction and assessment, and for preschool children, in age-appropriate activities.

IEP teams should consider the following questions when determining instructional accommodations:

- Are the recommended accommodations related to the student's PLAAFPs?
- Are the recommended accommodations necessary for access to the core instruction or assessment process?
- Are the recommended accommodations necessary for the preschool child to access and participate in age-appropriate activities or their environment?
- Has the student previously been provided the recommended accommodations, and have they proven to be effective?
- Will the recommended accommodations lessen the integrity of the core instruction or assessment?
- How do the student's specific areas of deficit affect the achievement of grade-level content standards or age-appropriate activities?
- What specialized instruction and intervention (e.g., learning strategies, organizational skills, reading skills) does the student need to achieve grade-level content standards?
- What accommodations will increase the student's access to core instruction by addressing the student's specific learning needs and reducing/mitigating the effect of the student's disability? These may be new accommodation or accommodations the student is currently using.
- What accommodations are regularly used by the student during core instruction?
- How does the use or elimination of accommodations affect the student's performance?
- Did the student report that the accommodation was helpful in accessing and participating in class?
- Did the parent(s) and/or school personnel report that the accommodation was helpful in accessing and participating in class?
- What difficulties did the student experience previously when using accommodations?
- Should the student continue to use an accommodation, are changes needed, or should the use of the accommodation be discontinued?
- How do multiple accommodations support or work against one another?

Additionally, IEP teams should consider the following specifically for large-scale assessments:

- IEP teams must consider and discuss accommodations individually for each state assessment mandated for the student's grade level and should not broadly assign accommodations across all assessments.
- Students should receive the accommodation they need to participate in the assessment but should not be given more accommodations than are necessary to participate meaningfully. *Accommodations are not to be used to compensate for a student's lack of knowledge and skills.*

- Students need opportunities to learn what accommodations are most helpful for them in day-to-day classroom instruction and assessment, as well as on large-scale assessments.
- The more input students have in selecting an accommodation, the more likely they are to use that accommodation.
- The use of any accommodation must be considered in light of the student's disability and must be necessary for the student to access the assessment due to his/her disability.
- Schools must not provide accommodations solely as a way to ensure proficiency on the assessment. The team must be sure that the accommodation(s) recommended for each student are providing access, not advantage.
- If no accommodations are being considered for the student, the informational fields must be completed with a statement explaining the IEP team has considered accommodations, but none are required at the present time.

Not all accommodations available within the classroom for a student are allowed on large-scale assessments. For guidance on allowable and special accommodations, visit the Tennessee Department of Education's [accommodations webpage](#) and review the *Accessibility Guide*.

Unique Accommodations

If an instructional accommodation is not permitted on a state assessment and does not alter what the test measures the LEA personnel may apply for a Unique Accommodation. Requests regarding accommodations not listed in accommodations for students with disabilities will be reviewed on a case-by-case basis using the [Unique Accommodations Request Form](#). All *Unique Accommodations Request* forms should be received by the department no later than six weeks before the new assessment(s) for which they apply.

IEP teams should consider the following guidelines when determining the need for a Unique Adaptive Accommodations Request:

- The unique accommodation should generally be documented in the student's IEP as an instructional accommodation.
- The unique accommodation must be used for the purpose of student access to the general education curriculum.
- The unique accommodation shall be age-appropriate, related to the student's disability, and must meet the individual instructional needs of the student.
- The unique accommodation should generally be part of the student's regular instructional program and used consistently throughout the school year for all related classroom assignments and tests. The accommodation may not be introduced for the first time on an assessment.
- The student should be proficient in the use of the accommodation.

- Any accommodations that change the standards measured including altering the number of items/choices on the test or simplifying the language used on the assessment will not be considered.
- In rare cases, accommodations may be needed for students who are not receiving services under special education or Section 504 (e.g., a short-term medical problem). For these students, a Unique Accommodations Request should be submitted to the department for review and approval as soon as the need is indicated.

Accommodations for Career & Technical Education (CTE) Safety

Students may require accommodations, modifications, or direct support within the CTE setting from a special education teacher. The IEP team should address these needs in the IEP services and accommodations. **The safety test must be provided according to the student's IEP and should not be used to prevent course participation.**

Several CTE courses require students to complete a safety examination with 100 percent proficiency to participate in the course. This is most relevant in hands-on, laboratory-based courses that are focused on the development of technical skills requiring the use of particular machinery, equipment, procedures, and Occupational Safety & Health Administration (OSHA)-related health and safety practices.

It is important for these courses, just as it is with all CTE courses, that students are not denied access, nor discouraged from enrolling in these courses, based on a specific disability alone. Safety examinations must not be used as a barrier to entry for students with disabilities; however, it is important to consider the best fit for the student and the course.

If a student with disabilities is interested in a CTE course with a safety examination requirement, consider the following:

- As with all courses, CTE instructors and special educators should both be involved in assisting students with appropriate course selection and the development of the IEP course of study, based on course standards, students' interests, and abilities.
- All students have access to CTE and are not prevented from participating based on the safety test.
- CTE instructors should be aware of, and trained in the use of, the accommodations for a specific student outlined in their IEP. Accommodations can and should be employed during the safety content instruction and examination of students.
- CTE instructors should differentiate appropriately for students with disabilities when presenting safety instruction and new material.
- CTE instructors should employ appropriate accommodations listed in a student's IEP when testing students on safety material.
- CTE instructors should understand all appropriate ways students with disabilities can demonstrate knowledge of safety material other than a written examination. This demonstration should be in accordance with accommodations outlined in the IEP and should be reflective of all of the content covered on a written exam. If a CTE instructor is unfamiliar

with alternate testing methods, they should coordinate with the special educator of record to determine the best approach.

- CTE instructors should not modify the content of safety examinations or change expectations of proficiency for students with disabilities.

It is imperative that all students engaged in a CTE course are properly instructed with the knowledge and skills necessary to safely and effectively operate equipment, control machinery, and practice procedures without putting themselves and/or others at risk.

Program Modifications to Core Instruction, Intervention, and Assessment

Modifications change what the student is taught or expected to learn. Content is modified by breaking down, or deriving from, the standards the learning expectations that are fundamentally related to the grade-level standards but also developmentally appropriate. As a reminder, before modifying, a team should consider accommodations.

Modifications change what the student is taught or expected to learn. The least dangerous assumption would be that students are able to participate within the core curriculum without modifications unless student performance data indicates otherwise.

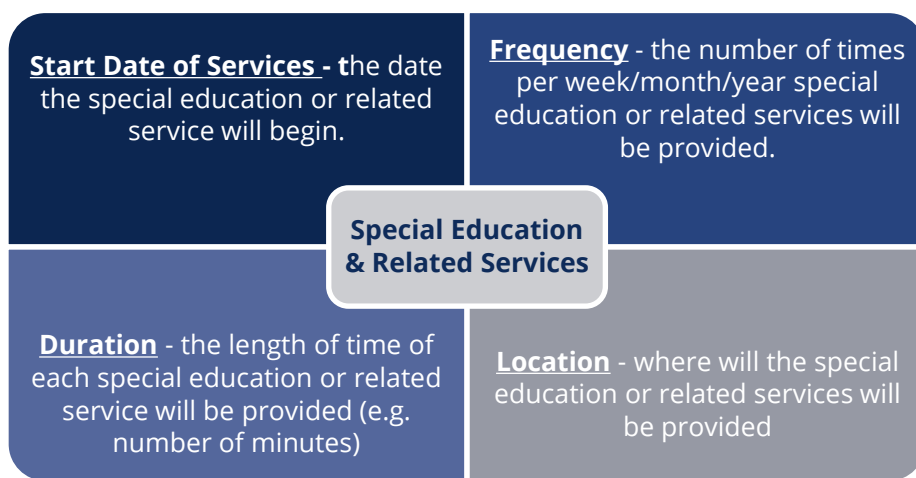
While for a few students with disabilities, modifications may be appropriate, understanding the difference between accommodations and modifications is crucial for IEP team decision-making. It is imperative that educators and administrators are informed about the types of information to consider when making decisions concerning accommodations and/or modifications. The IEP team should also consider the long-term ramifications of modifications to content. For example, modifications can impact grades, diploma options, coursework, and/or LRE.

No modifications are allowable on the TCAP Achievement or End-of-Course (EOC) assessments. Alternate assessments are modified state assessments. Students must meet the eligibility requirements to be assessed using the alternate assessment. For additional information on alternate assessment eligibility, please refer to the [alternate assessment webpage](#).

Special Education and Related Services

Special education is the most intensive service a student can receive, which means the instruction is specialized and individualized to address the needs of the student with a disability. Special education services are those necessary to assist the student in making progress and participating in the general curriculum, age-appropriate activities, or educational environment and are decided by the IEP Team based on needs identified in the student's exceptional PLAAFPs and MAGs.

For each special education and related service determined necessary by the IEP Team, the team will be charged with assigning the following:



School-age students receiving special education and/or related services may also receive Tier II or III academic or behavior intervention in areas not addressed in their IEP if they have needs that can be supported without more restrictive and intensive specialized instruction. If, however, a student's academic and/or behavioral needs are unable to be met in tiered intervention, the IEP Team must consider if the student requires additional special education or related services, or if additional assessment information is needed.

Special education Intervention effectiveness and progress with each IEP goal must be monitored and reported to the parents in periodic progress reports that align with the regular report card cycle.⁸⁹ As students begin to close the academic gaps, the IEP Team should consider a reduction in the intensity of an intervention or the restriction of the setting, if the student is not already receiving services in the general education classroom. Likewise, if a student is not making progress given the current IEP goals (MAGs) and special education and/or related services, the IEP Team should consider changes to the programming, whether that be additional goals, supports, services, or changes to the frequency, duration, or location of services.

⁸⁹ See 34 C.F.R. § 300.320(a)(2) (requiring a student's IEP to include a statement of measurable annual goals) and -.320(a)(3) (requiring a student's IEP to include a description of when periodic reports on the progress the child is making toward meeting the annual goals will be provided).

Special education services are selected based on the *type of interventions* necessary to achieve the MAGs; special education services are **not** a class or course.⁹⁰ If a student requires support in a particular class or course, the IEP Team must determine what is preventing progress in that class, course, or environment, and decide what intervention is necessary to address that deficit, which is described in the PLAAFP and MAGs.

CORRECT	INCORRECT
Type of Service – Reading Comprehension	Type of Service - English Language Arts
Type of Service – Adaptive Behavior / Independence	Type of Service – Inclusion Support
Type of Service – Academic Readiness	Type of Services – Developmental Pre-K

Related Services

Related services are supportive services required to assist a student with a disability to benefit from special education.⁹¹ Related services correlate with the IEP goals. Types of related services include, but are not limited to, the following:

- Behavioral health services
- Counseling services
- Hearing/auditory services
- Nursing services
- Occupational therapy
- Physical therapy
- Psychological services
- Recreation services
- School health services
- Work-based learning
- Aides in general education setting
- Sign-language interpreter
- Speech and language therapy
- Vision services
- Orientation and mobility services

⁹⁰ See 34 C.F.R. § 300.39(a) (defining special education as “specially designed instruction,” not as a course or a placement).

⁹¹ See 34 C.F.R. § 300.34.

Consultation Services

Consultation may be provided by a special education teacher, speech-language pathologist, and/or related service provider.⁹² It is considered a service that is delivered by certified staff to certified staff, with minimal services (if any) provided directly to the student. Consultation services, if deemed necessary for the student to receive FAPE, should be documented in a student’s IEP, and directly connected to a particular IEP goal requiring the consultative support. While all special education and related services are determined by the IEP Team, a student who no longer requires ‘direct’ intervention, may require a reevaluation to determine if the student continues to meet eligibility as a student with a disability.

Consultation may include, but is not limited to:

- Discussion on the implementation of the current IEP
- Review of current accommodations and progress on goals
- Implementation of behavior plan and/or behavior data
- Provide strategies to other professionals for the benefit of the student
- Collaboration to revise/develop future IEPs

Missed Services / Compensatory Education Services

The Individuals with Disabilities Education Act (IDEA) requires local education agencies (LEAs) to provide a free appropriate public education (FAPE) to all students with disabilities from ages 3 through 21.⁹³ When an LEA has not provided the special education or related services as written in the IEP, either through unavoidable circumstances or a finding of fault (e.g., a finding on an administrative complaint), the IEP Team should consider whether the student was denied FAPE resulting in the need to provide compensatory services to the student.

Compensatory services are used to address a student’s needs resulting from a denial of FAPE. These services are intended to elevate a student to the level expected had the student’s IEP services not been delayed or denied. Compensatory services are an appropriate equitable remedy designed to deliver services that a student should have received had services been provided as written in the IEP. See additional information about compensatory services resulting from staffing shortages in [Appendix G: FAPE and Staffing Shortages](#).

Compensatory services are :	Compensatory services are not :
• In addition to the services outlined in a student’s IEP	• Provided instead of the services outlined in a student’s IEP
• Targeted and supported by frequent documentation	• General and based on incomplete information

⁹² See Department of Education Rule 0520-12-05-.02(10).
⁹³ See 34 C.F.R. § 300.101; State Board of Education Rule 0520-01-09-.05(2).

• Determined by the student's areas of need and measurable annual goals	• Determined by the student's eligibility category
• Individualized	• Predetermined by a program, master schedule, staffing, or services received in previous IEPs
• Determined by the IEP team	• Always an hour-for-hour replacement of the services lost
• Provided in a timely manner based on the student's needs	• Limited by staffing or master schedules

Decisions related to compensatory education should be made by the student's IEP Team, including the student's parent. If the student's IEP team determines compensatory services are owed, the IEP Team should determine the number of service hours to be provided for the student to achieve the expected level of progress had the IEP services been provided as written; all decisions should be documented in a prior written notice and a written compensatory services plan should be written. The compensatory services plan should be a separate document from the student's IEP.

Compensatory services may be either quantitative (number of hours), qualitative (benefit-based) or a combination of the two. The type and amounts of compensatory services are determined by the IEP Team. Compensatory services must be provided in addition to the IEP services, not as a replacement. If compensatory services are provided during the school day, they must be delivered in accordance with the IEP's documented least restrictive environment.

Compensatory services should be provided within a year unless the family and school agree to an extended time frame. Compensatory services may extend past age 21 and may be owed even if the student moves outside the LEA.

Compensatory services must not be determined based on staffing needs or predicated by a master schedule. They must be individualized based on a student's needs and the degree of lost educational opportunities. See [Appendix H: Compensatory Education Services](#) for additional information about determining and documenting compensatory education.

Since all students with a disability participate in statewide and districtwide assessments, the LEA is not required to make up services missed during these testing times.⁹⁴

Least Restrictive Environment (LRE)

"Least restrictive in legal terms, is that environment with the most access to nondisabled peers; not as some educators believe, the environment in which it would be the easiest to teach the desired curriculum or behaviors. [The IDEA's least restrictive environment provision,] since its inception, has been based in RTI

⁹⁴ U.S. Dep't of Educ., [Letter to Kane](#), (Apr. 18, 2018)

logic. That is, data that demonstrates non-responsiveness to a lower tier of intervention is required prior to consideration of changing environments or adding interventions.⁹⁵

All students, pre-K through grade 12, are general education students first and must be provided access to Tier 1 (core) instruction, or for preschool children, participating in appropriate preschool activities. Special education is provided in addition to, not instead of core instruction. General education teachers are experts in core instruction and are essential members of a student's instructional team. The general education curriculum is the full range of courses, activities, lessons, and materials routinely taught in school. Access to the core curriculum is defined by active engagement in learning the content and skills being taught to all students.⁹⁶ To participate with success in the general curriculum or age-appropriate activities, a student with a disability may need instructional supports for learning, accommodations, and/or modifications, scaffolding, or assistive technology and services to access the content.

The LRE for students is the setting in which special education services and supports will be provided to the student based on their individual needs. The setting, or location of special education and related services, is an IEP Team decision, and must follow the IDEA.

To the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are nondisabled; and, special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only if the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.⁹⁷

The "least dangerous assumption" states that in the absence of absolute evidence, it is essential to make the assumption that, if proven to be false, would be least dangerous to the individual. Considering general education first for all students, regardless of disability, is a critical component of the least dangerous assumption. Evidence and data collected should be discussed at each IEP meeting before making the determination that a student requires a more restrictive setting."⁹⁸

An LRE decision is about *where* a student will receive core instruction, *not what* the student is being taught. All students, regardless of disability, should be provided core instruction. LRE decisions should never be based upon, nor are they contingent on, funding issues.

⁹⁵ Jeffery Sprague, Clayton R. Cook, Diana Browning Wright, and Carol Sadler, "RTI and Behavior: A Guide to Integrating Behavioral and Academic Supports," *LRP Publications* (2008): 126.

⁹⁶ Martin Argan, Michael Cavin, Michael Wehmeyer, and Susan Palmer, "Promoting Active Engagement in the General Education Classroom and Access to the General Education Curriculum for Students with Cognitive Disabilities," *Education & Training in Autism & Developmental Disabilities* 5, no. 2 (June 2010): 163-174, accessed July 13, 2017, <http://www.dddcec.org/>.

⁹⁷ 34 C.F.R. § 300.114(a)(2)

⁹⁸ Cheryl Jorgensen, "The Least Dangerous Assumption: A Challenge to Create a New Paradigm," *Disability Solutions* 3, no. 3 (Fall 2005): 4-15, accessed July 13, 2017, <http://archive.brookespublishing.com/documents/jorgensen.Least%20Dangerous%20Assumption.pdf>.

LRE refers to a related set of requirements aimed at providing individuals with disabilities the:

- greatest interaction with children, youth, and adults without disabilities
- appropriate education
- special assistance needed for success in the general education setting

A continuum of alternative placements (Figure 1) is available at all levels from general education to special education with special education interventions being the most intensive. There are a range of interventions, specialized instruction, and related services that are determined by individual needs and are not defined by specific locations or programs. The desired outcome of the IEP is for students to progress to their highest possible level of independence and participation in general education instruction. Instructionally appropriate IEP goals will direct the student's success toward independence.

LRE Considerations

- How much of the core instruction (i.e., English language arts and math) is the student receiving in general education?
- What accommodations and/or modifications does the student require to be successful in the general education setting?
- Is it possible for these accommodations and/or modifications to be provided within the general education setting?
- What supports are needed to assist the teacher and other personnel in providing these accommodations and/or modifications so the student can be educated in the general education setting?
- How will receipt of special education services and activities in the general education setting benefit this individual?
- How much of the core instruction will the student miss if leaving the general education setting? How will this instruction be delivered so that the student with a disability is receiving comparable core instruction to his/her peers?
- Why does the student need to receive instruction outside of the general education setting? (i.e., intervention toward IEP goals, present levels compared to grade-level expectations, meeting student need)?
- Can the student be served in the school that he or she would attend if nondisabled? If not, can the student be served as close to his/her home as possible?
- Is the student receiving educational benefit in the current setting?

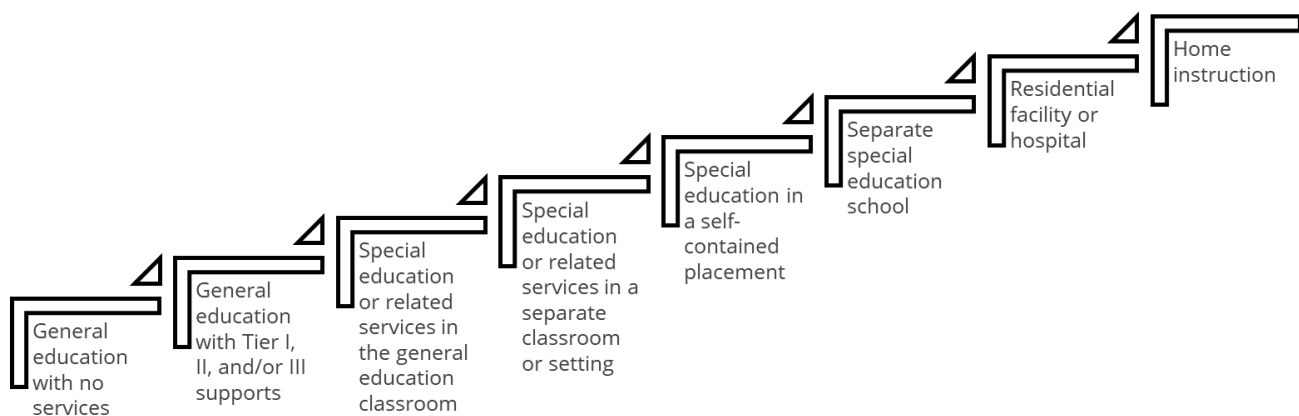
IEP teams may decide one of the following outcomes for a student's LRE:

1. A special education teacher or paraeducator is needed to support the student within the general education curriculum to provide:
 - a. Instruction,
 - b. Scaffolds/access points, and/or
 - c. Accommodation, instruction, and implementation.

2. A special education teacher is needed to consult with the student's general education teacher(s) to provide planning assistance, answer student-specific questions, and problem-solve difficulties within the classroom. However, if a student receives consultation services only, the IEP team may need to conduct a re-evaluation to determine if special education services are still appropriate.
3. A special education teacher is needed to provide the most intensive intervention to address specific IEP deficits. Students may receive this level of intervention in one or more settings through one or more sessions a day.
4. Service delivery may be a combination of special education supports within the general education setting and specialized instruction within academic and non-academic portions of the school day.

Documenting LRE in the IEP

Figure 1 – Example of continuum of alternative placements



If an IEP team has determined that a setting other than general education is required for a student to receive their special education or related services, the IEP team must explain the extent in which the student will not participate with non-disabled peers in the general education classroom in the student's IEP.⁹⁹ This explanation should justify why a separate setting is required for those services and why the use of supplementary aids and supports were not sufficient for participation in the general education setting.

If the student is publicly placed in a private school (the school determines that the student's LRE is at a private school or facility), the student is entitled to all procedural safeguards and special education and related services necessary to receive FAPE in that publicly funded private placement.¹⁰⁰

⁹⁹ See 34 C.F.R. § 300.320(a)(5).

¹⁰⁰ See 34 C.F.R. § 300.146.

For preschool students, LRE is defined by the type of educational environment the child is enrolled in (e.g., general education preschool program, special education preschool program) and where IEP services are provided (i.e., general education setting, special education setting, or some other location, including service provider location). IEP teams must complete the preschool justification statement on the IEP for all preschool children with disabilities, regardless of the type of program the child is enrolled in or the location of services. The IEP team should provide a rationale for the LRE decision for each of the special education and related services the child receives. If the team chooses to enroll the child in a Comprehensive Preschool classroom (e.g. a special education preschool program), the preschool justification statement should include a rationale for a special education placement, including a description of the supplementary aids and services considered or tried and why they are not sufficient for the child to access the general education program. A description of the child's abilities, skill deficits, or needs alone is not an adequate justification for placement in a more restrictive setting.

IEP teams must use a PWN to summarize the discussion related to the selection of the least restrictive environment decisions, including any placement options considered and rejected.¹⁰¹

Special Transportation

Transportation is a related service and must be considered annually for a student.¹⁰² As with academic instruction, the goal is for students to participate with their peers to the maximum extent appropriate.¹⁰³ If, however, the student is not successful within the general education setting (i.e., the bus offered to all who live on that route), an alternate, more restrictive setting (i.e., special education bus or transportation) may be selected by the IEP team. The amount of time a student spends on the bus during the route should be as closely aligned to the time their peers spend on a bus to the maximum extent appropriate.¹⁰⁴ This transportation is provided to families at no cost and is considered a portion of the student's school day and services. Therefore, if a student is suspended from the bus, and special transportation is listed as a related service on the student's IEP, it is considered a day of suspension and counts towards the 10 days allotted per student per school year before a manifestation determination is required.¹⁰⁵

The special education bus may also contain additional adult support from a paraeducator, or non-certified assistant hired by the LEA. The driver and paraeducator should be trained in behavior modification strategies, health, and safety. The school system may contract transportation services from a private vendor if the necessary adapted transportation is not otherwise available.

¹⁰¹ See 34 C.F.R. § 300.503.

¹⁰² See 34 C.F.R. §§ 300.34(c)(16), -.324(b)(1)(i).

¹⁰³ See 34 C.F.R. §§ 300.107, -.117.

¹⁰⁴ See T.C.A. § 49-6-2105 (limiting time in transit to or from school to 90 minutes).

¹⁰⁵ See 71 Fed. Reg. 46,715.

Specialized transportation may be required because an individual uses a wheelchair or walker and is unable to access the general education bus. However, transportation may also be needed as a related service for reasons related to behavior, health, visual impairments, hearing impairments, or cognitive understanding of safety on the bus.

If a student requires specialized transportation, this must be provided for school-related trips such as, but not limited to field trips, school-related overnight events, athletic or other school-related competitions, etc.¹⁰⁶ A school LEA must not require a parent to transport to any event or location that it provides transportation to for the student’s non-disabled peers; it is solely the responsibility of the LEA.

Even though general education preschool programs may not provide transportation, an IEP team must consider whether special transportation is required for the preschool child with a disability to receive FAPE. If the IEP team determines that special transportation is required, the LEA must provide it.

Extended School Year

Extended school year (ESY) is determined annually by the IEP team and should be made in a timely manner so the parent(s) can make adequate plans for the student’s participation as well as consider the proposed the decision.¹⁰⁷ Progress monitoring data of the student’s performance across each IEP goal should be considered, including data immediately following school breaks when determining the student’s need for ESY.

Note:

Bus drivers and paraeducators should be familiar with the student’s medical and behavioral needs, including strategies or tools that work within the school setting to keep the student safe. See 34 C.F.R. § 300.323(d)(2).

Extended School Year (ESY) is:	Extended School Year (ESY) is not:
A service provided to students, at no cost to the parent(s), for whom extended school breaks are determined to be detrimental to a student’s progress;	- A compensatory education program; - Determined by a specific disability; - Intended to assist students in making additional progress; - A tutoring service;

¹⁰⁶ See 34 C.F.R. § 300.107.

¹⁰⁷ See 34 C.F.R. § 300.106.

• Intended to maintain skills and/or behaviors so the student will not be spending additional weeks during the school year to return to the former performance level; • Data-driven, using multiple sources of student data; • An IEP team decision about whether the services are necessary for the provision of FAPE; • Applicable to current IEP goals that are determined necessary for the student to receive FAPE; • A service provided by an educator who may or may not be the same special education teacher who works with the student during regular school days; • Provided outside the regular school calendar, so it does not occur within the general education setting; and • Individualized according to student needs.	• Intended to address services not already written in the current IEP; • Guaranteed or denied for specific disability categories; • Decided unilaterally, in terms of necessity, duration, frequency, etc.; or • Automatically “renewed” at each annual IEP.
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ESY may be determined necessary in situations such as the following:

- A student’s level of performance on a skill or set of skills regressed to the degree that it takes an extended length of time to recoup the skills to the former level.
- A student was recently determined eligible for special education (or is new to the school or LEA) and is now showing growth in a skill but has not had sufficient time to show mastery (or progress monitoring from the prior placement is unavailable).
- A student is showing a marked burst and progress on a skill, which requires continued school support to maintain and prevent significant regression.
- A student’s behavior is such that a break from routine or school support leads to behavior that is harmful to self or others or can cause regression in behavior to the degree that upon returning from the break; the student requires a more restrictive LRE than required before the school scheduled break.
- A student’s physical health or needs are such that continuous intervention is required.

The IEP team must consider ESY for all preschool children with a disability even if the child has not yet attended school or started receiving Part B services. For example, a child who is transitioning from TEIS/Part C to the LEA/Part B with a late May third birthday may require ESY prior to the start of school.

IEP Effectiveness

IEP effectiveness should be monitored through multiple data sources, including IEP goal mastery measures, general outcome measures, and mastery of grade-level standards as appropriate (see component 11). In *Endrew F. vs. Douglas County School LEA*, the U.S. Supreme Court determined that FAPE requires more than minimum progress; the school “must offer an IEP reasonably calculated to enable a child to make progress appropriate in light of the child’s circumstances.”¹⁰⁸ Therefore, student progress must be monitored closely, and instructional adjustments should be made as needed. For example, if a student masters an IEP goal quickly within the timeframe designated by the IEP, the IEP team should reconvene to adjust the student’s goals. Conversely, if a student is not on track to master an IEP goal within the identified time frame, the team should meet to determine what is inhibiting the student’s progress, problem-solve, and make necessary adjustments to the IEP.¹⁰⁹ Goals should be based on current, detailed PLAAFPs and should not roll over from year to year.

The goal for all special education services is to assist the students in learning the skills necessary to no longer require special education and related services and to no longer require an IEP. As students begin to close the gap, attempts should be made to reduce the intensity of interventions and/or amount of time in more restrictive environments to move the student toward successful full participation in the general education classroom. These decisions should be based on the needs of the student and informed by multiple data sources. The IEP team must include parents in the discussion to reduce or exit special education and/or related services and document all placement decisions in a prior written notice.

Special Education Support for Behavior

For some students, accessing instruction or participating meaningfully is impacted by behaviors such as attendance, attention, social skills, organization, pragmatics, self-advocacy, and understanding classroom routines and expectations.

When a student’s behavior impedes their learning or the learning of other students, schools must consider the use of positive behavioral interventions and supports to provide FAPE.¹¹⁰ A student’s behavior may be impeding their learning or the learning of others to such a degree that they may require more intensive behavior support through special education. If a student’s PLAAFPs indicate a deficit in behavior, he/she must have MAGs specific to the student’s behavior deficit and needs. To the greatest extent possible, the goals should describe the preferred behavior or skill the student will learn and use, rather than the behavior

¹⁰⁸ See *Endrew F. v. Douglas County School LEA Re-1*, 580 U.S. 386 (2017); see also U.S. Dep’t of Educ., [Questions and Answers \(Q&A\) on U. S. Supreme Court Case Decision Endrew F. v. Douglas County School LEA Re-1](#), (Dec. 7, 2017).

¹⁰⁹ See 34 C.F.R. § 300.324(b)(1)(ii).

¹¹⁰ See 34 C.F.R. § 300.324(a)(2)(i); see also U.S. Dep’t of Educ., [Questions and Answers: Addressing the Needs of Children with Disabilities and IDEA’s Discipline Provisions](#), Questions A-2 and A-3 (July 19, 2022).

they will avoid. While the ultimate goal is to replace any behavior that is impeding the student's learning or the learning of others, this may take more than one year, and so the goal should reflect a reasonable expectation at the end of the IEP year given the intervention, supports, accommodations, etc.

Also, the expectation for behavior should be age-appropriate. For example, a student who has many off-task or avoidance behaviors may have a goal to stay on task for a certain number of minutes. A replacement behavior should be age-appropriate, and the amount of time expected should be reflective of the student's age. Likewise, any replacement behavior or strategy should be age-appropriate. For more information related to behavior, please refer to the department's [behavior resources](#) webpage.

Functional Behavior Assessment

A functional behavior assessment (FBA) is a formal assessment process for understanding a student's behavior.¹¹¹ An FBA involves data gathering from various sources (e.g., direct observations, teacher and parent input, developmental history, behavior tracking systems) to help determine reasons why an individual is displaying behaviors (i.e., the function of the behavior) so teams can create an effective behavior intervention plan (BIP). An FBA can be completed for students with and without disabilities. However, if an FBA already exists, LEAs must review and revise the FBA, as appropriate, under the following circumstances¹¹²:

- When a student receiving special education and related services engages in conduct that results in a change of placement as defined by 34 C.F.R. § 300.536 and the LEA, the parent, and relevant members of the IEP team determine that the student's conduct that gave rise to the change in placement was a manifestation of the child's disability;
- When an IEP provides for the use of restraint or isolation, as required by T.C.A. § 49-10-1304(b);
- When the student exhibits a pattern of behaviors that impede their learning or that of others;
- When the student exhibits a pattern of behavior that places the student or others at risk of harm or injury;
- When the student's IEP team is considering a more restrictive placement as a result of the student's behavior; or
- When determined appropriate by the student's IEP team.

An FBA shall be conducted, as appropriate, to inform the development or revision of the BIP in the following situations¹¹³:

- When a student receiving special education and related services is removed from their current placement for more than ten (10) consecutive school days for behavior not determined to be a manifestation of the student's disability; or

¹¹¹ See generally State Board of Education Rule 0520-01-09-.24.

¹¹² See State Board of Education Rule 0520-01-09-.24(3).

¹¹³ See State Board of Education Rule 0520-01-09-.24(4).

- When a student receiving special education and related services is removed to an interim alternative education setting for up to forty-five (45) school days for weapons, drugs, or serious bodily injury, irrespective of whether the student's behavior is a manifestation of the student's disability.

An FBA is an individualized evaluation and LEAs must therefore obtain written, informed parental consent prior to beginning the assessment.¹¹⁴ If the student's parent refuses to provide written consent or fails to respond to a request for written consent, a school LEA may either develop an informal behavior plan or file a due process complaint seeking a judicial order for an FBA.¹¹⁵ If the student's parent disagrees with an FBA, the parent is entitled to request an independent educational evaluation at the LEA's expense, subject to the conditions in 34 C.F.R. § 300.502.

Behavior Intervention Plan (BIP)

A BIP is a plan that includes positive strategies, program modifications, and supplementary aids and supports aimed to decrease problem behaviors and reinforce replacement behaviors that allow the child to be educated in the LRE.¹¹⁶ The BIP should be developed using the data and recommendation from the FBA. A BIP should, at a minimum, outline the following¹¹⁷:

1. A clear description of the target behavior(s). This is the one that the team is attempting to extinguish or reduce.
 - a. A current baseline for the target behavior
 - b. Hypothesized function (i.e., reason) of the behavior
2. Clearly defined replacement behavior
 - a. How the replacement behavior will be taught or the intervention and who is responsible to teach appropriate replacement behaviors
 - b. When and where the intervention will take place
 - c. How the intervention will be progress monitored
3. A positive reinforcement plan for the use of the replacement behavior and/or decrease of the target behavior
4. Environmental or other strategies/accommodations to reduce the antecedent(s) to the target behavior(s)

¹¹⁴ See U.S. Dep't of Educ., *Letter to Christiansen* (Feb. 9, 2007) (indicating that written parental consent is required whenever a functional behavioral assessment is intended to evaluate the educational and behavioral needs of a single, specific child).

¹¹⁵ See State Board of Education Rule 0520-01-09-.24(10) (authorizing LEAs to implement an informal behavior plan for lower intensity behaviors); 34 C.F.R. § 300.300(c)(1)(i) (authorizing LEAs to utilize the consent override procedures if the student's parent refuses to consent to a reevaluation).

¹¹⁶ See generally State Board of Education Rule 0520-01-09-.24.

¹¹⁷ See State Board of Education Rule 0520-01-09-.24(7).

5. Consequence plan for when the target behavior occurs
6. For unsafe behavior, a crisis plan or safety plan the student
7. Staff members required for BIP implementation and team member responsibility(ies)
8. A plan to train school personnel who interact regularly with the student on the intervention strategies identified in the student's BIP
9. Date and time to reconvene, at least annually, and review student progress on the BIP goals

The BIP should be perceived as a playbook that outlines the actions of the adults to create a single coherent and consistent plan for the student. Using clear, observable descriptors will help ensure the same understanding of all staff supporting and interacting with the student on a regular basis. The team should inform, and when needed, train the support staff that engages daily with the student such as the cafeteria staff, office staff, and bus driver(s). Working together as a team will help the student to understand both the expectations and the rewards of the replacement behavior(s).

A student's behavior will not change simply because a BIP was created. It is the thoughtful and consistent implementation of the plan that supports the student in learning and achieving their goals. As with academic interventions, if the intervention is not working or the progress the student is making is very slow, the intervention should be changed. Additionally, as the student grows and develops, the strategies and behavior intervention(s) need to grow and develop as well. Most importantly, the strategy(s) selected need to be ones that the whole team feels they can implement with fidelity to increase the likelihood of a successful BIP.

Manifestation Determination

In general, suspension or expulsion should be used as a last resort. However, there are times when a student's behavior is such that it warrants the disciplinary action of suspension or expulsion.

A manifestation determination review (MDR) is a review of a student's misconduct to determine whether the misconduct is caused by or substantially related to the student's disability. An MDR must be performed within 10 school days of any decision to change the placement of the student because the student violated the code of conduct.¹¹⁸ A "change of placement" occurs when (1) the student is removed from his or her current placement for more than 10 consecutive school days, or (2) the student is subjected to a series of removals from his or her current placement that constitute a pattern because the series of removals totals more than 10 school days in a single school year, because the student's behavior is substantially similar to the student's behavior in previous incidents that resulted in the series of removals, and because of other such factors, including the proximity of removals to one another.¹¹⁹

¹¹⁸ See 34 C.F.R. § 300.530(e).

¹¹⁹ See 34 C.F.R. § 300.536(a).

In-school suspensions will not count toward the 10 days if the school and staff ensure that the student "is afforded the opportunity to continue to appropriately participate in the general curriculum, continue to receive the services specified on the child's IEP, and continue to participate with nondisabled children to the extent they would have in their current placement."¹²⁰

If the LEA issues discipline that does not result in a change of placement (e.g., a short-term suspension that is not part of a pattern), the LEA is not required to conduct an MDR. If the LEA provides educational services during the suspension, school personnel and at least one of the student's teachers must determine the extent to which services are needed to enable the student to continue to participate in the general education curriculum and to progress toward meeting the goals set out in the student's IEP.¹²¹ The services may be provided in a setting other than the student's normal educational placement.¹²²

If the LEA issues discipline that will result in a change of placement (e.g., expulsion), the LEA is required to conduct an MDR. The MDR must occur within 10 school days of the discipline being issued and may be conducted on as little as 24 hours' notice to the parent.¹²³ The MDR team must include the student's parent, a representative from the LEA, and relevant members of the student's IEP team, as determined by the parent and the LEA.¹²⁴ The team must review all relevant information in the student's file, including the student's IEP, teacher observations, and any relevant information provided by the parent.¹²⁵ The manifestation determination review must address the following questions:

1. Was the conduct in question caused by, or did it have a direct and substantial relationship to, the student's disability;
- OR*
2. Was the conduct in question the direct result of the LEA's failure to implement the IEP?¹²⁶

Behavior is Determined Not to be a Manifestation of the Student's Disability

If the student's behavior is determined by the manifestation determination review to *not* be a manifestation of the student's disability, the student may be subjected to the same disciplinary actions as

¹²⁰ 71 Fed. Reg. 46,715.

¹²¹ See 34 C.F.R. § 300.530(d)(4).

¹²² See 34 C.F.R. § 300.530(d)(4).

¹²³ See State Board of Education Rule 0520-01-09-.15(3).

¹²⁴ See 34 C.F.R. § 300.530(e)(1).

¹²⁵ See 34 C.F.R. § 300.530(e).

¹²⁶ See 34 C.F.R. § 300.530(e)(1).

their non-disabled peers.¹²⁷ As noted above, LEAs may choose to provide educational services, albeit in an alternative setting.¹²⁸

The IEP Team has the responsibility to provide, as appropriate, an FBA and behavior intervention services and modifications that are designed to address the behavioral violation so that it does not recur.¹²⁹ If a student's behavior is escalating or not improving, the current BIP is not effective for that student and should be revised with new or additional intervention strategies. This process may also require a team to re-evaluate the FBA, but not always.

Behavior is Determined to be a Manifestation of the Student's Disability

If the student's behavior is a manifestation of the student's disability, an FBA *must* be completed if the student does not already have one available to address the current behavior concern(s).¹³⁰ If the student has a current FBA and BIP, the manifestation determination team must review them and make any needed modifications.

The student is then returned to the placement from which they were removed unless the parent and school agree to a change of placement as a part of the modification of the behavior Intervention plan.¹³¹

Zero Tolerance Offences & Special Circumstances

All LEAs are required to consider the following four offenses as zero-tolerance offenses under state law¹³²:

- (a) The student brings a firearm to school or is in unauthorized possession of a firearm on school property.
- (b) The student commits aggravated assault or commits an assault that results in bodily injury upon any teacher, principal, administrator any other employee of an LEA, or a school resource officer.
- (c) The student is in unlawful possession of any drug, controlled substance analog, or legend drug on school grounds or at a school-sponsored event.
- (d) The student threatens mass violence on school property or at a school-related activity.

If a student with a disability commits an offense that constitutes a special circumstance under IDEA, LEAs and public charter schools can remand the student to an interim alternative educational setting (IAES) for up to 45 school days, regardless of the outcome of the MDR.

¹²⁷ See 34 C.F.R. § 300.530(c).

¹²⁸ See 34 C.F.R. § 300.530(d)(3) (noting that LEAs must provide educational services to students with disabilities if the LEA provides educational services to students without disabilities during short-term removals).

¹²⁹ See 34 C.F.R. § 300.530(d)(1)(ii).

¹³⁰ See 34 C.F.R. § 300.530(f)(1).

¹³¹ See 34 C.F.R. § 300.530(f)(2).

¹³² See Tenn. Code Ann. § 49-6-3401(g)(2)

If a student with a disability commits an offense that constitutes a zero-tolerance offense under state law or local board policy but does not constitute a zero-tolerance offense under IDEA, LEAs and public charter schools can only remand the student to an IAES if the misconduct was not a manifestation of the student's disability.

Please note the special circumstances exception under IDEA is not intended to be used as a punitive measure against students with disabilities. Instead, the special circumstances exception is intended to provide LEAs time to develop and implement a plan for returning the student to the student's previous educational placement. For example, LEAs should utilize the time to review and revise the student's IEP as appropriate or to conduct a functional behavior assessment (FBA) and develop or revise a behavior intervention plan (BIP). LEAs should not have a policy or procedure that requires all students with disabilities who are remanded to an IAES to stay in the IAES for the full 45 school days.

All LEAs and public charter schools are allowed to consider the following three offenses as special circumstances under IDEA¹³³:

- (a) The student carries or possesses a weapon to or at school, on school premises, or to or at a school function under the jurisdiction of an LEA.
- (b) The student has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function under the jurisdiction of an LEA.
- (c) The student knowingly possesses or uses illegal drugs, or sells or solicits the sale of a controlled substance, while at school, on school premises, or at a school function under the jurisdiction of an LEA.

See the Manifestation Determination Review Flow Chart and the Manifestation Determination Flow Chart Supplemental Guide in [Appendix I](#) for additional information about MDRs.

Parent Rights in MDR Decisions

The parents have a right to appeal the decision of the manifestation determination team. They may request an expedited due process hearing. The hearing must be conducted within 20 school days of the school LEA's receipt of the request and a decision must be rendered within 10 school days of the hearing. The student remains in the disciplinary setting pending the outcome of the expedited hearing. Stay put, in disciplinary matters, is the interim alternative setting determined by the school, not the setting from which the student was removed. The school LEA must show that continuing a student in the current, non-disciplinary setting is likely to result in injury to the student or others. If the school LEA prevails in an expedited hearing, the judge may order the student to remain in the interim alternative setting for not more than 45 school days.

¹³³ See 34 C.F.R. § 300.530(g)

Isolation, Seclusion, and Restraint

In an ideal situation, a comprehensive FBA leads to a fully developed BIP that ensures a student's behavior remains safe, targeted behaviors are extinguished, and the student uses the replacement behavior(s) consistently. However, this is not always the case. There are a few students for whom their behavior or disability impacts them to such a degree that they are unsafe to themselves or others. In these emergency situations, isolation (seclusion) and/or physical restraint may be necessary for the student's safety and/or the safety of those around them.

The Tennessee Special Education Behavioral Supports Act (SEBSA)¹³⁴ provides the following definitions:

Isolation or seclusion means “the confinement of a student alone, with no other students, staff, or persons present, in a room with or without a door or other enclosed area or structure pursuant to T.C.A. § 49-10-1305(g) where the student is physically prevented from leaving because a door, object, or school personnel is blocking the student's exit.”¹³⁵

Physical holding restraint means “the use of body contact by school personnel with a student to restrict freedom of movement or normal access to the student's body.”¹³⁶

Restrictions on administration of, or use of, isolation or restraint.¹³⁷

- a) Administering a chemical restraint to a student receiving special education services is prohibited. Nothing in SEBSA, however, prohibits the administration of a chemical restraint when administered for therapeutic purposes under the direction of a physician and with the child's parent's consent to administer such chemical restraint.
- b) Administering a noxious substance to a student receiving special education services is prohibited.¹³⁸
- c) The use of any mechanical restraint on any student receiving special education services is prohibited.¹³⁹

Both isolation and physical restraint minimize or prevent freedom of movement. This is an important part of the definition to understand to prevent restraint or isolation when it is not an emergency.

Some students require equipment for positioning, maintaining physical health, communication, etc. The equipment may limit movement, such as a chair for positioning that includes a seat belt. This equipment is important for the student's health and success. However, staff should ensure that it is not used to force compliance, or obedience, or prevent a student from leaving the area. Disabling or removing any

¹³⁴ See generally T.C.A. §§ 49-10-1301 through -1307.

¹³⁵ T.C.A. § 49-10-1303(4).

¹³⁶ T.C.A. § 49-10-1303(8).

¹³⁷ T.C.A. § 49-10-1305(a); see also T.C.A. § 49-10-1303(2) (defining “chemical restraint”).

¹³⁸ T.C.A. § 49-10-1305(b); see also T.C.A. § 49-10-1303(7) (defining “noxious substance”).

¹³⁹ T.C.A. § 49-10-1305(c); see also T.C.A. § 49-10-1303(6) (defining “mechanical restraint”).

equipment or device required by the student, such as a wheelchair or augmentative communication device, as a means of coercion, punishment, convenience, or retaliation is prohibited.¹⁴⁰

Restraint, either by physically minimizing a student's movement or physically directing the movements made by the student, or isolation within a room in which the student's exit is restricted shall only be imposed by school personnel who have been certified for completing behavior intervention training.¹⁴¹ Only if no trained personnel are available, it is permissible for other school personnel to restrain/isolate the student to keep the student or others from harm or injury.¹⁴² A student may not be locked in a room or physical space that is structurally built to prevent the student's ability to leave once calm.¹⁴³ Any exit plan needs to be developed with the intention of the isolation or restraint ending as soon as the student is safe. Procedures or protocols for the student to demonstrate that they are calm and ready to exit should be designed with the expectation of a rapid exit and based on the knowledge the team has of the individual student.

Pre-Planning for Restraint/Isolation

To ensure that school personnel are prepared for an emergency, a school should develop a plan for restraint and/or isolation. Just as with other emergency plans such as a fire evacuation plan (fire drill) or tornado drill, the plan is developed with the hope that it is never needed or used.

One strategy to prepare for a crisis situation is to create a "hallways clear" code or drill. This drill, when used would signal to students that they are to remain in their current classroom, engaged in instruction until notified the drill is complete. Keeping the hallways clear then provides an opportunity for a student who is unsafe to be calmed or restrained without an audience or peers being placed at risk. This same drill may be found useful for other situations such as a student who is injured and will need to be treated by paramedics or ambulance, parents loudly arguing or confronting one another, or to prevent injury while a student who has eloped from class and is actively running in the hall. School personnel may wish to identify a space that can be used for isolation.

Spaces used for isolation must:

- Be unlocked and incapable of being locked;
- Be free of any condition that could be dangerous to the student;
- Be well-ventilated;
- Be temperature controlled;
- Be well-lighted for the comfort and well-being of the student;

¹⁴⁰ T.C.A. § 49-10-1305(e)(2).

¹⁴¹ See T.C.A. § 49-10-1304(c)(1).

¹⁴² See T.C.A. § 49-10-1304(c)(2).

¹⁴³ See T.C.A. § 49-10-1305(j)(1).

- Allow continuous direct visual contact from school personnel at all times;
- At least 40 square feet; and
- Comply with all state and local fire, health, and safety codes.¹⁴⁴

Reporting the Restraint and/or Isolation

When a student with a disability has been restrained or isolated, the school personnel who administered the restraint or isolation must report the incident to the school principal or the principal's designee.¹⁴⁵ In addition, parents must be notified, orally or in writing, on the same day their student has been restrained or isolated, including the length of time the restraint or isolation was imposed and to what degree (physical hold or held within an area and blocked for leaving).¹⁴⁶ If the student has been restrained or isolated and has no prior FBA or BIP completed, the school should request permission to begin an FBA in order to prevent further escalation to the degree that requires restraint or isolation.¹⁴⁷

Additionally, any restraint or isolation must be documented in an electronic report within TN PULSE written by the school personnel who restrained or isolated and finalized by the LEA within 5 calendar days of the incident.¹⁴⁸ The department will review these reports to ensure compliance and identify trends across the state.

In situations where the student's behavior required both, a restraint and an isolation, the team should report both situations as two separate reports into the TN PULSE platform. For example, a student becomes upset and begins running around the classroom trying to stab the adults and peers with their pencil. Two trained staff members restrain the student and use a restraint transport to safely move the student to the isolation room. The staff is able to let go and exit the isolation room and the student remains isolated until they have sufficiently calmed down to remain safe upon leaving. In this scenario the team would first complete a restraint report and then complete the isolation report. This dual reporting provides more accurate information both to the parents and to the student's IEP team on their behavior needs or unsafe behavior patterns.

BEST PRACTICE

If the team is unclear whether the actions of a staff member/team was an isolation or restraint, it is better to err on the side of caution and report it to the parents, administrator, and document appropriately. This choice provides the opportunity for open, honest, and transparent data of the student's behavior and the staff

¹⁴⁴ See T.C.A. § 49-10-1305(g).

¹⁴⁵ See T.C.A. § 49-10-1304(i)(1); State Board of Education Rule 0520-01-09-.23(5).

¹⁴⁶ See T.C.A. § 49-10-1304(d); State Board of Education Rule 0520-01-09-.23(5).

¹⁴⁷ See State Board of Education Rules 0520-01-09-.23(7), -.23(8), and -.24(3)(b).

¹⁴⁸ See State Board of Education Rule 0520-01-09-.23(10).

Training in Restraint and Isolation

SEBSA defines the legal requirements for training, use, and reporting of isolation and restraint.¹⁴⁹ School personnel who may be involved in isolation and/or restraint should be knowledgeable of these requirements. For additional information related to SEBSA, please refer to the [Frequently Asked Questions](#) created by the department restraint task force. For more information on restraint and isolation, please visit the department's [behavior resources](#) web page.

¹⁴⁹ See generally T.C.A. §§ 49-10-1301 through -1307.

Appendix A: Effective Implementation of the Screening Process

This guidance is intended to communicate the distinction between student evaluations and screenings to assist local education agencies (LEAs) and families in understanding the purpose and considerations for conducting a screening.

Purpose of Screening

Screenings are designed to help a teacher or specialist identify at-risk areas (e.g., reading, articulation, math, language) for a student. Screeners are not intended to be used as a tool for determining eligibility. If an LEA is administering a screener outside of the universal screening process, the screening results should be implemented cautiously. LEAs cannot use screenings as a mechanism to delay or deny an evaluation if the team suspects a disability, nor as a substitute for an evaluation if the team suspects a disability. See, e.g., U.S. Dep't of Educ., [Letter to Mills](#) (May 2, 2019); U.S. Dep't of Educ., [Letter to Torres](#) (April 7, 2009).

A Screening Is	A Screening Is Not
An activity used to assist with instructional strategies or to determine the need for an evaluation.	A thorough evaluation to determine eligibility for special education or related services.
A snapshot of skills that can support the determination of next steps.	Used to replace an evaluation.
A measure that can aid in evaluation, programming, and planning.	A measure of progress to determine the continued need for special education or related services.

Parental Consent

LEAs are permitted to screen a student without an Individualized Education Program (IEP) to determine how best to implement the student's curriculum or as one piece of data to determine if the student may be at risk for having difficulty acquiring skills in a domain. However, the LEA shall adhere to the guidelines of conducting an evaluation if the student is suspected of having a disability. See 34 C.F.R. § 300.302; U.S. Dept. of Educ., [Letter to Torres](#) (April 7, 2009).

If the LEA uses a universal screening measure for all students in the LEA, grade, or classroom, parent consent is not necessary to administer the measure. For example, an LEA might administer benchmark

testing at a certain grade level to consider RTI interventions. Results would typically be provided to the parent as part of the general education assessment process for all students in the grade level.

While parental consent is not required prior to conducting a screening, it is recommended that parents be informed of actions the school is taking to address a student’s potential need for educational support. It is best practice to communicate the screening results to the parent in writing and to retain the documented screening results as part of the student’s data to be considered if the student is later referred for an evaluation. There is nothing in the Individuals with Disabilities Education Act (IDEA) that prohibits an LEA from implementing internal policies and procedures concerning the use of screenings to implement the curriculum or to determine the need for an evaluation, including the need for parental consent.

The Office of Special Education and Rehabilitative Services (OSERS) has indicated that a screening is not the same as an evaluation for eligibility for special education. U.S. Dep’t of Educ., [Letter to Mills](#) (May 2, 2019). While screenings and evaluations can target similar skill areas and provide helpful information to guide decisions, the screening process is not an abbreviated evaluation, nor can it replace or delay an evaluation when eligibility for special education and related services is being considered. U.S. Dep’t of Educ., [Letter to Torres](#) (April 7, 2009).

If a student is referred for an evaluation by the student's parent, the LEA should not respond to the referral by conducting a screening. If the LEA agrees that the student may have a disability, the LEA should seek consent to conduct an evaluation. If the LEA does not agree that the student may have a disability, the LEA may instead conduct a screening but should formally decline the referral for an evaluation and explain the basis of its decision in a prior written notice.

For example, if after the LEA grade level benchmark assessment for RTI², the classroom teacher requests a speech and language screening to assist with implementing the curriculum, those results cannot be used in place of an evaluation and cannot be used to determine if the student is a student with a speech language impairment.

Definition		Purpose	Requires Informed Parental Consent
Evaluation	An individual assessment to determine eligibility for special education and related services, consistent with evaluation procedures in 34 C.F.R. §§ 300.301 through 300.311. (34 C.F.R. § 300.15)	Determine eligibility for special education and related services.	Yes

Screening	A process that a teacher or specialist uses to determine appropriate instructional strategies. (34 C.F.R. § 300.302)	Identify at-risk areas & inform instructional strategies. May be used to screen academic and nonacademic areas.	No
Universal Reading Screener	Required reading screenings to be administered to all students in grades K-3, three times per year, during the designated statewide screening window (Fall, Winter, Spring). (T.C.A. § 491-905(c)(1)) Recommended reading screenings should be administered to students in grades 4 – 6 three times per year, following vendor specific normative windows Recommended reading screenings should be administered to students in grades 7 – 12 annually following vendor normative windows, ideally a fall administration, and three time per year for students who flag for risk An Early Warning System (EWS) may serve as the universal reading screener for grades 9-12.	Determine which students may require additional reading-specific interventions.	No

Selecting Screening Instruments

The screening process should begin with selecting an appropriate measure. For example, a screener may be marketed as a measure of expressive language but, upon further examination, it is instead measuring a student's exposure to certain pre-academic concepts such as colors and shapes and simple naming skills. While these pre-academic concepts are important, they are not a complete or accurate representation of a student's ability to engage in spoken or written tasks related to the curriculum. Additionally, some standardized screeners have been found to yield false negatives, resulting in an increased risk of *not* identifying a potential underlying disability, such as language¹⁵⁰.

When making selections of any assessment tool, the teacher or practitioner should consider the reason a student has been identified as needing to be screened, the skills intending to be examined, and the sensitivity of the measure. Additionally, the teacher or practitioner should judiciously consider the usefulness of the tool in informing curricular strategies and the efficacy and limitations of any given measure.

It is also advised that screeners be used in conjunction with other pieces of data, so educational decisions and recommendations are not made using a single measure, but rather information is gathered across multiple educational activities and domains.

Summary

Screeners are used to identify the presence or absence of a particular skill or skills or potential at-risk areas by providing a snapshot of a student's performance relative to the age or grade expectations outlined in the screening tool. Those snapshots often help guide further decisions; however, screeners cannot be used as a replacement for an evaluation for eligibility. U.S. Dep't of Educ., [Letter to Mills](#) (May 2, 2019).

Using screeners, outside of the universal screening process, is permitted but should be used with caution.

This caution arises from the need to:

- Use discretion in selecting screeners that support the decision-making process,
- Understand that the screening process is not a replacement for an evaluation, and
- Consider multiple sources of information during the screening process instead of a single screener score.

LEAs are again encouraged to develop internal policies and procedures concerning the use of screenings and to determine how best to implement the curriculum or to determine if an evaluation is needed.

Questions? Contact RTI.Questions@tn.gov

¹⁵⁰ Longerbeam, M.S., Freeman, L.M. Language Screening: How Far Have We Come?. *Curr Dev Disord Rep* 7, 116–123 (2020). <https://doi.org/10.1007/s40474-020-00198-7>

Appendix B: Assessment Specialists

Speech-Language Pathologist

Person holding a master's degree or a doctoral degree in speech-language pathology. The licensed speech-language pathologist (SLP) serving students in an LEA will hold a professional school services personnel license from the State Department of Education with an SLP endorsement. A licensed and certified SLP working in a public school will additionally hold certification from the American Speech-Language-Hearing Association (CCC-SLP). This person is endorsed to evaluate, identify a speech-language disability, and facilitate the educational process by providing specific services to students with oral/facial anomalies, voice disorders, neurogenic disorders, neuromuscular disorders, phonological/articulation disorders, language disorders, and fluency disorders.

Low Vision Specialist

State-credentialed teacher with an endorsement in the instruction of students with visual impairments. This person is certified to conduct and/or interpret functional vision assessments.

Orientation and Mobility Specialist

Person qualified to provide evaluation and teaching services to blind or visually impaired students to enable those students to attain systematic orientation to and safe movement within their environments in school, home, and community; and instruction to students in the following: (a) to use spatial and environmental concepts of information received by the senses (i.e., sound, temperature, and vibrations) to establish, maintain, or regain orientation and line of travel (e.g., using sound at a traffic light to cross the street); (b) to use the long cane to supplement visual travel skills or as a tool for safely negotiating the environment for students with no available travel vision; (c) to understand and use remaining vision and distance low vision aids; and (d) other concepts, techniques, and tools.

Ophthalmologist:

A medical doctor who specializes in the branch of medicine dealing with the structure, functions, and diseases of the eye and their correction.

Optometrist

In Tennessee, this licensed specialist can determine the degree of visual impairment, if any, and perform many of the same practices as an ophthalmologist, excluding surgery.

Occupational Therapist

Tennessee Health Related Boards practitioner licensed to screen, evaluate, plan, and provide occupational therapy. Occupational therapy addresses the physical, cognitive, psychosocial, sensory-perceptual, and other aspects of performance in a variety of contexts and environments to support engagement in occupations that affect physical and mental health, well-being, and quality of life (AOTA Model Practice Act, April 2011).

Physical Therapist

Tennessee Health Related Boards practitioner licensed to examine, evaluate, and provide interventions to students with mechanical physiological and developmental impairments, functional limitations, and disability or other health and movement-related conditions to alleviate impairments and functional limitations by designing, implementing, and modifying therapeutic interventions.

Psychologist

The licensed psychologist must hold a license issued by the appropriate licensing board in the state in which the child was determined disabled. In Tennessee, the licensing agency is the Tennessee Health Related Boards in Psychology. The licensed psychologist will hold a Psy.D, Ed.D, or Ph.D. degree. He or she must be competent to evaluate students for special education eligibility. The ability to administer tests does not solely establish competence in evaluating exceptionalities or the potentially extensive needs of students.

Psychological Examiner

A licensed psychological examiner and licensed senior psychological examiner must also hold a license issued by the Tennessee Health Related Boards in Psychology. He or she will hold the M.A., M.S., M.Ed., Ed.S, Psy.D, Ed.D, or Ph.D. degree. The licensed senior psychological examiner must be competent to evaluate students in the suspected disability area. Prior to utilizing licensed personnel, it is important to consider the types of services to be delivered relative to the person's training and experience.

School Psychologist

The school psychologist must be certified by the appropriate state agency in the state where a child was determined disabled. In Tennessee, the appropriate state agency for licensure and endorsement of the school psychologist is the State Department of Education. The licensed school psychologist must hold a M.A., M.S., M.Ed., Ed.S, Psy.D, Ed.D, or Ph.D. degree. He or she must be competent to evaluate students in the suspected disability area.

Graduate Student in Psychology:

An exception to the three specialists identified above (psychologist, psychological examiner, and school psychologist) is services provided by a graduate student under the immediate supervision of one of these three specialists. This student must meet the following requirements:

- The student must be working toward licensure with the State Department of Education in school psychology or enrolled in an internship leading toward licensure as a psychologist or psychological examiner.
- The student must have completed all coursework necessary to participate in an internship from his or her university's program.
- Services provided must be part of a recognized field experience supervised by the psychology training program in which the student is enrolled.

- The student must be under the immediate supervision of a State Department of Education licensed school psychologist, a licensed psychologist, or a licensed psychological examiner. This supervision must have the approval of the psychology program of the university in which the student is enrolled.

In addition to the student requirements listed above, the psychology training program in which the student is enrolled must provide the department with a list of its graduate students who are providing psychological services to an education agency. They must also provide documentation that the student meets the above requirements.

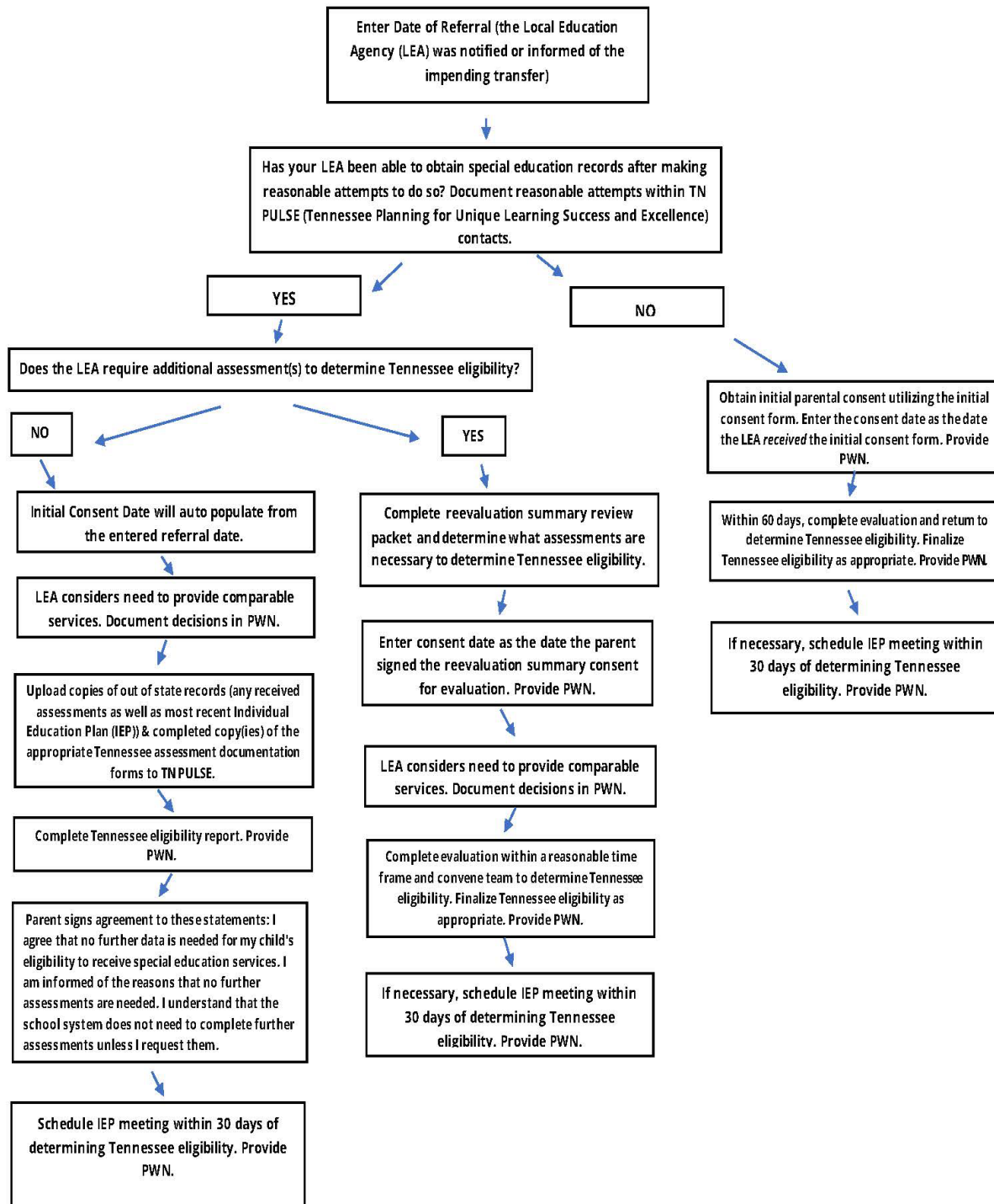
Psychiatrist

An individual who holds a license issued by the appropriate licensing board in the state in which the certification was approved. In Tennessee, the licensing agency is the Tennessee Board of Health Related Boards. The licensed psychiatrist holds an M.D. degree and has the ethical responsibility for determining if his/her areas of expertise include the diagnosis and certification of the given exceptionality. The Tennessee Board of Health Related Boards. The licensed psychiatrist holds an M.D. degree and has the ethical responsibility for determining if his/her areas of expertise include the diagnosis and certification of the given exceptionality.

Appendix C: Out of State Transfer Process



Out of State Transfer Process



Appendix D: What is Assistive Technology?

What is Assistive Technology?



Assistive technology includes a wide range of tools, from a simple, low-tech device such as a magnifying glass, to a complex, high-tech device, such as a computerized communication system. AT products can be made by hand, purchased off the shelf, or adapted from an existing product. The term “assistive technology” is often misunderstood to apply exclusively to electronic devices or products; however, AT includes non-electronic, low- and high technology items or equipment.

Assistive technology services help individuals acquire and use AT devices. They include, but are not limited to, assessment of an individual's need for specific AT items, “trialing” of potential devices, training for all involved, maintenance of devices, and evaluation of the individual's experience with selected items.”¹⁵¹

Assistive Technology Services

AT services as defined in IDEA include:

The evaluation of the needs of a child with a disability, including a functional evaluation of the child in the child's customary environment;

Purchasing, leasing, loaning, or otherwise providing for the acquisition of assistive technology devices by children with disabilities;

Selecting, designing, fitting, customizing, adapting, applying, retaining, repairing, or replacing assistive technology devices;

Coordinating and use other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;

Training or technical assistance for a child with a disability or, if appropriate, that child's family; and

¹⁵¹ Assistive Technology 101: Get informed about assistive technology for your child. The Center on Technology and Disability is funded by the U.S. Department of Education, Office of Special Education Programs (OSEP) under award #H327F130003 – 13A.

raining or technical assistance for professionals (including individuals or rehabilitation services), employers, or other individuals who provide services to employ, or are otherwise substantially involved in the major life functions of children with disabilities.

Assistive Technology Devices Domains

AT Domain	Definition/Explanation	Examples (<i>Not an exclusive list</i>)
Cognitive & Academic	<i>Academic and Learning Aids</i> Electronic and non-electronic aids to support access to reading, writing composition, (including motor aspects of writing), and math instruction.	Calculators, computer-based software, text-to-speech, speech-to-text, word prediction, spell check, electronic or audio books, graphic organizers, outline templates, slant boards, highlighting, reading windows, etc.
	<i>Cognitive Aids and Self-Monitoring Supports</i> Supports, tools, or devices to aid students in self-monitoring, organizing, time management, studying, or planning.	Calendars, agendas, memory aids, color coding systems, adapted paper, timers, pictured sequences/steps of an activity, headphones, etc.
Adaptive	<i>Aids for Daily Living</i> Self-help aids to support independence in activities such as eating, bathing, cooking, dressing, and toileting.	Adapted utensils, drinking aids and eating equipment, hygiene tools, reachers, adult changing tables, dressing aids, etc.
	<i>Access to Computers and Electronics Aids</i> Hardware or software aids to provide a student access to a computer or other electronic device.	Alternate keyboards, key guards, head mouse, track ball, touch screen, screen reader, switch with scanning, etc.
	<i>Enabling Technology and Environmental Control</i> Systems or devices which increase access and independence in homes, schools, businesses, community buildings, etc. as well as assist in controlling other environmental needs.	Ramps, door openers, lifts, switch, or electronic controls of the environment, such as lighting, temperature, etc.
	<i>Supports for Low Vision</i>	Magnifier, magnification dome, Mojo, Zoomax Snow, closed caption television (CCTV), monocle, lighted table, high

	Low tech or high-tech equipment to aid access to printed materials, projected information, the white board, and/or the teacher during instruction.	contrast paper or colored overlay, specialized glasses, etc.
Communication	<i>Assistive Listening Devices and Environmental Aids</i> Electronic and non-electronic aids that assist students who are hard of hearing or deaf with accessing information that is typically presented through an auditory modality.	Classroom amplification, personal FM systems, closed captioning systems, and environmental alert systems, etc.
	<i>Augmentative and Alternative Communication (AAC)</i> Methods, aids, and devices (electronic or nonelectronic) used to supplement or replace spoken and written language to assist people with expressing their thoughts and ideas.	Picture symbols, object-based communication displays, alphabet boards, speech generating devices, computer-based communication devices, eye gaze, switches, communication boards, and other communication systems, etc.



AT Domain	Definition/Explanation	Examples (<i>Not an exclusive list</i>)
Physical	<i>Fine Motor Tools and Aids</i> Tools or aids that provide support, or alternative means of access to produce fine motor tasks such	Weighted pencils, alternate writing instrument, pencil grips, adapted scissors, raised line paper, slant boards; pointers, adapted art supplies, etc.

	as writing, cutting paper, or stabilizing writing materials.	
	<i>Mobility Aids</i> Adaptive equipment or supports to aid independent or supported movement, transitioning (stand to sit), or navigation across a variety of terrains (grass to blacktop).	Canes, crutches, standing devices, prosthetic devices, wheelchairs, gait trainer, walkers, etc.
	<i>Seating and Positioning Aids</i> Supports, medical devices, or specialized equipment designed to provide physical support for safe and secure positioning or seating.	Adapted chair, foam supports, footrest, customized neck braces, tilt and space wheelchair, molded foam seating with secure harness systems, custom seating or position equipment, mats, wedges, etc.
Social Emotional	<i>Recreation, Leisure, and Play Aids</i> Adapted toys, recreation equipment, or play equipment that aids students in active participation in recreation, leisure activities, or play.	Switch activated spinner, electronic dice, adapted sports equipment, soccer balls or kickballs with a beeper, wheelchair accessible swings, playground ramps, etc.
	<i>Transportation Use and Access Aids</i> Adapted equipment, seating, or supports to aid access to and use of personal or public transportation.	Electronic lifts, adapted cars, hand brake and gas pedal, specialized transportation services (access-a-ride), bus route software, safety software, etc.

For questions or more information: | **Email:** special.populations@tn.gov

Appendix E: Assistive Technology FAQs

Questions and Answers Assistive Technology for Students with Disabilities

August 2022¹⁵²

This document is intended to answer some of the common questions asked by educators and families about assistive technology.

1. **What is assistive technology (AT)?**

AT includes devices and/or services. The Individuals with Disabilities Education Act (IDEA) defines assistive technology as “any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve functional capabilities of a child with a disability.” 20 U.S.C. § 1401(1)(A); 34 C.F.R. § 300.5. The term excludes medical devices that are surgically implanted. 20 U.S.C. § 1401(1)(B); 34 C.F.R. § 300.5. While the IDEA uses the term *device*, AT includes a wide range of options, including electronic and non-electronic tools, hardware and software, devices, or equipment.

AT services means, “any service that directly assists a child with a disability in the selection, acquisition, or use of an assistive technology device.” 20 U.S.C. § 1401(2); 34 C.F.R. § 300.6. AT services encompass a broad list of provisions, including but not limited to evaluating, providing for the acquisition of AT devices, designing, fitting, adapting, maintaining, repairing or replacing, and training. For additional information about AT basics, you can read, [“What is Assistive Technology?”](#)

2. **Are there laws that address AT devices and services?**

Yes, three federal laws address AT. In developing a student’s IEP, the IDEA requires a student’s IEP team to “consider whether the child needs AT devices and services” to receive a free appropriate public education (FAPE). See 34 C.F.R. § 300.324(a)(2)(v). If an AT device or service is necessary for a student with a disability “to make progress in light of the child’s circumstances,” those devices or services must be included in the student’s IEP. U.S. Dep’t of Educ., *Letter to Anonymous* (Nov. 27, 1991); *Andrew F. v. Douglas Cnty. Sch. Dist.*, 137 S. Ct. 988 (2017).

If a student with a disability utilizes an AT device or service, both Title II of the Americans with Disabilities Act and Section 504 of the Rehabilitation Act prohibit LEAs from discriminating against the student due to the student’s use of AT, even if the use of AT mitigates the effects of the student’s disability. See 28

¹⁵² Minor edits have been made to this guidance document since it was released in August 2022.

C.F.R. § 35.108; 34 C.F.R. § 104.3. State and local governmental entities, including LEAs, must ensure that all programs, services, and activities are accessible to individuals with disabilities.

3. *Which students should be considered for AT supports or services?*

Any student with a disability should be considered for AT devices or services if the student is unable to access and participate in an environment, activity, or service that is available to non-disabled students. The provision of AT must be determined by the individualized education program (IEP) or Section 504 Plan team on an individual basis. 34 C.F.R. § 300.324(a)(2)(v). The IEP or 504 Plan team will consider all data to appropriately identify the necessary supports.

4. *How do I know if my child or student needs AT?*

Students with a disability may need AT if their disability impacts their ability to fully participate in the educational environment, activities, or services available to their non-disabled peers. As part of the evaluation process, the student's IEP team should assess the student's functional capabilities and determine whether an AT device or service would increase, maintain, or improve those abilities. See 34 C.F.R. §§ 300.5; 300.6. The evaluation should provide sufficient information to permit the IEP team to determine whether the student requires an AT device or service to receive FAPE. See 34 C.F.R. § 300.105(a). For students with an IEP or a Section 504 Plan, the team must identify all areas of need that may require support with AT. It is possible that an AT evaluation is necessary to identify the most appropriate AT supports and/or services. See U.S. Dep't of Educ., *Letter to Fisher* (Dec. 4, 1995).

5. *If AT is provided to a student, will they become dependent on it and not develop skills they otherwise would have on their own?*

No. AT provides a method for the student to access an activity or demonstrate a skill that the disability is otherwise preventing the student from performing. In fact, when a student has access to necessary AT, it increases their independence by reducing reliance on another person to assist with a task. AT may also reduce frustration and increase participation in students by providing a means to engage.

AT can be compared to an individual needing to wear glasses or contacts to be able to access print they otherwise could not read. By wearing glasses or contacts, an individual is not being provided an advantage over unaided individuals who do not require corrective lenses; it is simply leveling the opportunity for people who require prescriptive glasses.

6. *Are there any prerequisite skills a student must have to be provided AT?*

No. A student does not have to demonstrate any prerequisite or 'readiness' skills for AT devices and/or services to be provided.

7. *If I know a student requires AT, does an AT evaluation have to be completed?*

An AT evaluation is required if the team is unable to accurately identify the appropriate method or device needed for the student to access the activity or material to be able to make progress toward his/her/their educational goals. See U.S. Dept. of Educ., *Letter to Fisher* (Dec. 4, 1995). The need for an AT evaluation may also depend in part on the complexity of the student's needs. For example, a team may offer a slant board, specialized pencil grip, or other writing utensils to a student who has fine motor deficits and determine that those supports sufficiently address the writing challenges without the need for an evaluation. Conversely, a student with mobility and communication challenges may require an AT evaluation if the special education and/or related service providers have been unable to successfully identify a reliable access mode for the student without seeking a more formal evaluation.

8. *Who is responsible for conducting an AT evaluation?*

Any educational evaluation, including an AT evaluation, should include a multidisciplinary team, including the family. Although medical or private AT evaluations are often completed by a single 'expert', this practice is modified within the education system. Educational evaluations should be conducted collaboratively by a group of professionals (e.g., special educator, speech-language pathologists, occupational therapist, physical therapist, etc.) and the family to collectively consider the student's strengths and challenges across multiple settings and activities and to determine the student's greatest level of independence and the degree of additional supports required to bridge the gap toward fully accessing his/her/their education.

9. *How is an AT device acquired for a student?*

If an AT device is necessary for a student with a disability to receive FAPE, the LEA is obligated to acquire and maintain the device at no cost to the family. See U.S. Dept. of Educ., *Letter to Cohen* (July 9, 1992).

Once the area or areas requiring educational access supports have been identified, the IEP team will select a specific tool, system, piece of equipment, or device that will enable the student to fully participate in the identified activity or environment. The LEAs may have a library of AT equipment for student trials and loans, they may need to purchase a new device, or they can access community programs to borrow or acquire equipment for students. Additionally, LEAs may ask families for consent to acquire the AT device through the state-funded healthcare plan or family's private health insurance; however, a family is under no obligation to provide insurance information or consent to the school to seek reimbursement for equipment or services. Depending on the needs of the student and the requirements for specialized devices or equipment, a LEA may be eligible to seek high-cost reimbursement.

10. Can districts seek funding for necessary AT through Medicaid or private insurance?

Yes, if the AT is deemed necessary by the IEP team, meets the definition of medical necessity, and is deemed a covered device or piece of equipment by the healthcare plan, the school can pursue third-party billing if the family agrees and provides informed consent.

If seeking coverage for an AT device, the school must follow the evaluation and or claim requirements of the healthcare plan, which may require that reports and claims be submitted by a qualified provider according to federal and state provider qualifications.

11. Must a student have an IEP or 504 Plan to receive AT?

Most students' needs can be met with universal access provided through classroom technology, alternate instructional materials, and other assistive tools readily available to all learners in classrooms without the need for an IEP or 504 Plan.

If anyone suspects the child to be a child with a disability, the LEA must consider their child find obligations. See 34 C.F.R. § 300.111. The team will then discuss the need for an evaluation for special education or Section 504 Plan eligibility.

12. How do we document the student's need for AT?

The student's AT needs may be documented in a variety of ways and depend in part on the student's disability status.

If a student has an IEP, and the IEP team has determined the need for an AT device and/or service, they must be documented in the IEP. It should first be indicated by selecting 'yes' to the question, "Is AT necessary?" within the *Current Information and Considerations of Special Factors* section of the IEP. Additionally, it must also be indicated within the Assistive Technology section within the Supplementary Aids, Services, and Least Restrictive Environment portion of the IEP. It may also be addressed in several other places within the IEP, including accommodations, supports for school personnel, present levels of educational performance, measurable annual goals and objectives, the transition plan, and special transportation. Additionally, it should be documented how the AT will support achievement of IEP goals and progress in the general education curriculum, as well as when the AT will be made available to the student, how it is to be used, and under what circumstances.

For students who are eligible under Section 504, the team will have current assessment data to support the student's need for AT or it may need to be obtained through an AT evaluation.

If a student does not have IEP or Section 504 Plan, the family and a team of professionals will need to meet to discuss the student's needs and whether those needs can be met through universal classroom supports.

13. Should we document a specific model or name of an AT device within the IEP?

Documentation of a specific brand or model in the IEP is appropriate if that a specific model/brand of AT is required to ensure FAPE.

However, there are several reasons it would be more appropriate to describe, rather than name a specific model or brand of AT in the IEP. For instance, the IEP team may still be assessing the student's AT needs through a series of observations and trials and have not yet identified the most appropriate tool, system, or device. Also, some students may encounter new educational settings or go through a rapid period of physical or cognitive growth, requiring that their AT be adjusted, or their needs assessed multiple times within an IEP cycle. Lastly, describing, rather than naming a brand/model will allow the IEP to be implemented without delay if the dedicated AT device or system should need maintenance or repair and require a temporary substitute or alternate.

When providing a description of a tool, system, or device, include any necessary specifications so that a new educator or LEA would be able to match and implement the program without an interruption to the student's access.

14. Can AT be used during LEA or state mandated testing?

Yes, if the AT device is deemed necessary to access or respond to the testing materials, is documented in the student's IEP, is regularly utilized by the student in daily instructional activities, and the specific AT is not prohibited during the assessment (e.g., use of a calculator during certain portions of a math assessment). Many AT supports are software, rather than hardware, so the school must consult the [Tennessee Comprehensive Accessibility and Accommodations Manual](#) to ensure the accessibility features are properly selected or deselected prior to testing. Assistive technology may also necessitate additional assessment accommodations (e.g., transcribing, etc.), so it is recommended that AT and test accessibility questions be directed to the LEA Testing Coordinator. Additional information about test accessibility can also be found on the Tennessee Department of Education's [webpage](#).

15. Can AT go home with a student?

Yes. 34 C.F.R. § 300.105(b) specifies that school purchased AT devices may be made available for use in the child's home or other setting if the AT device is necessary for the student to receive a free and appropriate public education (FAPE). The decision for a device to be made available to the student at home or other setting outside of school is determined by the IEP team and must be based on the student's individual needs and circumstances. It should be documented in the IEP if the team determines that it is appropriate for the child to have AT available in non-school settings.

16. How do I know that the AT provided to my child or student is effective, and when should AT be faded or changed?

The AT provided to students must be continually monitored to ensure it is meeting the need for which it was selected. School teams and families, if appropriate, should collect data on the child's use of the AT device across settings and relevant activities. If the device or service is not assisting the student in achieving his/her/their education goals, then the team should convene to consider changes to the AT device or service. AT needs will likely change as technology advances and as the student grows and encounters new or different settings and tasks.

17. Is it fair and appropriate for students to be provided a type of AT that is not available to other students during instructional times and/or testing?

Yes, AT provides students equity, not an extra advantage. AT is determined on a case-by-case basis and is provided to students so they may successfully complete a task or participate in an activity they otherwise would not be able to due to their disability. AT is intended to remove the barrier that prevents the student from accessing the learning task or activity.

18. Is AT the same as an accommodation?

While accommodations and AT are both designed to provide a student equitable access to education, AT is a tangible device or a specific service delivered to a student with a disability. An accommodation may include AT, but may also be an intangible allowance, such as extended time to complete assignments, scheduled breaks, or reducing the length of an assignment. Certain types of AT and accommodations both may be provided to any student as through universal learning supports offered in the classroom.

19. Are there AT supports available outside of my LEA?

Yes. There are many state and national resources available to schools and families to support AT. Additional resources can be found on the Tennessee Department of Education Special Education Instructional Resources [webpage](#) and through the [TN Technical Assistance Network](#).

20. Who can I contact with additional questions or more information about the provision of AT in Tennessee schools?

Questions or requests for additional information can be directed to the Tennessee Department of Education, Special Education Programming and Intervention team members Alison.Gauld@tn.gov, and Jamie.Seek@tn.gov.

Appendix F: Opting out of Annual Assessments

Memo

What is the Purpose of Annual Assessments?

Annual assessments are critical to ensure that all students are making strong academic progress. In Tennessee, one measure of student, school, and LEA academics is through the Tennessee Comprehensive Assessment Program (TCAP), which are tests aligned with our state's academic standards, outlining what students are expected to know, guiding educators as they design their lessons and curriculum. As Tennessee's teachers work to equip all students with the knowledge and skills they need, we have to ensure that we can identify any major gaps in students' learning and find variations in growth among different schools – both so we can strengthen support in places that need it and learn from educators and students who are excelling.

Results from TCAP tests give both teachers and parents a unique feedback loop and big-picture perspective to better understand how students are progressing and how to support their academic development. This yearly academic check-up is the best way to see how all students in Tennessee are doing, and it is one key measure through which we learn if we are meeting our responsibility to prepare all students for college and the workforce. Because of the importance of annual assessment, we believe it is crucial for all students to take all TCAP tests each year.

May parents opt their students out of testing?

No, state and federal law require student participation in state assessments. In fact, these statutes specifically reference the expectation that all students enrolled in public schools in Tennessee will complete annual assessments. Given both the importance and legal obligation, parents may not refuse or opt a child out of participating in state assessments. Therefore, school districts are not authorized to adopt policies allowing these actions.

School districts must address student absences on testing days in the same manner as they would address a student's failure to participate in any other mandatory activity at school (e.g., final exams) by applying the LEA's or school's attendance policies.

Appendix G: FAPE and Staffing Shortages

Special Education Staffing Shortages Guidance¹⁵³

Introduction

Individualized education program (IEP) teams should carefully consider the needs of the student when developing an IEP. As the team reviews the data and determines services are necessary, the team should clearly communicate services within the service delivery plan (refer to the service delivery guidance for more info). The IEP team's decisions should be driven by the data and needs of the student. Staffing availability or shortages should not influence or impact IEP team decisions, even when there is a known shortage or vacancy. This guidance is intended to provide schools with considerations and strategies for providing IEP services in the event of staffing shortages.

Considerations

Section 300.37 of the Individuals with Disabilities Education Act (IDEA) implementing regulations defines a free and appropriate public education (FAPE) as special education and related services that:

- (a) Are provided at public expense, under public supervision and direction, and without charge;
- (b) Meet the standards of the SEA, including the requirements of this part;
- (c) Include an appropriate preschool, elementary school, or secondary school education in the State involved; and
- (d) Are provided in conformity with an individualized education program (IEP) that meets the requirements of §§ 300.320 through 300.324.

The IDEA does not have any provisions that alter FAPE requirements during widespread staffing shortages. IEP team decisions should be based on student data, not on staffing or resources. Therefore, there may be times that the IEP team knows one or more of the services needed may not be provided until the additional staff is hired. Yet, *the IEP service delivery plan should still reflect the needed services*.

Typically, during the IEP meeting, the team determines the necessary services and then plans how and when to meet the services. When the team has identified a needed service and knows that there is currently no provider available, they should clearly and transparently communicate with the parent(s). Furthermore, the IEP team should plan to reconvene once a provider is hired or within a reasonable and agreed-upon timeframe to discuss the impact of the missed services and the potential need for compensatory services¹⁵⁴.

¹⁵³ October 2020 Updated 10/19/2020 - Minor edits have been made to this guidance document since it was originally released.

¹⁵⁴ Compensatory services are intended to elevate a student to the level expected had the services not been delayed or postponed.

Strategies

Providing FAPE may be difficult in the event of widespread shortages of qualified personnel and service providers. *Staffing shortages do not permit districts or schools to use unqualified staff to perform functions for which they are not qualified.* There are multiple efforts at the state, teacher preparations program, and LEA levels to reduce and eliminate shortages. Despite these efforts, some IEP services may be impacted by staffing shortages.

Clear communication to families about current shortages and the plans for hiring can mitigate misunderstandings or stress. The following are additional strategies to help mitigate the effect of staffing shortages.

Partner with educator preparation programs to secure interns, student teachers, and/or graduate students. The licensed educator should be the person overseeing and facilitating the interventions; however, interns and student teachers can provide additional practice and support within the class so the staff can prioritize intervention services.	Revise the master schedule to create grade band schedules. For example, kindergarten through third will teach English language arts during the same 90-minute block of the day. The ability to group students across multiple grades reduces the number of small groups a special education professional is facilitating each week, thus increasing capacity.	Offer incentives or different pay schedules for hard-to-fill positions. Districts may want to consider incentives that reduce the workload or increase employee satisfaction. For example, providing classroom space for itinerant teachers, flexible schedules, yearly stipends, or different pay schedules.
Partner with neighboring districts. Specialized services that do not require a full-time professional are often a challenge. Creating a partnership with blended funds to provide the benefits of full-time employment can be a strong incentive for applicants.	Contract for services while seeking quality applicants or completing hiring processes. Private agencies may be able to provide interim IEP services to students to mitigate regression. When considering a third-party provider, or alternative delivery model, such as virtual services, LEAs must ensure that the services are provided in the student's least restrictive environment.	Leverage Grow Your Own Programs or educator preparation program partnerships to provide current staff with the professional training needed to secure licensure in a needed area of expertise. Also, a LEA may choose to begin a new Grow Your Own Program.

Plan IEP services monthly instead of weekly. Monthly service delivery is one option for creating increased service delivery flexibility throughout the week for staff to attend meetings, evaluate students, or address crisis situations. While consistent and predictable services is best, finding options for providing services at least monthly may mitigate the impact. This decision should be individualized based on the student's needs.	Provide compensatory education as a remedy for missed services or denial of FAPE. A LEA faced with a staff shortage is making the right decision to include the needed services on an IEP even when it is impossible to provide the services immediately. Compensatory services can be provided once the professionals are hired, or outside the school day.	Recruit retired, qualified staff to work up to a 120-day schedule. Leveraging retired staff to provide services while recruiting or engaging staff in a licensure program can ensure students receive the services without delay or disruption. The contracted individual does not have to commit to a full-time or consistent schedule, but rather can be adjusted to meet the needs of both the LEA and the retired personnel.
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Staffing shortages are a complex and widespread concern. Clear, timely communication with families can reduce stress and frustration. Compensatory services or other efforts to compensate for services missed while hiring are equitable, honest approaches to supporting students within the confines of the LEA's resources.

Appendix H: Compensatory Special Education Services

Compensatory Special Education Services

Introduction

The Individuals with Disabilities Education Act (IDEA) requires local education agencies (LEAs) to provide free and appropriate public education (FAPE) to all students with disabilities from ages 3 to 21. See 34 C.F.R. § 300.101. When an LEA denies FAPE to a student with an Individualized Education Program (IEP), either through unavoidable circumstances or a finding of fault (e.g., a finding on an administrative complaint), the LEA should consider the need to provide compensatory services to the student. This guidance document is intended to support IEP teams to determine when compensatory services are needed, develop a compensatory services plan, and ensure accurate documentation of compensatory services.

Definition

Compensatory services are used to address a student's needs in relation to a denial of FAPE. These services are intended to elevate a student **to the level expected** had the student's IEP services not been delayed or denied. Compensatory services are an appropriate equitable remedy designed to deliver services that a student should have received to be provided FAPE.

Compensatory services ARE:	Compensatory services ARE NOT:
• In addition to the services outlined in a student's IEP	• Provided instead of the services outlined in a student's IEP
• Targeted and supported by frequent documentation	• General and based on incomplete information
• Determined by the student's areas of need and measurable annual goals	• Determined by the student's eligibility category
• Individualized	• Predetermined by a program, master schedule, staffing, or services received in previous IEPs
• Determined by the IEP team	• Always an hour-for-hour replacement of the services lost

• Provided in a timely manner based upon the student's needs	• Limited by staffing or master schedules
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Compensatory Services Resulting from a Lapse in IEP Services

LEAs must make special education and related services available to students in accordance with the student's IEP. See 34 C.F.R. § 300.323(c)(2). Compensatory education is not a punitive remedy intended to punish LEAs, but rather an equitable remedy intended to ensure students make expected progress toward their annual goals. Even in circumstances outside of the LEA's control, such as staffing shortages, compensatory services may be necessary to ensure that the student receives FAPE.

Compensatory Services Resulting from Procedural Errors

Compensatory services may also result from procedural violations, such as a substantial delay in evaluating or determining a change of placement. A student may be entitled to compensatory services if it is determined that the delays, or an LEA's oversight of considering evaluative data, led to subsequent denials of FAPE. For instance, if an IEP team agreed to conduct evaluations for the consideration of a secondary disability, and the evaluation was delayed beyond a reasonable time (approximately 60 days), the student may be entitled to compensatory education for the loss of special education or related services that would have otherwise been provided had the evaluation been completed in a timely manner.

Considering Compensatory Services

Compensatory services must not be determined based on staffing needs or predicated by a master schedule. They must be individualized based on a student's needs and the degree of lost educational opportunities.

Considerations

LEAs may determine the need for compensatory services using an ‘hour-for-hour’ approach or a ‘totality of the circumstances approach’.

Hour for Hour	Totality of Circumstances
Under the hour-for-hour approach, the LEA provides special education and related services to the student in an equal amount of time to the special education and related services that the student was not provided. The hour-for-hour approach is often useful when a student misses a short number of services and lack of progress can be difficult to measure. For example, if the student did not receive five hours of speech services over a one-week period due to staffing shortages, the LEA would provide five hours of compensatory speech services to the student under the hour for-hour approach.	Under the totality of the circumstances approach, the LEA provides special education and related services to the student in an amount that is designed to ensure the student makes the same amount of progress that the student would have made but for the missed special education and related services. The totality of the circumstances approach is often useful when a student misses a longer of services and lack of progress can be more easily measured. For example, if the student did not receive twenty hours of speech services over a four-week period due to staffing shortages, the LEA would measure the amount of progress that the student had made during those four weeks, estimate the amount of progress the student would have made over those four weeks if services had been provided, and consider the amount of compensatory services that are necessary to bridge the gap between actual progress and expected progress. LEAs using the totality of the circumstances approach may need to develop a flexible compensatory services plan in which progress is measured at routine intervals and compensatory services are provided until a threshold of progress is met.”

As a student’s IEP Team considers compensatory services, current empirical, qualitative, and predictive data are essential and may include:

- the scheduled special education and related service hours and the total number of minutes/hours of the services that were missed,

- The IEP goals/short-term-objectives that were compromised due to a lapse in the provision of services,
- Student data on IEP goals and objectives and documented progress; if available, compare progress data that exists prior to the lapse of services with the data collected once appropriate services resumed,
- Evidence of student's regression or demonstration of skills (e.g., progress monitoring data, teacher testimonials, grades, test scores, etc.) which document the degree of effect on a student's education,
- Attendance history,
- Explanation of reason/s services were unable to be delivered,
- Expected time it will take the student to recoup skills that were compromised during the denial of FAPE, or
- Any measures taken by the LEA to address the lack of services within the IEP or mitigate regression of skills.

Determining Compensatory Services

Decisions related to compensatory education should be made by the student's IEP team, including the student's parent. Once the student's IEP team determines that a student should be provided compensatory services, the IEP team should document the decision in a prior written notice and develop a written compensatory services plan. The compensatory services plan should be a separate document from the student's IEP.

Compensatory services may be either quantitative (number of hours), qualitative (benefit-based), or a combination of the two. The type and amounts of compensatory services are determined by the IEP team. Compensatory services must be provided in addition to the IEP services, not as a replacement. If compensatory services are provided during the school day, they must be delivered in accordance with the IEP's documented least restrictive environment.

Compensatory services should be provided within a year unless the family and school agree to an extended time frame due. Compensatory services may extend past age 21 and may be owed even if the student moves outside the LEA.

The following factors should be considered when determining the compensatory services plan:

- Period of time for which FAPE was denied,
- Student's specific educational deficits,
- Amount in which the denial of FAPE contributed to the deficits,
- Specific measures required to remedy the deficits, or
- Impact on the student's day and access to non-academic experiences.

The IEP should document the plan for compensatory services and include:

- Delivery method of compensatory services,
- Expected date of completion of compensatory services (within a reasonable time frame, typically within one year), and
- Service provider/s assigned to deliver the service/s.

Refer to *Template A* for a template for a compensatory services plan and *Template B* for a template to document the provision of compensatory services.

Provision of Compensatory Services Options

Compensatory services may be provided immediately or in the future (typically within one year). For students who have graduated or are beyond the statutory age of entitlement, the LEA is still required to provide compensatory services if FAPE was denied when the student was entitled to FAPE. *See Pihl v. Mass. Dept. of Educ.*, 9 F.3d 184, 189 (1st Cir. 1993).

Examples of Compensatory Services Options

Added services within school day

- Additional time or sessions beyond the IEP services provided within the school day.
- *Example: A student who has two 30-minute sessions of intervention each week will now receive four for 20 weeks.*

Added services outside the school day

- Services provided after school or during school breaks.
- *Example: A student receives 45 minutes of intervention twice weekly after school and 30 minutes prior to the start of each summer enrichment day.*

Contracted services provided outside the school day

- The LEA pays for services with a contracted agency/individual and the services are scheduled with the family outside of school hours.
- *Example: The LEA sets up a contract with a private provider and the student goes to the provider on Saturday mornings for 3 hours.*

Fiscal compensation

- The LEA calculates the expected costs for the compensatory services and pays that amount to the family.
- *Example: A student, age 22, is planning on attending a local college and will use the compensatory funds from the school LEA to pay for additional supports in the college.*

In most cases compensatory services are typically awarded for the same length of the educational denial or improper placement (e.g., 6 hours of missed services results in 6 hours of compensatory education); however, it may also be determined for a lesser period of time based on the length of time it takes the student to be in the position they would have been had the FAPE violation not occurred.

Summary

In summary, districts are required to implement students' IEPs, and all their provisions, as written to provide them FAPE. There is no exception to this rule, even when a LEA lacks the necessary staffing. Compensatory services are a remedy when FAPE is denied, even if the reason is outside the control of the LEA. The IEP team should create and communicate a plan to the family for compensatory services that will elevate the student to the level they would have been had their IEP been fully implemented. The IEP team will also need to determine how the compensatory services will be provided in a manner that is aligned with the needs of the student while balancing the demands of time and lost instruction.

Template A: Compensatory Service Plan

Student Name: [Insert]

Case Manager: [Insert]

Plan for Compensatory Services

The following is a list of identified and delivered compensatory services and service hours deemed necessary.

Compensatory services identified	Total comp. ed. service hours to be provided	Service hours per week	Projected date of completion	Comp. services completed Y/N

Template B: Documentation of Compensatory Services Provided

Student Name: [Insert]

Case Manager: [Insert]

Documentation of Compensatory Service Provided

Service	Provider	Date of Service	Minutes of Delivered Service

Appendix I – Manifestation Determination Review Flow Chart & Supplemental Guide

Manifestation Determination Review Flow Chart Supplemental Guide

Last Revised November 2024

1. *What is a student's educational placement?*

A student's placement means the student's educational program, not the particular institution where that program is implemented. In other words, a student's placement refers to the special education and related services that the student receives, not the location or setting of those services. *See White v. Ascension Parish Sch. Bd.*, 343 F.3d 373, 379 (5th Cir. 2003).

2. *When is a student removed from the student's educational placement?"*

To determine whether a student has been removed from the student's educational placement, local education agencies (LEAs) should ask the following questions:

- Has the student's access to the general education curriculum changed?
- Has the student's access to the special education and related services listed in the student's individualized education program (IEP) changed?
- Has the student's access to non-disabled peers as listed in the student's IEP changed?

If imposing disciplinary measures will cause the answer to any of those questions to be yes, then the student has been removed from his or her current placement.

3. *Is a student removed from the student's educational placement" if the student is issued an in-school suspension?*

If the student has access to the general education curriculum, to the special education and related services listed in the student's IEP, and to non-disabled peers as listed in the student's IEP, then it is possible that the student has not been removed from his or her current educational placement by being placed in an in-school suspension setting. Nonetheless, LEAs should be cautious about not conducting a manifestation determination review (MDR) when a student receives a lengthy in-school suspension or series of in-school suspensions. Specialized instruction is grounded upon a solid foundation of general instruction, and the student may not be receiving an equivalent education in the in-school suspension classroom that the student would have received in the student's regular classroom. For that reason, it is best practice to conduct an MDR when a student is issued an in-school suspension.

4. *Should partial day removals be considered in calculating when an MDR is required to be conducted?*

The United States Department of Education has not clearly stated how partial days should be considered in calculating when an MDR is required. The best practice is to calculate removals on a class-by-class and service-by-service basis. For example, if a student with a disability is removed from more than 10 consecutive speech sessions for violating the code of conduct, LEAs should strongly consider conducting an MDR even if the student has not been removed from more than 10 consecutive full school days.

5. *What are examples of when an MDR is required to be conducted and when an MDR is not required to be conducted?*

Example 1: A student with a disability receives a five-day suspension from riding the bus because the student was involved in a fight on the bus. It is the student's first suspension of the school year. The student's IEP includes transportation services. In this example, the Individuals with Disabilities Education Act (IDEA) does not require the student's LEA to conduct an MDR because the student has not been subjected to a change of placement. The student's access to related services included in the student's IEP has changed, but the student's access to those related services has not been changed for more than 10 consecutive school days or for more than 10 non-consecutive school days during this school year.

Example 2: A student with a disability receives a 30-day suspension from riding the bus because the student has been involved in a fight on the bus. The student's IEP includes transportation services. In this example, the IDEA requires the student's LEA to conduct an MDR because the student has been subjected to a change of placement. The student's access to related services included in the student's IEP has changed, and the student's access to those related services has been changed for more than 10 consecutive school days.

Example 3: A student with a disability receives an out-of-school suspension for 10 days for inappropriate contact with another student. The student has already received an out-of-school suspension for five days this school year for inappropriate contact with a different student. The student typically receives specialized instruction in a general education classroom, but the student received one-on-one instruction from a teacher during both suspensions. In this example, the IDEA requires the student's LEA to conduct an MDR because the student has been subjected to a change of placement. The student's access to non-disabled peers has changed, and the student's access to non-disabled peers has been changed for more than 10 school days during the same school year for substantially similar behavior.

Example 4: A student with a disability receives an in-school suspension for 10 days for inappropriate contact with another student. The student has already received an in-school suspension for five days

this school year for inappropriate contact with a different student. The student typically receives specialized instruction in a general education classroom, but the student receives specialized instruction in the in-school suspension classroom during both suspensions. Non-disabled peers are routinely in the in-school suspension classroom at the same time. In this example, the IDEA may not require the student's LEA to conduct an MDR because the student may not have been subjected to a change of placement, but it is best practice to do so regardless.

6. *What offenses are all LEAs required to consider as zero-tolerance offenses?*

Pursuant to Tenn. Code Ann. § 49-6-3401(g)(2), all LEAs are required to consider the following four offenses as zero-tolerance offenses under state law:

- (a) The student brings a firearm to school or is in unauthorized possession of a firearm on school property.
- (b) The student commits aggravated assault or commits an assault that results in bodily injury upon any teacher, principal, administrator any other employee of an LEA, or a school resource officer.
- (c) The student is in unlawful possession of any drug, controlled substance analog, or legend drug on school grounds or at a school-sponsored event.
- (d) The student threatens mass violence on school property or at a school-related activity.

7. *What offenses are all LEAs and public charter schools allowed to consider as special circumstances under the IDEA?*

Pursuant to 34 C.F.R. § 300.530(g), all LEAs and public charter schools are allowed to consider the following three offenses as special circumstances under IDEA:

- (a) The student carries or possesses a weapon to or at school, on school premises, or to or at a school function under the jurisdiction of an LEA.
- (b) The student has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function under the jurisdiction of an LEA.
- (c) The student knowingly possesses or uses illegal drugs, or sells or solicits the sale of a controlled substance, while at school, on school premises, or at a school function under the jurisdiction of an LEA.

8. *Is an MDR required when a student with a disability commits an offense that constitutes a special circumstance under IDEA?*

Yes. Although the LEA or public charter school may remand a student with a disability who commits an offense that constitutes a special circumstance under IDEA to an interim alternative educational setting (IAES) for up to 45 school days regardless of the outcome of the MDR, the student's LEA or public charter school must still conduct an MDR within 10 school days of any decision to change the student's placement due to the student violating the code of conduct. See USDOE Q&A, Question E-1.

9. *Why is it important to distinguish between a zero-tolerance offense under state law and a special circumstance under the IDEA?*

If a student with a disability commits an offense that constitutes a special circumstance under IDEA, LEAs and public charter schools can remand the student to an IAES for up to 45 school days regardless of the outcome of the MDR.

If a student with a disability commits an offense that constitutes a zero-tolerance offense under state law or local board policy but does not constitute a zero-tolerance offense under IDEA, LEAs and public charter schools can only remand the student to an IAES if the misconduct was not a manifestation of the student's disability.

Please note the special circumstances exception under IDEA is not intended to be used as a punitive measure against students with disabilities. Instead, the special circumstances exception is intended to provide LEAs time to develop and implement a plan for returning the student to the student's previous educational placement. For example, LEAs should utilize the time to review and revise the student's IEP as appropriate or to conduct a functional behavior assessment (FBA) and develop or revise a behavior intervention plan (BIP). LEAs should not have a policy or procedure that requires all students with disabilities who are remanded to an IAES to stay in the IAES for the full 45 school days.

10. *What are the key differences between the zero-tolerance offense for possession of a firearm and the special circumstance for possession of a weapon?*

The definition of a weapon under IDEA is much broader than the definition of a firearm under state law. For example, knives, scissors, cigarette lighters, or baseball bats would all likely meet the definition of a weapon under IDEA but would not meet the definition of a firearm under state law.

Example: A student with a disability brings a BB gun onto the school's football field after practice. This would likely constitute a special circumstance under IDEA because a BB gun is a device capable of causing serious bodily injury but would not constitute a zero-tolerance offense under state law because a BB gun does not expel a projectile by the action of an explosive. Because possession of a BB gun constitutes a special circumstance under IDEA, the LEA or public charter school could remand the student to an IAES for up to 45 school days regardless of the outcome of the MDR.

11. What are the key differences between the zero-tolerance offense for committing bodily injury and the special circumstance for committing serious bodily injury?

There are two key differences. First, the definition of a serious bodily injury under IDEA is a significantly higher threshold than the definition of a bodily injury under state law. While there is no definition of a serious bodily injury in the IDEA, courts have generally held that an injury must have a very high level of pain and must result in ongoing treatment to be a serious bodily injury. Second, the student must inflict injury upon another person to be a special circumstance under IDEA, but must inflict injury upon a “teacher, principal, administrator, any other employee of an LEA, or a school resource officer” to be a zero-tolerance offense under state law.

Example: A student with a disability is involved in a fight with another student. The other student suffers a broken nose as a result of the fight and misses two days of school. This would likely not constitute a special circumstance under IDEA because a broken nose that results in the other student missing two days of school likely does not meet the threshold of a serious bodily injury. This would not constitute a zero-tolerance offense under state law because the student inflicted injury upon another student, not a “teacher, principal, administrator, any other employee of an LEA, or a school resource officer.”

12. What are the key differences between the zero-tolerance offense and the special circumstance for possession of drugs?

The special circumstance under IDEA includes “selling or soliciting the sale of a controlled substance,” whereas the zero-tolerance offense under state law only includes possession of the drugs or controlled substance.

Example: A student with a disability offers to sell drugs to another student while at a school football game. The student with a disability states he will deliver the drugs to the other student’s house if the other student agrees to pay him now. This would constitute a “special circumstance” under IDEA because the student is soliciting the sale of a controlled substance but would not constitute a zero-tolerance offense under state law because the student is not in possession of the drugs at the time the sale was solicited.

13. If an LEA or public charter school is required to conduct a threat assessment for a student with a disability, what services, if any, is the student’s LEA or public charter school required to provide during the pendency of the threat assessment?

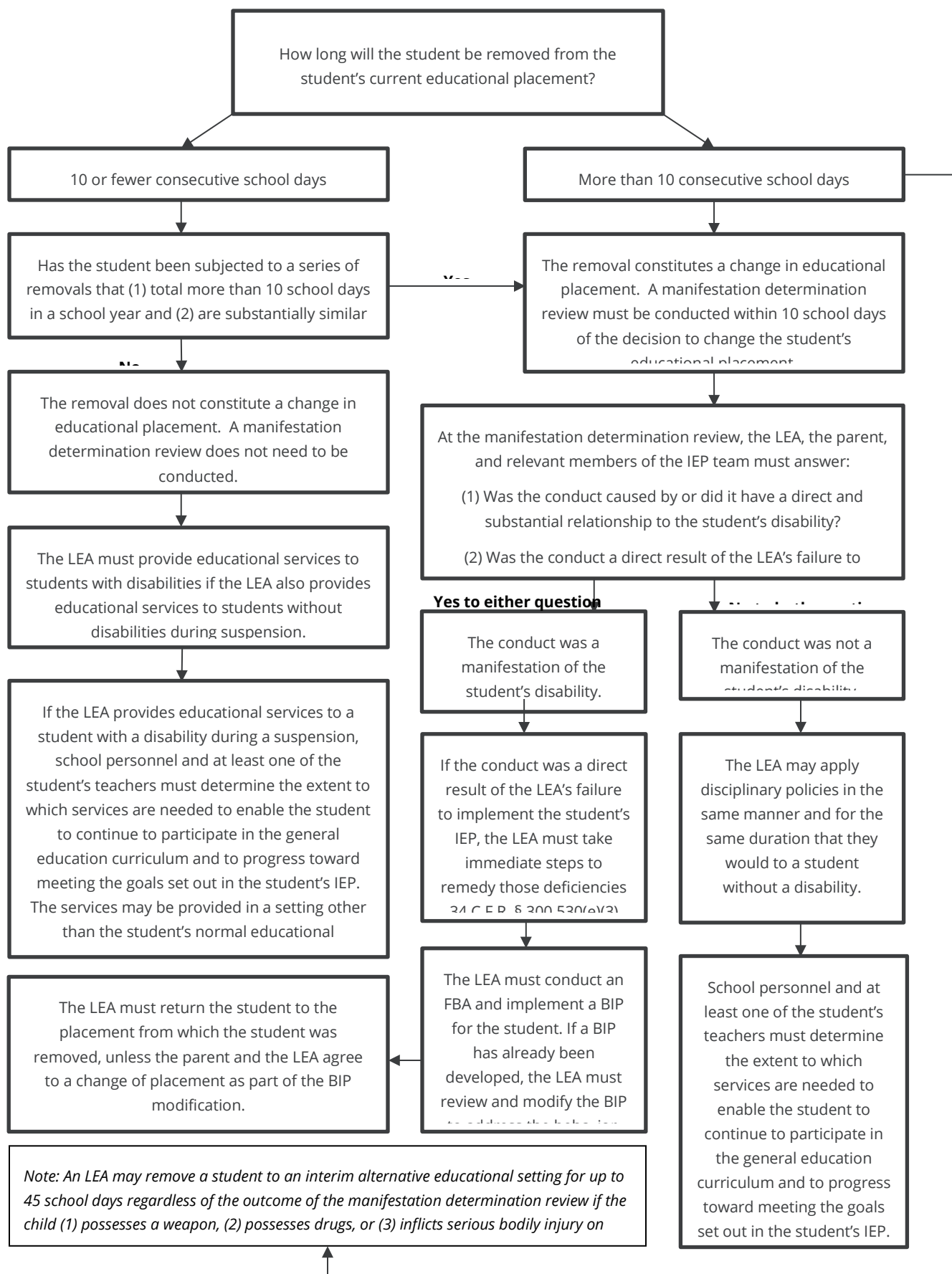
A student with a disability continues to have the right to a free and appropriate public education (FAPE) and to the IDEA’s procedural safeguards during the pendency of a threat assessment. LEAs and

public charter schools are encouraged to expedite threat assessments for students with disabilities to ensure that the student is not removed from the student's educational placement as a result of the threat assessment. If the threat assessment results in the student being excluded from educational services for more than 10 consecutive school days, the student has the right to an MDR. If the student is excluded from educational services for more than 10 consecutive days, the student's IEP team should consider whether the student needs compensatory services.

14. Does the IDEA prohibit LEAs or public charter schools from reporting crimes committed by students with disabilities to law enforcement?

No. Many offenses that constitute a special circumstance under IDEA or a zero-tolerance offense or state law will also constitute a crime under state law. Nothing in IDEA prohibit LEAs or public charter schools from reporting crimes committed by a student with a disability to appropriate authorities. See 34 C.F.R. § 300.535(a).

If an LEA or public charter school reports a crime committed by a student with a disability, it must ensure that copies of the student's special education and disciplinary records are transmitted for consideration by the appropriate authorities to whom the crime is reported, provided that the records are transmitted by the Families Education Rights and Privacy Act (FERPA). See 34 C.F.R. § 300.535(b)(1).



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