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# Does your Client have a Disability? What you Need to Know about His or Her Special Educational Rights

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# The Law:

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- Individuals With Disabilities Education Improvement Act Of 2004 (IDEA)
- Section 504 Of The Rehabilitation Act
- Connecticut Statutes And Regulations



# What is Special Education?

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- Special education consists of specialized instruction and related services which are individually designed to provide educational benefit to the student.
- This can include bright students who require direct instruction in social skills, coping skills, behavioral regulation or other emotional or behavioral intervention. It also pertains to students who have predominantly emotional or behavioral difficulties and is not limited to students with specific learning disabilities.

# IDEA vs. 504

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## Adverse impact on vs. Substantial Limitation

### IDEA

The disability must have an adverse impact on the student's education and the student must require specialized instruction. More significant protection and more accountability. A student who qualifies for section 504 may qualify for IDEA but a student who is eligible for IDEA must receive services under IDEA.

### 504

The student must be determined to have a physical or mental impairment that substantially limits one or more major life activities including learning and behavior, have a record of having such an impairment be regarded as having such impairment. Section 504 ensures that a qualified child with a disability has equal access to education. The child may receive appropriate accommodations and modifications tailored to the child's individual needs.

# FAPE and LRE

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- Students who are eligible for special education are entitled to a free, appropriate, public education (FAPE) in the least restrictive environment (LRE).
- LRE is not a specific place-it is what is least restrictive for the individual student and covers the spectrum from a regular education classroom to a residential placement.

# What is a disability?

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# A child with a disability means a child who has one or more of the following...

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- Developmental Delay(ages 3-5)
- mental retardation
- hearing impairment
- speech or language impairment
- visual impairment
- serious emotional disturbance
- orthopedic impairment
- autism
- traumatic brain injury
- other health impairment
- specific learning disability
- deaf-blindness
- multiple disabilities

**AND:**

The disability must have an adverse impact on the child's educational performance and they must require special education and related services.

# Mental Health/Trauma

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Students may be found eligible for special education under the category of Emotional Disturbance. A specific diagnosis is not required but the student must meet the following:

Emotional disturbance means a condition exhibiting one or more of the following characteristics over a long period of time and to a marked degree that adversely affects a child's educational performance:

- (A) An inability to learn that cannot be explained by intellectual, sensory, or health factors.
- (B) An inability to build or maintain satisfactory interpersonal relationships with peers and teachers.
- (C) Inappropriate types of behavior or feelings under normal circumstances.
- (D) A general pervasive mood of unhappiness or depression.
- (E) A tendency to develop physical symptoms or fears associated with personal or school problems.
- (ii) Emotional disturbance includes schizophrenia. The term does not apply to children who are socially maladjusted, unless it is determined that they have an emotional disturbance under paragraph (c)(4)(i) of this section.

Students who have mental health issues or a history of trauma may likely qualify for special education and related services and may require specialized educational placements. For students whose mental health and education are intertwined, residential placement may be warranted.



# Unaddressed Disabilities have Devastating Consequences

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- Children with disabilities are more likely to drop out of school.
- Emotional and behavioral disorders, learning disabilities and adverse childhood experiences have been found to be risk factors for children who end up in the juvenile delinquency system.
- There is a significant relationship between childhood maltreatment and poor grades, high rates of absenteeism, misbehavior, retention and involvement in special education.

# What is the Connection Between Abuse/Neglect and Special Education?

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Many children who are victims of child abuse and neglect have special education needs.

Disabilities can both be caused by abuse and neglect and can increase the likelihood of being abused and neglected.

Youth in foster care are less likely to receive adequate educational services which are even more important when working with a child with a disability.

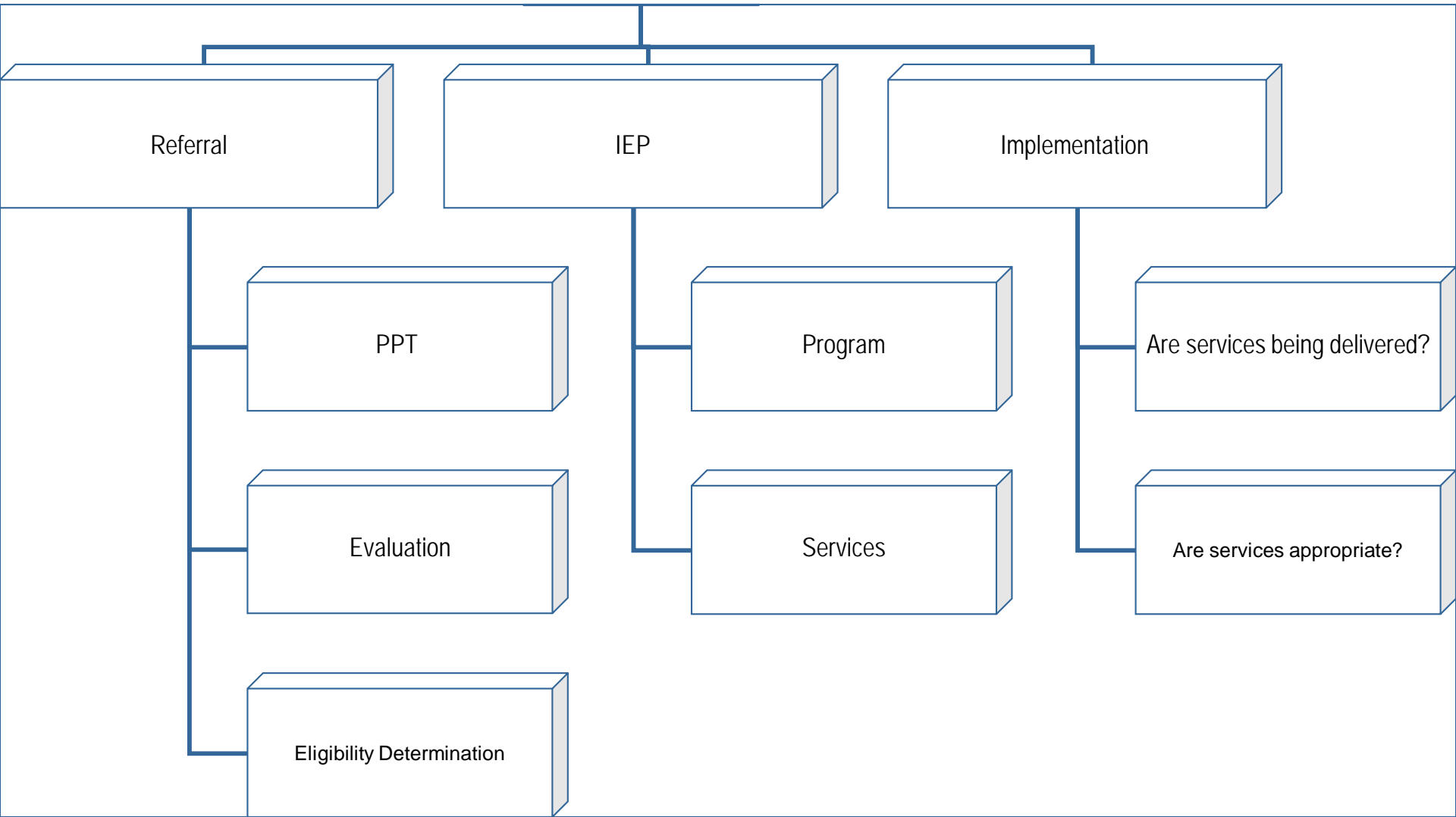


# What to Look for in a Student's Educational Records:

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- CMT/SBAC scores
- Behavior/discipline records
- Truancy
- Poor grades
- Strong grades but no evidence of skills learned
- Evaluations
- Teacher reports

# The Process



# The Referral

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- This starts the process of special education
- Only requires the suspicion of a disability.
- Must be in writing by parent, guardian, surrogate parent school, social worker or physician; if child is 18 years or older the referral can be made by the child. Make sure it is faxed, e-mailed, sent certified mail or delivered in person with a signed receipt so there can be no question as to when it was sent.
- In Connecticut, a prompt referral to a planning and placement team must be made for all children who have been suspended repeatedly or whose behavior, attendance, including truant behavior, or progress in school is considered unsatisfactory or at a marginal level of acceptance.
- The school district has 45 *school* days from the date of the referral to hold a PPT, schedule and conduct evaluations, hold a PPT to determine eligibility and develop a program.

# Child Find-prompt referral

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- The IDEA places an affirmative and ongoing obligation upon school districts to identify, locate, and evaluate *all* children with disabilities in the district in need of special education and related services, known as “Child Find”.
- SRBI cannot delay a referral to special education and is designed to be a short term process.

# The PPT



## The Essential Players:

- Regular Education Teacher (if child is in or will be in regular education)
- Parent, guardian, or surrogate parent
- Special Education Teacher
- School Administrator
- Someone able to interpret evaluative data, if applicable
- Any outside agencies that may be involved

# The Planning and Placement Team Process

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A planning and placement team reviews referrals to special education, determines if the child needs to be evaluated, decides which evaluations will be given to the child, and determines whether the child is eligible for special education services.





# Evaluations

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A school district must assess ALL suspected areas of disability. Evaluations must be completed at least every three years (triennial) but can be conducted earlier if further information is needed.

Some examples of common evaluations are:

- Cognitive
- Achievement
- Reading evaluation
- Math evaluation
- Writing evaluation
- psychiatric
- Neuropsychological
- Occupational Therapy
- Sensory evaluation
- Physical Therapy
- Speech and language therapy
- Functional behavior assessment
- Assistive Technology Assessment
- Assessment of social skills
- Autism Assessment
- Central Auditory Processing Evaluation

# Evaluations, Continued

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- A child must be evaluated every three years *or* when a parent or staff member requests a re-evaluation, however an evaluation cannot occur more than once per year unless the parent and school district agree.
- The screening of a student by a teacher or a specialist is not considered an evaluation for special education.

# IEE

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- If a parent disagrees with the school district's evaluation, they can request an independent evaluation at district expense (IEE). They are not required to give any reason for the rejection and have the right to use the evaluator of their choice as long as they fit the criteria for evaluators set forth by the district. If the school refuses the independent evaluation, they must file for due process to defend their evaluation. The school district must respond to this request within a reasonable amount of time. This is a decision that can be made outside of a PPT.

# Eligibility

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The evaluations, student performance, teacher reports and any other data is reviewed to determine if the child has a disability that adversely impacts his or her education. An eligibility worksheet should be filled out and an eligibility category will be selected. This is the primary disability that is interfering with the child's performance and includes the categories discussed earlier:

## Eligibility Categories:

- Autism
- Deaf-Blindness
- Developmental Delay (ages 3-5 only)
- Emotional disturbance
- Hearing impairment
- Intellectual disability
- Multiple disabilities
- Orthopedic impairment
- Specific learning disabilities
- Specific learning disabilities/dyslexia
- Speech or language impaired
- Traumatic brain injury
- Visual impairment
- Other health impairment
- QUIL/ADD/ADHD

# After Eligibility: The IEP:

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What is an IEP?

- An individualized education plan uniquely tailored to meet the child's needs. In drafting an IEP the team must:
  - Determine areas of strength weakness
  - Draft goals and objectives to address areas of weakness
  - Determine who, what, when, and where with regard to services to be provided
  - Determine accommodations and modifications
  - Make placement decisions
- The parent must receive a copy of the child's IEP within five school days after the PPT meeting held to develop or revise the child's IEP. It will go into effect fifteen

# Key Elements of the IEP:

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- Present levels of educational & functional performance;
- Measurable educational goals & short-term instructional objectives derived from those goals;
- Evaluation procedures & performance criteria;
- A statement of the special education and related services to be provided
- An explanation of the extent, if any, to which the child will not participate in the regular education class, the general education curriculum or extracurricular activities;
- Modifications & accommodations so the child can participate in general education curriculum (includes nonacademic & extracurricular activities);
- A list of people who will work with the child to implement the IEP;
- Statement of accommodations & modifications needed to facilitate CMT/CAPT, or district-wide testing;
- Recommendations for participation in alternate assessments (if needed);
- Transition service needs.

# Sample IEP

Please fill out the following form.  High

**Student:** Kirgatic, Joyce      **DOB:** 01/30/2002      **District:** K-12 America Demo      **Meeting Date:** 08/29/2007  
Last Name, First Name      mm/dd/yyyy

**PLANNING AND PLACEMENT TEAM (PPT) COVER PAGE**

**Current Enrolled School:** East Forest      **Age:** 25 Yr 08 Mo      **Current Grade:** PK      **H.S. Credits:** 000.000      **Gender:**  Female  Male  
**Home School:**  Yes  No      **Specify:** New Wales      **Race/Ethnicity:**  Am. Ind. or Alask. Nat.  Asian / Pacif. Is  Black or Af Am.  White  Hispanic  
**School Next Year:** Home School:  Yes  No      **Specify:** \_\_\_\_\_      If your school district does not have its own high school, is the student attending his/her designated high school?  Yes  No  NA  
**ID#:** 7869054321      **Case Manager:** \_\_\_\_\_  
**Student Address<sup>1</sup>:** 6 Oakland Avenue      **Student Instructional Lang:**  English  Other: (specify) \_\_\_\_\_  
**Parent/Guardian (Name):** Dr. & Mrs. John/Marizza Kirgatic      **Home Dominant Lang:**  English  Other: (specify) \_\_\_\_\_  
**Parent/Guardian (Address):**  Same \_\_\_\_\_      **Student Home Phone:** 674-9710      **Parent Home Phone:** 674-9710  
**Surrogate:** \_\_\_\_\_      **Parent Work Phone:** 679-2712      **Misc. Phone:** 237-7253  
**(Name and Address):** \_\_\_\_\_      **Most Recent Eval. Date:** \_\_\_\_\_      **Next Reevaluation Date:** \_\_\_\_\_  
mm/dd/yyyy      mm/dd/yyyy

**Reason for Meeting<sup>2</sup>:**  Review Referral     Plan Eval/Reeval     Review Eval/Reeval     Determine Eligibility     Develop IEP  
 Review or Revise IEP     Conduct Annual Review     Transition Planning     Manifestation Determination     Other (specify) \_\_\_\_\_

**Primary Disability:**  Autism     Emotional Disturbance     Multiple Disabilities     Speech or Language Impaired     Other Health Impairment  
 Deaf - Blindness     Hearing Impairment     Orthopedic Impairment     Traumatic Brain Injury     OHI - ADD/ADHD  
 Developmental Delay (ages 3-5 only)     Intellectual Disability     Specific Learning Disabilities     Visual Impairment     To be determined

**The next projected PPT meeting date is:** \_\_\_\_\_  
 • Eligible as a student in need of Special Education (The child is evaluated as having a disability, and needs special education and related services)  Yes  No  
 • Is this an amendment to a current IEP?  Yes  No  
 If yes, what is the date of the IEP being amended? \_\_\_\_\_  
 • Amendments attached  Yes  No  
 \_\_\_\_\_

**Team Member Present (required)**

**Admin/Designee:** \_\_\_\_\_    **Spec. Educ. Teacher:** \_\_\_\_\_    **OT:** \_\_\_\_\_  
**Parent/Guardian:** \_\_\_\_\_    **School Psych:** \_\_\_\_\_    **PT:** \_\_\_\_\_  
**Parent/Guardian:** \_\_\_\_\_    **Social Work:** \_\_\_\_\_    **Agency:** \_\_\_\_\_  
**Surrogate Parent:** \_\_\_\_\_    **Speech/Lang:** \_\_\_\_\_    **Other: (specify):** \_\_\_\_\_  
**Student:** \_\_\_\_\_    **Guidance:** \_\_\_\_\_    **Other: (specify):** \_\_\_\_\_  
**Student's Reg. Ed. Teacher:** \_\_\_\_\_    **Nurse:** \_\_\_\_\_    **Other: (specify):** \_\_\_\_\_

# Determine Areas of Weakness

Student: \_\_\_\_\_  
Last Name, First Name

DOB: \_\_\_\_\_  
mm/dd/yyyy

District: \_\_\_\_\_

Meeting Date: \_\_\_\_\_  
mm/dd/yyyy

**PRESENT LEVELS OF ACADEMIC ACHIEVEMENT AND FUNCTIONAL PERFORMANCE**

(The following information was derived from: report data, documentation from classroom performance, parent/student reports, curriculum based and standardized assessments, observations, including CMT and CAPT results and student samples).

Parent and Student input and concerns	_____
	_____
	_____
	_____
	_____
	_____
	_____
	_____

Area (briefly describe current performance)	Strengths (include data as appropriate)	Concerns/Needs (requiring specialized instruction)	Impact of student's disability on involvement and progress in the general education curriculum or appropriate preschool activities.
<b>Academic/Cognitive</b> <b>Language Arts:</b> _____ <input type="checkbox"/> Age Appropriate _____ _____ _____ _____	_____ _____ _____ _____ _____	_____ _____ _____ _____ _____	_____ _____ _____ _____ _____
<b>Academic/Cognitive:</b> <b>Math:</b> _____ <input type="checkbox"/> Age Appropriate _____ _____ _____ _____	_____ _____ _____ _____ _____	_____ _____ _____ _____ _____	_____ _____ _____ _____ _____
<b>Other Academic/Nonacademic Areas:</b> _____ <input type="checkbox"/> Age Appropriate _____ _____ _____ _____	_____ _____ _____ _____ _____	_____ _____ _____ _____ _____	_____ _____ _____ _____ _____



# Draft goals and objectives to address areas of weakness

Student: \_\_\_\_\_ Last Name, First Name      DOB: \_\_\_\_\_ mm/dd/yyyy      District: \_\_\_\_\_      Meeting Date: \_\_\_\_\_ mm/dd/yyyy

Academic/Cognitive     Social/Behavioral     Communication     Gross/Fine Motor     Postsecondary Education/Training  
 Self Help     Employment     Independent Living     Health     Other: (specify) \_\_\_\_\_

Check here if the student is 15 years of age. (Note: Page 6, Transition Planning must be completed if this box is checked)

**Measurable Annual Goal\* (Linked to Present Levels of Performance) # \_\_\_\_\_**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Eval. Procedure: \_\_\_\_\_

Perf. Criteria: \_\_\_\_\_

(%, Trials, etc.) \_\_\_\_\_

**Enter Dates for Evaluating and Reporting Progress in Boxes Below**

1	2	3	4
5	6	7	8

Short Term Objectives/Benchmarks (Linked to achieving progress towards Annual Goal)

**Objective #1** \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Eval. Procedure: \_\_\_\_\_

Perf. Criteria: \_\_\_\_\_

(%, Trials, etc.) \_\_\_\_\_

Report Progress Below (Use Reporting Key)

1	2	3	4
5	6	7	8

**Objective #2** \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Eval. Procedure: \_\_\_\_\_

Perf. Criteria: \_\_\_\_\_

(%, Trials, etc.) \_\_\_\_\_

Report Progress Below (Use Reporting Key)

1	2	3	4
5	6	7	8

**Objective #3** \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Eval. Procedure: \_\_\_\_\_

Perf. Criteria: \_\_\_\_\_

(%, Trials, etc.) \_\_\_\_\_

Report Progress Below (Use Reporting Key)

1	2	3	4
5	6	7	8

Evaluation Procedures		Performance Criteria	
1. Criterion-Referenced/Curriculum Based Assessment	7. Behavior/Performance Rating Scale	A. Percent of Change	F. Duration
2. Pre and Post Standardized Assessment	8. CMT/CAPT	B. Months Growth	G. Successful Completion of Task/Activity
3. Pre and Post Base Line Data	9. Work Samples, Job Performance or Products	C. Standard Score Increase	H. Mastery
4. Quizzes/Tests	10. Achievement of Objectives (Note: use with goal only)	D. Passing Grades/Score	I. Other: (specify) _____
5. Student Self-assessment/Rubric	11. Other (specify) _____	E. Frequency/Trials	J. Other: (specify) _____
6. Project/Experiment/Portfolio	12. Other (specify) _____		

**Progress Reporting Key:** (indicating extent to which progress is sufficient to achieve goal by the end of the year)

**M** = Mastered      **S** = Satisfactory Progress – Likely to achieve goal  
**U** = Unsatisfactory Progress – Unlikely to achieve goal      **NI** = Not Introduced      **O** = Other: (specify) \_\_\_\_\_  
**N** = No Progress – Will not achieve goal

\*Related to meeting the student's needs that result from the individual's disability, to enable the student to be involved in and make progress in the general curriculum, and to meet each of the student's other educational needs that result from the student's disability.

# Determine who, what, when, and where with regard to services to be provided

Student: \_\_\_\_\_ Last Name, First Name      DOB: \_\_\_\_\_ mm/dd/yyyy      District: \_\_\_\_\_      Meeting Date: \_\_\_\_\_ mm/dd/yyyy

### SPECIAL EDUCATION, RELATED SERVICES, AND REGULAR EDUCATION

Special Education Services	Goal(s) #	Frequency	Responsible Staff	Service Implementer	Start Date (mm/dd/yyyy)	End Date (mm/dd/yyyy)	Site*	If needed, description of Instructional Service Delivery (e.g. small group, team taught classes, etc.)

\*Instructional Site:      1. Regular Classroom      2. Resource/Related Service Room      3. Self-Contained Classroom      4. Community-Based      5. Other:

Description of participation in General Education

Note: Each Item #1-13 must include a response

1. Assistive Technology:       Not Required       Required: See Pg. 8

2. Applied (Voc.) Ed:       Regular       Special (specify) \_\_\_\_\_

3. Physical Education:       Regular       Special (specify) \_\_\_\_\_

4. Transportation:       Regular       Special (specify) \_\_\_\_\_

5. Length of School Day: (Specify) \_\_\_\_\_

6. Number of Days/Week: (Specify) \_\_\_\_\_

7. Length of School Year: (Specify) \_\_\_\_\_

8. Total School Hours/Week: (Specify)	9. Special Education Hours/Week: (Specify)	10. Hours per week the student <u>will spend</u> with children/students who do not have disabilities (time with non-disabled peers):
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11. Since the last Annual Review, has the student participated in school sponsored extracurricular activities with non-disabled peers?       Yes       No

12. Extended School Year Services:       Not Required       Required: See service delivery grid above or an Additional page 11 for services to be provided       Required: Continue to implement current IEP

13. a) The extent, if any, to which the student will not participate in regular classes and in extracurricular and other nonacademic activities, including lunch, recess, transportation, etc., with students who do not have disabilities: \_\_\_\_\_

Not Applicable: Student will participate fully

b) If the IEP requires any removal of the student from the school, classroom, extracurricular, or nonacademic activities, (e.g., lunch, recess, transportation, etc.) that s/he would attend if not disabled, the PPT must justify this removal from the regular education environment.       Not applicable: Student will participate fully

The IEP requires removal of the student from the regular education environment because: (provide a detailed explanation – use additional pages if necessary)

Note: The LRE Checklist (ED632) must be completed and attached to this IEP if the student is to be removed from the regular education environment for 60% or more of the time. It is recommended that the LRE Checklist be utilized when making any placement decision to ensure conformity with the LRE provisions of the individuals with Disabilities Education Act.

# Determine accommodations and modifications

Student: \_\_\_\_\_ DOB: \_\_\_\_\_ District: \_\_\_\_\_ Meeting Date: \_\_\_\_\_  
Last Name, First Name mm/dd/yyyy mm/dd/yyyy

**Program Accommodations and Modifications - INCLUDING NONACADEMIC AND EXTRACURRICULAR ACTIVITIES/COLLABORATION/SUPPORT FOR SCHOOL PERSONNEL**

<b>Accommodations and Modifications to be provided to enable the child:</b> <ul style="list-style-type: none"> <li>- To advance appropriately toward attaining his/her annual goals;</li> <li>- To be involved in and make progress in the general education curriculum;</li> <li>- To participate in extracurricular and other non-academic activities, and</li> <li>- To be educated and participate with other children with and without disabilities.</li> </ul> <b>Accommodations may include Assistive Technology Devices and Services</b>	<b>Sites/Activities Where Required and Duration</b>
<b>Materials/Books/Equipment:</b> _____ _____	
<b>Tests/Quizzes/Assessments:</b> _____ _____	
<b>Grading:</b> _____ _____	
<b>Organization:</b> _____ _____	
<b>Environment:</b> _____ _____	
<b>Behavioral Interventions and Support:</b> _____ _____	
<b>Instructional Strategies:</b> _____ _____	
<b>Other:</b> _____ _____	

*Note: When specifying required supports for personnel to implement this IEP, include the specific supports required, how often they are to be provided (frequency) and for how long (duration)*

Frequency and Duration of Supports Required for School Personnel to Implement this IEP include: \_\_\_\_\_  
 \_\_\_\_\_

# Special Considerations for Children in Foster Care

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- Foster parents, kinship care parents, and relatives with whom a child lives have the power to make special education decisions.
- However, these children may also have a living birth or adoptive parent whose parental rights have not been terminated and who also qualifies as the child's special education decision-maker.
- The law says that, whenever a birth or adoptive parent is “attempting to act” on behalf of the child in the special education system, the school must treat that parent as the decision-maker. This means that, if the school proposes an IEP for the child and the birth or adoptive parent refuses to approve the plan, the school cannot go around the parent by getting a foster parent, kinship parent, or other relative's agreement/signature. The school can only accept the decision of another person when the birth or adoptive parent is not “attempting to act” on behalf of the child.

# Bullying

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There is a high correlation between students with disabilities and bullying.

- Bullying can amount to a denial of FAPE regardless of whether or not the bullying was based on the student's disability. Schools must determine if a student who has been bullied was also denied FAPE because of the bullying and must remedy the denial.
- If bullying has occurred, school districts must convene a PPT or 504 meeting to determine if the effect of the bullying has changed the needs of the student such that the program must be changed.

Bullying is defined as:

- the repeated use of a written, oral or electronic communication or physical act by one or more students directed at another student within the same school district which:
- - 1) Physically or emotionally harms the student or damages that student's property;
  - 2) Places such student in reasonable fear of harm to himself or herself, or of damage to his or her property;
  - 3) Creates a hostile school environment for that student;
  - 4) Infringes on that student's rights at school; or
  - 5) Substantially disrupts the educational process or the orderly operation of the school. ”



# Transition Planning

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All students with disabilities are entitled to transition planning:

- The PPT must begin considering the transition needs of a student at age 16 or earlier, if deemed appropriate.
- Transition planning must be a results oriented process with the focus on improving academic and functional achievement of a child to move toward post-secondary education, employment and independent living.
- When a student either ages out of the system or graduates a school district must provide a summary of performance including recommendations on how to assist the student in meeting post-secondary goals.
- The rights under IDEA transfer to the student upon turning 18 unless the parent obtains guardianship or conservatorship of the student.
- If a child is vocation-bound, make sure that the planning starts early. They should be doing job inventories and job placements at least by junior year of high school. If a child is college bound, make sure they are aware of requirements (S.A.T., A.C.T., application process, financial aid, DCF support). Start early!
- Look into all state agencies that can support the child as they age out or transition out of the system: BRS, DHMAS, DDS, Social Security, etc.

# Transition Planning, Continued

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Some students may be entitled to an education until they are 21 years old.

- Transition planning can include access to college courses
- It can include access to vocational programming.
  
- **BEWARE:** once a student accepts a diploma, all entitlement to education including special education terminates permanently.

# When Cooperation Doesn't Work: ALTERNATIVE DISPUTE RESOLUTION

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- State Complaint
- Federal Complaint
- Mediation
- Resolution Sessions
- Due Process



# Questions?

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