



## OSEP Symposia Series: High Expectations and Appropriate Supports: The Importance of IEPs

April 9, 2018

### Questions and Answers

#### **Does the *Endrew F.* educational benefit FAPE standard include both academic and behavioral progress?**

>>Mitchell Yell: Yes, it clearly does. IDEA recognizes that our present level statements, our ambitions, our goals, must stress academic and functional needs (e.g., social skills development, behavioral issues, communication). Also, it is important to recognize that when the District Court overturned its decision in the original *Endrew* case, it was because the IEP did not address behaviors appropriately. So yes, it does address both academic and any functional issues a child might have.

#### **Will the assumption continue to be that pivotal skills are taught in the general education classrooms and that students continue to be held to challenging academic standards--in light of the child's circumstances?**

>>Karen Erickson: The need to educate all students in the least restrictive environment has not changed. If IEPs are written in such a way that they address the application and use of pivotal academic skills and understandings, teams may find it easier to include students in general education settings because there is less emphasis on mastery of isolated skills that, at best, align with the general education curriculum for only a short period of time.

#### **Would you agree that basic reading skills, like decoding, should be taught to mastery?**

>>Karen Erickson: It is important to teach those skills to mastery, but what is more important is that children can apply those skills in the context of accessing the curriculum in the classroom. When our goals focus on mastering the skills in the context of explicit instruction, students often fail to generalize those skills to the general education curriculum. Certainly, the kind of explicit, skill focused instruction referenced by the other presenters is important, but what happens if our goals focus on improved success in reading curriculum-related content with comprehension and fluency rather than focusing on mastery of the explicit skill? I would argue that mastering the skills is just the first step and does not meet the spirit of our current standards or *Endrew F.* because mastering the skills without applying them does little to ensure that students will have the foundation to build on moving forward.

#### **Will examples of the IEP goals the last speaker discussed be provided, as well as how to progress monitor those goals?**

>>Karen Erickson: The goals generally address the specific skill you would like to see the student apply and the context where they are to be demonstrated. For example:

- Given familiar, beginning-level texts, Pat will integrate ideas and information to compare two or more text elements for at least five different texts by the end of this IEP cycle.
- Given familiar, beginning-level texts, Pat will successfully decode the words in the text and demonstrate comprehension of the text through questions, discussion or written responses for at least two different texts each week.
- Given small group interactions with peers, Pat will initiate comments and questions (without explicit prompting or support) that are related to the topic or instructional task.

You might consider viewing the IEP module we created for the Dynamic Learning Maps (DLM) consortium at <http://dlmpd.com>. On that site, link to the modules in alphabetic order and search for Individual Education Programs, linked to the DLM Essential Elements.

**Where does the 80% accuracy come from? Why not look at increasing life skill standards?**

>>Karen Erickson: 80% accuracy has been around forever. I am not the only one to challenge it. In fact, if you Google 80% accuracy in IEP goals you'll get about 171,000 results in less than a second and find that many have questioned it, yet many LEAs continue to require a percent (80% or otherwise) in IEP goals, objectives, and benchmarks.

Regarding the second part of your question, I believe reading, writing, communication, numeracy, and scientific thinking are critical life skills. Students who develop knowledge, skills, and understanding in these areas have the skills they need to manage and direct their care, maximize their independence, and establish and maintain relationships with people who are not in their immediate environment. They also have the thinking skills needed to function in novel contexts – from my perspective, these are all critical life skills. If we developed IEPs, provided specially designed instruction, and provided appropriate supports that helped students achieve pivotal skills in reading, writing, communication, numeracy, and scientific thinking, perhaps they would find more success post-school.

**Drs. Erickson and Lemons are seeming to provide different recommendations regarding [IEP] goals. Dr. Erickson says don't pluck right from standards. Dr. Lemons gives examples of goals and objectives that are right from standards. Can they please comment on this apparent discrepancy?**

>>Christopher Lemons: I think it's important to note that IEPs can include various types of goals. We both provided different recommendations of what those goals could look like. The examples we each provided are appropriate to include in IEPs. What is important is that the goals be ambitious, reasonably calculated, and challenging. I think both of us agreed upon that. It's important to note that goals, and even the types of goals, should also be individualized to the individual child. This is the IEP team's job, to determine what types of goals are appropriate.

I strongly agree with Karen's focus on generalization, so I would recommend that as students meet the kinds of goals that I provided examples of, so related to standards, as students are mastering that content, we really do need to consider developing additional goals that focus on generalizing that mastery of content, in a broader way, to other settings and other places throughout the school.

>>Karen Erickson: I would like to add that my focus was on students who have the most significant cognitive disabilities. By definition, one of the biggest challenges that group of students has is being able

to generalize the skills that they've been taught. If I'm working with students who can master the skills in one setting, and then generalize them, not the notion of generalization that means they can do the same thing with a different person, in a different place; but the true notion of generalization, meaning they can take those skills to accomplish a number of different things that we taught them for in the first place, then it makes sense to have a very skills focused kind of IEP.

When we're talking about children who can't generalize, who find it very difficult once they learn a skill, to then take it and use it to do something else, I think we need to think differently about those skills. Part of the point I was trying to make was, I wonder if part of the reason why many students with severe cognitive disabilities, appear to make all of the progress that they're going to make academically when they're children, as opposed to adolescents and young adults, is this mastery focus that we've always had. If we had from the beginning a focus in our goals and objectives, where we're teaching those skills, but the goal isn't mastery, the goal is application and use [then we might see more progress beyond childhood].

Part of our conversation, as we were thinking about answering this question was, imagine if for students who participate in the alternate assessment, based on alternate achievement standards, who have annual goals, and either benchmarks or objectives, if the annual goal really focused on the application and use of the skill. Then, potentially the benchmarks and objectives could focus on the mastery of those skills. That's sort of this place where potentially we're more alike than it might have seemed on the surface as we were presenting.

**Kelly, you mentioned challenges related to trauma, and foster, and adoptive, and kinship, and other families. Can you tell us about some good resources of IEP teams, and educators, on trauma?**

>>Kelly Henderson: I've been learning a lot more about the impact of trauma. It's fortunate that a lot of good materials, and resources, are out there. I wanted to just highlight a couple that I would mention off the top of my head. The National Child Traumatic Stress Network, that's a mouthful but the acronym is NCTSN.org, has a huge number of resources designed for families, as well as for professionals in the mental health field and education field. That is largely supported by SAMHSA. See: <https://www.samhsa.gov/>

Another good resource speaks to the research being done around adverse childhood experiences, which is a set of ten experiences that children have during their youth, that we find have been correlated strongly with really, unfortunately, negative outcomes if those issues are not addressed early in childhood. More information, including research and resources, about those adverse childhood experiences can be found at <https://acestoohigh.com/>. They have a lot of really good resources for educators and for families there.

**What's the most important thing that a family member could do at the IEP meeting?**

>>Rosa Milagros Santos: Okay, that's a great question. I want to say that I recognize the fact that we are all busy, and it's hard [to do some of these things]. One of the things that could help families most at an IEP meeting is, come prepared. What I mean by that is really coming to a meeting with questions on hand, with ideas that they might have. Most of all, I think they need to probably get some information

beforehand. If there's a way for them to talk with the teacher, or somebody in the school to ask a little bit more information; because often when families come into these meetings, it's their first time coming to the IEP meeting and they may not understand what the process is.

Having some background, or maybe talking to another parent [can be helpful]. If there's another parent who has gone through the same process, [they may be able to] share some more information. I think coming prepared to the meeting really will help them be able to develop some questions that they might have, that they can ask at the meeting. They can also then be able to think about, if they want, to bring an advocate with them. Perhaps there's some issues where they're not agreeing [with the school], and they are maybe not sure that's something they can bring up. Having somebody with them to be able to advocate, to speak up for them, to speak on their behalf, would be a great way to help prepare for that.

I think what's most important, and I think what families really bring to the table, is the ability to go in and share about their child, about their family. The information that they have is so important, that I think we tend to [forget about that value of it] ... it gets diminished as children get older, because a lot of the things we look at, when we look at a child, is what happens in school. We forget, this child, outside of the eight hours, or six hours, that they might be in school, lives at home; and they have other things that are going on. The family can bring that information to the teachers, to the programs when they come to the IEP meeting.

So, preparation is important, and asking questions, making sure that they really take the time to ask questions. Lastly, I want to say, when they are at the IEP meeting, take time, ask for time, if you can, to consider any new information that's presented at the IEP meeting. I don't think parents should be compelled to sign anything right there and then, if they're not prepared to be able to consent to any new information that they have not had before, and have had time to consider them. I think to ask for that time to say, "Okay. Let me take this home, let me get back to you tomorrow. Or, can I think about this a little bit, before we sign off on this?" I think, again, be prepared, ask questions, and again, take time. Ask for time if needed, when presented information you're not quite sure about.

>>Kelly Henderson: I would just add to that great answer, that your parent training and information centers, and your community parent resource centers in your state, and local area, can be really helpful to preparing you as parents, helping you prepare parents/caregivers for the IEP meeting. They have great resources, and lots of training; so, use those resources.

**How does the work you're doing to increase effectiveness of specially designed instruction connect to development of the IEP?**

>>Barbara Guy: One thing we know for sure is that IEP teams want to get it right. In our past, in terms of general supervision, and the technologies that were available to us, when people would ask a question, we'd try to give them an answer that ended up being a little bit more black and white, and more procedural, than possible. What ended up happening is, people focused on getting the wording right. As I mentioned before, we lost the individualization, and the focus on instruction.



The work we've been doing really focuses on the planning, and the diagnosis; going through those four steps of SDI, specially designed instruction, and not the documentation of it. What we're finding in working with teachers, and IEP teams, and actually building teams, is that teachers are going back and identifying that they may not have identified the right area to work on. They are changing the skill area in the goal. Many times, unfortunately, because of our focus on SMART goals, we ended up writing goals we could measure, and not necessarily goals that are what the skill needed for instruction. We're finding new ways to change that, or to write better goals that are linked to standards.

Also, we're finding, or hearing, from our participants that general education teachers, and special education teachers are having more authentic conversations because they are around the standards and skills that students will be learning, and are seeing the connections better; which we think will improve participation in IEP meetings. We're really focusing on specially designed instruction, not the documentation in the IEP. We're also trying to find ways in the state, I didn't talk about this, to reduce the time that's spent away from instruction. Simpler ways to develop an IEP, to write it, so we're not spending as much time in paperwork, as we were.

One last thing on that, then I'll let you ask your next question. Which is that, we're also finding that in the IEP itself, people have forgotten that special education can be throughout the full day, so that's the piece of that access. Access is about the full day, not just accessing instruction within an IEP goal.

**For states that have locally controlled districts, how have the SEA ensured new FAPE requirements are being met?**

>>Barbara Guy: I think I want to start with the fact that I disagree that these are new FAPE requirements; that it might be a new articulation, or a better articulation, of FAPE requirements. I think the requirements have always been there, and actually NASDSE, the National Association for State Directors of Special Education, wrote an amicus brief for *Andrew F.*, that I think articulates what many states have already been doing. If they haven't been looking at some of those things with general supervision, I think you should take a look at that brief. See: <http://www.scotusblog.com/wp-content/uploads/2016/11/15-827-amicus-neither-party-NASDSE.pdf>.

I also would say that OSEP's movement to results based accountability within our monitoring side, has really put a lot of attention to states on what we might be able to do to put more emphasis on results, and less on the procedural side of compliance. Not that it doesn't matter to have it correct procedurally, but that if it's correct procedurally but doesn't make any difference for a student, that we know we need to do something a little bit better.

**How is FAPE determined in a state complaint? Is it the same as in a due process hearing?**

>>Mitchell Yell: State complaints (SC) are quite a bit different than due process hearings (DPH). (For an excellent synopsis of these differences see [Quick Guide to Special Education Dispute Resolution Processes for Parents of Children & Youth \(Ages 3-21\)](#) developed by the Center for Appropriate Dispute Resolution in Special Education, see reference below). In both systems, a parent may allege a denial of a free appropriate public education (FAPE). Compliance with the FAPE mandate of the IDEA in a state complaint would be determined through an investigation process in which state personnel look at the requirements of the

IDEA and determine whether a school district followed the law's procedures and have properly addressed all of a student's needs in accordance with child-specific data. Although there has not been much research done on the various state's SC systems, Zirkel (2017) reported state investigators often cite federal and state laws and regulations and policy positions of the Office of Special Education Programs (OSEP), more frequently than they cite case law. The decision in *Endrew F. v. Douglas County School District* (2017), however, will probably have an influence on how state complaint investigators address FAPE issues.

On the other hand, DPHs are more adjudicative, and involve a judicial type process in which both sides are often represented by attorneys, witnesses testify and are cross examined, and evidence is introduced. In FAPE cases, the hearing officer must determine the facts and whether or not a school district has complied with the FAPE requirements of the IDEA. The hearing officer will examine federal laws and regulations and consult case law in arriving at his or her decision. The educational benefit standard that the U.S. Supreme Court developed in *Endrew F.* will greatly influence hearing officers' rulings in FAPE cases.

### **Should *Endrew F.* change the focus of state monitoring?**

>>Mitchell Yell: In FAPE complaints, the focus of state monitoring would likely change because of the higher educational benefit standard in the Supreme Court's ruling. It is difficult to say with certainty, however, because there is so little information on how state investigators make decisions. Zirkel (2017) reported that state investigative personnel tend to be less likely to look at issues in an exclusively legal manner and overall state complaint investigations are much more likely to produce parent and child-friendly outcomes than are due process hearings. Because the Supreme Court's ruling in *Endrew F.* is considered to be a gain for students with disabilities and their parents and to strengthen students' rights (Turnbull, Turnbull, & Cooper, 2018; Yell & Bateman, 2017), it is likely that the focus of state monitoring will change to reflect the higher educational benefit standard in the Supreme Court's ruling.

### **Who will have the authority or oversight that will ensure the new FAPE requirements are being met at the school district and state levels?**

>>Mitchell Yell: A student's IEP team is responsible for ensuring that the FAPE standard developed by the U.S. Supreme Court in *Endrew F. v. Douglas County School District* (hereinafter *Endrew F.*) is met in the student's IEP. The school's local educational agency (LEA) representative, usually a school's principal, and the school district officials in the district are also responsible in instances in which the *Endrew F.* FAPE standard was not met. Ultimately, the State Educational Agency (SEA) within a particular state would also bear responsibility in such situations. Thus, the question of who has the authority or oversight to ensure that the *Endrew F.* FAPE requirements are met is critical.

Yell and Bateman (2018) asserted that LEAs and SEAs must ensure that special education teachers, school administrators, and IEP team members receive thorough, frequent, and on-going professional development activities in the requirements of special education law, including new developments such as the higher FAPE standard developed by the Supreme Court in *Endrew F.* Additionally, it is important that school personnel mentioned in a student's IEP understand their responsibilities and carry out these responsibilities. Thus, it is important that all administrators, educators (including general education teachers, related services personnel, and support staff (e.g.,

paraprofessionals) who are involved in special education and related services receive thorough professional development. The responsibility to craft and implement such professional development activities falls on school and school district administrators.

It is vital that officials in SEAs also understand their importance in professional development. According to the question and answer document issued by the U.S. Department of Education on the Supreme Court's decision in *Endrew F.* issued on December, 7, 2017, SEAs "should review policies, procedures, and practices to provide support and appropriate guidance to school districts" to meet the requirements of the *Endrew F.* decision and that the Supreme Court's ruling provides "an opportunity to work together to ensure that we are holding all children with disabilities to high standards" (Questions and Answers on *Endrew F. v. Douglas County School District*, question 19).

**Many districts have moved to standards-based IEPs, aligned to Common Core. Does this fit with the *Endrew F.* Standard? In particular, is "progress appropriate in light of the child's circumstances" limited to academic progress?**

>>Mitchell Yell: The *Endrew F.* standard requires that student's IEPs be reasonably calculated to enable a student to make progress appropriate in light of his or her circumstances. A student's IEP must be individualized and a student's progress can only be defined in light of that student's circumstances. These circumstances may involve both academic and functional needs, because the Individuals with Disabilities Education Act (IDEA) requires that if a student has academic and functional needs they must be addressed in a student's IEP in the present levels of academic achievement and functional performance (PLAAFP) statements, the annual goals, and must be monitored and measured (IDEA Regulations, 34 C.F.R. § 300.320 *et seq.*). Functional needs are generally considered those nonacademic skills necessary to function in everyday life. Functional skills are considered to include areas such as behavioral skills, social skills, and living skills and vary depending on the needs of an individual student. Thus, the *Endrew F.* FAPE standard applies to both a student's academic and/or functional needs.

With respect to standards-based IEPs, in the *Endrew F.* Questions and Answers document, officials in the U.S. Department of Education described how a student's IEP must address academic content standards for all students. In the letter, OSERS reiterated the definition of the general education curriculum is "the same curriculum as for nondisabled children" that is based on a State's academic content standards. This alignment, however, must guide, and not replace, the individualized decision-making required in the IEP process. This decision-making continues to "require careful consideration of the child's present levels of achievement, disability, and potential for growth. Questions and Answers on *Endrew F. v. Douglas County School District*, question 13). This is an important consideration for all IEP teams and indicated that standards-based IEPs can meet the *Endrew F.* standard as long as the needs and goals in a student's IEP are individualized and appropriate in light of a student's circumstances.

**What implications does *Endrew F.* have for secondary transition and the transition component of the IEP?**

>>Mitchell Yell: The Individuals with Disabilities Education Act (IDEA) applies to all eligible students with disabilities from ages 3 through 21. Such students must have an individualized Education Program (IEP) that confers a FAPE. In fact, as the U.S. Supreme Court noted in the *Endrew F.* decision, "It is through the IEP that the free appropriate public education required by the (IDEA) is tailored to the unique needs

of a particular child" (Endrew F., 2017, p. 13). The educational benefit standard announced in Endrew F. applies to all students with disabilities who receive special education services under the IDEA, including students of transition age. Thus, the IEPs of students with transition IEPs must be reasonably calculated to enable a student to make progress in light of his or her circumstances. Transition IEPs must meet the same FAPE requirements as do all IEPs. This includes an individualized assessment, challenging, ambitious, and measurable goals, and a system to monitor student progress.

**The IEP process (developing the IEP, holding meetings, disseminating IEPs to all service providers, monitoring and reporting on progress, etc.) takes up a significant portion of teachers' time. What are your suggestions on how to streamline this process while giving teachers time to deliver the services outlined in the IEP?**

>>Barbara Guy: Iowa is focused on maximizing natural occurring events and use of technology to increase opportunities for effective instruction and streamline preparation, development, and implementation of the IEP. For example, the provision of effective universal instruction results in meaningful data for determining need and monitoring progress, which minimizes time needed for assessment. Also, implementing Multi-Tiered Systems of Support provides school-wide structures where teachers can more intentionally collaborate on specific student needs, which informs the development of the IEP. Iowa's Framework for Specially Designed Instruction (SDI) has provided a common language around which to share specific tools and processes. Teachers who use the SDI Framework reduce duplication of their efforts since the IEP process is integrated into the SDI Framework and thus embedded in daily practice. The IEP is not separate from specially designed instruction. Finally, Iowa is working to optimize use of technology to streamline the development process by building a statewide IEP/IFSP system that integrates with district student information systems, universal screening data bases, can be used from multiple devices (e.g. phone, tablet, computer), is accessible to all relevant stakeholders (e.g., parents, service providers, teachers) and provides data needed for state and federal reports.

**In regard to coaches in SSIP teams, are there particular trainings the coaches attend so that they are not learning together thus creating frustration?**

>>Barbara Guy: Finding ways to provide professional learning to coaches in advance of those with whom they work is challenging in systems with limited resources, especially the precious resource of time. Iowa is trying to differentiate learning through self-assessments and clear delineation of expected competencies. Frequently information is provided to coaches in a webinar or virtual meetings prior to the professional learning provided to the full group. The State Personnel Development Grants (SPDG) have a technical assistance network called SigNetwork, which has a number of quality resources for coaching. Other resources include:

[AI Hub Series on Coaching](#)

[Effective Practices for Coaching from NCSI](#)

**What are some ways that SSIP teams can structure training coaches before scaling up?**

>>Barbara Guy: It is helpful to distinguish between the functions of coaching that are needed, i.e., systems coaching or content/practice coaching. Iowa recommends fully developing structures and



processes before attempting to scale-up. Valuable supports include structured service delivery model, tools for determining need, practice profiles, leadership and other supports for coaches.

### **How do the frameworks of UDL and Individualization work together?**

>>AEM Center: Universal Design for Learning and individualized services such as those provided through a learner's IEP are complementary supports for the achievement of all learners.

Universal Design for Learning (UDL) is a proactive approach to curriculum design. It focuses on building in flexibility from the start to address the variability neuroscience tells us all learners bring into the classroom. A key goal with UDL is to leverage flexible teaching methods and the potential for personalization in accessible educational materials and technologies to meet the needs and preferences of as many learners as possible. Although the implementation of UDL reduces barriers to participation and achievement for all students, it does not preclude the need for individualized supports for some students to meet their unique needs. Such supports and services are often provided through an Individualized Education Program and may include specialized instruction, related services or supplementary aids and services such as assistive technology or accessible educational materials for students who require them.

Such services may be needed for students with more intensive needs to access and meaningfully participate in the attainment of a Free Appropriate Public Education (FAPE) and they are required under civil rights statutes such as the Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act of 1973.

For additional information on the UDL Framework and individualized instruction, check out Building on a Firm Foundation: Supporting Students with More Intensive Support Needs in UDL Environments on the National AEM Center website.

## References

- Endrew F. v. Douglas County School District*, 137 S. Ct. 989 (2017). Available at <https://www.supremecourt.gov/opinions/16>
- IDEA Regulations, 34 C.F.R. § 300.320 et seq.
- Turnbull, H.R., Turnbull, A.P., & Cooper, D.H. (2018). The Supreme Court, *Endrew*, and the appropriate education of students with disabilities. *Exceptional Children*, 84 (2), 124-140.
- Center for Appropriate Dispute Resolution in Special Education (2014). Quick Guide to Special Education Dispute Resolution Processes for Parents of Children & Youth (Ages 3-21). Available at <https://www.cadeworks.org/resources/cadre-materials/quick-guide-special-education-dispute-resolution-processes-parents> .
- National Association of State Directors of Special Education. (2016). *Endrew F*: Brief amicus curiae of National Association of State Directors of Special Education, in support of neither party, filed November 17, 2016. Available at: <http://www.scotusblog.com/wp-content/uploads/2016/11/15-827-amicus-neither-party-NASDSE.pdf>.
- U.S. Department of Education (2017, December 7). Questions and Answers (Q&A) on *U. S. Supreme Court Case Decision Endrew F. v. Douglas County School District Re-1*. Available at <https://sites.ed.gov/idea/files/qa-endrewcase-12-07-2017.pdf>.
- Yell, M.L. & Bateman, D. (2017). *Endrew F. v. Douglas County School District* (2017): Free appropriate public education and the U.S. Supreme Court. *Teaching Exceptional Children*, 50 (1), 7-15
- Yell, M.L. & Bateman, D.F. (2018). Free appropriate public education and *Endrew F. v. Douglas County School District*: Implications for personnel preparation. *Teacher Education and Special Education*. DOI: 10.1117/0888406417754239.
- Zirkel, P.A. (2017). The complaint procedures avenue of the IDEA: Has the road less traveled made all the difference? *Journal of Special Education Leadership*, 30 (2). 88-97.