



Building a Better Road

2025 COURAGE TO RISK CONFERENCE

Colorado Decision Review 2024-2025



The Road



Evaluations



Consent for Evaluation

2024:541

- School districts do not need to obtain parental consent to review existing data or administer tests or evaluations that are given to all children. 2024:541, p. 13.
- An FBA qualifies as an evaluation or reevaluation under the IDEA where the FBA is used to determine a student's need for special education and related services (according to OSEP's Letter to Christiansen from 2007).



Functional Behavior Assessments

2024:541

- Where a form's stated purpose was to “collect data to determine the function of one's behavior,” and included “setting events, antecedents, student's response, and staff's response, that constitutes initiating an FBA, and using it requires parental consent.
- Parent's refusal to provide consent prevented the District from completing an FBA or revising Student's BIP, so no violation occurred. 2024:541, p. 11.



Evaluation

2024:565

2024:570 (relating to evaluations required to support change of placement in safety planning context)

Decisions published as of 2/3/2025

- The school district in which a child resides is responsible for the child's reevaluation, even if the child is enrolled in a facility school. 2024:565, p. 15 & ECEA Rule 8.04(1)(c).
- Parents' decision to keep student at home, rather than allow her to attend her new placement, did NOT change the District's duty to seek consent for a timely reevaluation. 2024:565, p. 15.

Caplan & Earnest



Private Evaluations (IEE's)

2024: 568

*Alex W. v. Poudre Sch.
Dist. R-1, 124 LRP 7692
(10th Cir. 2024)*

- School District appealed ALJ order requiring district to reimburse family for an IEE.
- District argued the regulation only requires a school district to fund one IEE each time a public agency conducts an evaluation with which parent disagrees. Plain text of regulation supported District.
- Because parents were only entitled to one IEE at public expense per school district evaluation, when parent had no right to request or receive a second IEE at public expense, the District had no obligation to respond to the request, either by bearing the cost or filing a due process complaint.





Convening Meetings

High frequency issue



Records

2024:540

2024:555

2024:560

2024:578

- As a general rule, information obtained through personal knowledge or hearsay, and not a from a student's education record, is not protected from disclosure under the IDEA.
- Anonymous online posts responding to parent's post (where she disclosed her student's name and disability status) made it wholly unclear whether the anonymous posts came from ed records or from personal knowledge. "Although it is certainly Parent's right to do so, disclosing Student's information on a public forum invites an inevitable exchange of information about Student that cannot be attributed to the District." 2024:560, p. 15.
- In the context of the timeline for a new school district to either adopt a child's IEP from the prior district or else develop a new IEP, the new district must act to avoid any undue interruption in the provision of required special education and related services. The former district taking 13 business days to provide records does not constitute "reasonable steps to promptly respond" to the new district's request. 2024:578, p. 10.



Notice of Meeting

2024:540

2024:565

- District acknowledges that Parent did not receive meeting notice; however, it is clear Parent knew the date and time, understood the purpose, and attended and participated. This constitutes a procedural violation that did not interfere with Parent's right to participate in the IEP process. 2024:540, p. 27.
- An informal email did not serve as procedurally compliant notice because: a meeting notice must
 - Clearly state when placement will be discussed;
 - Expressly state which individuals were going to attend (cannot rely on list of message recipients);
 - Notify Parents that either party may bring other individuals to the meeting.2024:565, p. 12.



Convening Meetings

2024:543

2024:565

2024:582

- Required Participants: General Education Teacher
 - The individual chosen to serve as the general education teacher on a student's IEP team does not need to be the student's current teacher. However, the individual selected should have worked with the student. 2024:543 p. 14.
- Discretionary Participants: School Nurse's Complex Nurse Case Manager and Assistant Director of Health Services attended in place of the school nurse, and this was acceptable because both were familiar with Student's medical orders and the nursing services available in the District. 2024:582, p. 15.



Meaningful Participation

2024:548

2024:558

2024:569

2024:582

2024:586

- Before the meeting, District issued a draft IEP, and its language did not go into effect until after parents had the opportunity to review, comment upon, and propose changes to it. Teachers noted the document was a draft, and the new IEP issued after a series of IEP team meetings at which parents were in attendance. 2024:558, p. 5.
- The record demonstrates that the IEP team went to great lengths to ensure that Parent input was considered (IEP, pre-meeting to solicit parent concerns, parent participating in evaluation process). Then, after IEP was finalized, parent reached out with additional concerns. District convened an IEP team to discuss parent concerns. 2024:569, p. 11.



Meaningful Participation

2024:548

2024:558

2024:569

2024:582

2024:586

- Even if the final IEP did not encompass everything shared by Parent, the findings make clear the IEP team considered parent's concerns. 2024:582, p. 17.
- Parent was not excluded from the process of determining a location despite district not acquiescing to her demand that student receive her services at family's preferred location, because Parent was still given the opportunity to meaningfully participate. 2024:586, p. 12.



Prior Written Notices

2024:540

- Refusing to continue to meet about the student does not require a PWN. 2024:540, p. 26
- District failed to provide PWN in response to Parent's multitude of requests for modifications to the Student's IEP, even where team responded point-by-point, because the point-by-point response did not conform to form of PWN. 2024:540, pp. 26-27.



Translation for parents

2024:584

- During the amendment meeting, no interpreter was provided, and the proposed IEP amendment was written in English. Parent signed the proposed amendment, but did not understand the proposal or the document he was asked to sign, due to the lack of translation and interpretation. 2024:584, p.11.
- The improper IEP amendment meant neither Parent had the opportunity to participate in an IEP team meeting or provide substantive input with respect to the proposed changes. 2024:584, p.12.





Developing the IEP



DHH Communication Planning

2024:551

- Every IEP for a DHH student must contain a communication plan. The communication plan must identify the student's primary communication mode, as well as the communication-accessible academic instruction school services and extra-curricular activities the student will receive. 2024:551, p.9.
- In place of the educational interpreter called for the IEP, District assigned a signing paraprofessional to assist Student in the school environment. Although para worked as an authorized educational interpreter for ten years, she is no longer an authorized educational interpreter due to her lack of an associate's degree, and she cannot provide educational interpretation services. As a result, District failed to implement those services. 2024:551 p.17.



Goals

2024:548

2024:569

- Goals should provide “auditable units of measurement” and clearly stated skills that would be tested. 2024:548, p. 16.
- Where the goal was a new goal representing a new skill for student, CDE accepted that the baseline will be established with the first progress report. 2024:548, p. 16.
- Despite provider’s apparent subjective understanding of how she believes the goal is to be measured, a person unfamiliar with the IEP would not be able to determine how progress on this goal is to be measured. 2024:569, p. 12.
- An objectively measurable goal would not require the provider to speculate as to whether a student is accurately and completely communicating his emotions. Rather, it might make use of a rubric or a specific set of questions administered each session to track the changes in student’s responses, to ensure that data and progress can be measured accurately. 2024:569, p. 12.



EEOs

2024: 548, p. 19

- General education and special education teachers may collaborate to modify a curriculum for the EEO's while tracking the topics of the general education curriculum.
- Although this may not be appropriate for every student, the determination must be made on an individualized basis.
- The standard for being instructed under EEOs is not the same standard as eligibility under the category of intellectual disability. Student may qualify for the EEOs, but the District must make that determination on an individualized basis, rather than relying on the student's disability category.



ESY

2024:585

- Where the team does not determine ESY at all, CDE concludes that the District implicitly determined that Student did not require ESY services and also did not give Parent an opportunity to participate in that determination. 2024:585, p. 12.



Services

2024:581

2024:582

2024:584

- Indirect and consultative services are appropriate for many students and can be the best and least restrictive option for students with handwriting goals. 2024:581, p. 21.
- If an instructional method is determined by qualified instructors to be appropriate to a student's individualized needs and supported by peer-reviewed research, the CDE defers to that determination. 2024:581, p. 15.
- While a nurse provides school nurse services, school health services may be provided by either a school nurse or other qualified person. In a prior year, Student has a deskside nurse assigned to him, but she performed very few true nursing services, suggesting some of her other services could have been delegated to a qualified person. 2024:582, p. 17.



Paras

2024:540

2024:543

2024:549

2024:582

2024:583

- Paras may be used to assist in the provision of special ed and related services, but they must be appropriately trained and supervised. 2024:540, p. 22.
- The PWN captures parents' concerns regarding the lack of data to support the removal of one-to-one paraprofessional support, and how BOCES sought to address that concern through analyzing observational data obtained from a student needs rubric. Ultimately, the final IEP reflects that IEP team determined he would not qualify for 1:1 support due to the data from the rubric, meaningful consideration of Parents' concerns and questions regarding the data, and supporting evidence obtained from a 3rd party consultant. 2024:543, p. 16.
- Parents' concern is that student's preferred paraprofessional was not always assigned to student, and that a male para supported her when she used the restroom. Neither is required by the IEP, but Parent's preferred para worked with student until her resignation and only female staff escorted student to restroom. 2024:549, p. 9.



Paras

2024:540

2024:543

2024:549

2024:582

2024:583

- Parent requested 1:1 support. Parent indicated she was pleased with the current level of support but worried that student would not receive adequate support unless the IEP specifically required a 1:1 paraprofessional. Student succeeded, making progress and earning good grades. Nothing indicated student needed more paraprofessional support than he already had. 2024:582, p. 18.
- IEP required “dedicated adult support” from an Independent Support Paraeducator “throughout the day. He started the year with an ISP, but she quit after the 3rd day. After that, intermittent support from other adults in the building. Parties agreed to see how he fared without the dedicated support, the District failed to update the IEP. Student struggled with behaviors that resulted in 6.5 days of OSS and 2 days ISS. Also, Student experienced increasing difficulty going to and staying in the gen ed setting, resulting in increasing absences. Thus, the discrepancy was material and denied FAPE. 2024:583, p. 23.





Implementation

Highest frequency issue



Implementation

2024:540

2024:543 (*internship*)

2024:549

2024:551

2024:569

2024:572

2024:573

2024:581

2024:583

2024:584

2024:585

2024:586

- In determining whether an implementation failure is material, it may be reasonable to consider the duration of the failure. 2024:540, p. 21 (citing *Turner v. District of Columbia*, 61 IDELR 126 (D.D.C. 2013)).
- During 5 weeks LEA could not find a work-based-learning or internship required by his IEP, Student engaged in no type of work-based learning or community engagement activities. Parent located a job coach and program.
- Student's age is a factor because he is nearing the time when transition services and ability to work and live in the local community is of prime importance, so this implementation failure was material.

2024:543, pp. 18-19.



Implementation

2024:540

2024:543 (*internship*)

2024:549

2024:551

2024:569

2024:572

2024:573

2024:581

2024:583

2024:584

2024:585

2024:586

- Student's performance in the school setting informs the analysis of whether the failure to implement an aspect of the IEP is material.
 - District failed 48,120 minutes of educational interpreter services, providing signing para instead. 2024:551, p.12.
 - Student's grades indicate that she is passing all of her classes and achieving A's in most of them. Her progress reports indicate that she has made substantial progress.
 - Student has been able to not only access her FAPE, but also to do so with a remarkable level of success.
 - Implementation failure was not material. 2024:551, pp. 13-14.



Implementation

2024:540

2024:543 (*internship*)

2024:549

2024:551

2024:569

2024:572

2024:573

2024:581

2024:583

2024:584

2024:585

2024:586

- Social worker did not provide services minutes.
- However, this lapse occurred because Student was absent from school on each of the three occasions (for college visits/activities/parent-reasonably excused tardy) upon which a mental health service was scheduled.
- This does not amount to an implementation failure. 2024:569, p. 15.



Implementation

2024:540

2024:543 (internship)

2024:549

2024:551

2024:569

2024:572

2024:573

2024:581

2024:583

2024:584

2024:585

2024:586

- Permissible instructional support by para working under special education teacher to implement the special ed teacher's minutes includes:
 - Providing 1:1 tutoring
 - Assisting with classroom management
 - Conducting parental involvement activities
 - Providing instructional support services under the direct supervision of a highly qualified teacher
 - Helping with AAC device
 - Addressing behaviors
 - Reinforcing instruction (providing reading assistance)
 - Prepare daily parent log to be reviewed by teacher

So long as the teacher develops, designs, and implemented Student's specialized instruction lesson plan and engages in substantial instruction with Student. 2024:581, p. 18.



Implementation

2024:540

2024:543 (*internship*)

2024:549

2024:551

2024:569

2024:572

2024:573

2024:581

2024:583

2024:584

2024:585

2024:586

- The IEP required minutes in a language arts class co-taught by general ed and special ed teacher.
- Student moved to another school, where team improperly amended the IEP to remove these services due to the school's lower student to teacher ratio and increased focus on individual support.
- This led SCO to determine the prior IEP's services remained obliged on new school. And so, implementing the new services constituted an implementation failure.
- However, student made progress in the goal areas, so SCO concluded noncompliance was not material.

2024:584, pp. 13-14.



Implementation

2024:540

2024:543 (*internship*)

2024:549

2024:551

2024:569

2024:572

2024:573

2024:581

2024:583

2024:584

2024:585

2024:586

- District admits Student did not attend for more than 2 months.
- The SCO agrees the District has a right to insist on proper health care precautions when a student has a medical condition that can pose a risk if not properly managed. District proactively instructed parent to schedule a health care action plan meeting and made multiple efforts at encouraging and assisting Parent to schedule the meeting.
- Parent cancelled meeting and insisted that district answer questions through email. “It is appropriate for school nurse, as the health care provider at the school, to make the determination about whether student could receive services with an invalid HCAP. School nurse could not appropriately train staff and service providers on student’s invalid HCAP and therefore it was determined that student would not attend until an updated HCAP was delivered and signed.”
- Parent’s failure to cooperate by providing necessary medical information or access to a doctor caused the delay in Student receiving her services.

2024:586, pp. 13-14.



Licensure

2024:551

2024:566

2024:577

2024:583

2024:585

- Teacher provided literacy instruction to 20 students in accordance with IEP requirements that they receive specialized instruction. However, Teacher did not possess an endorsement authorizing her to provide instruction as a special education teacher. Therefore, she could not fulfill the District's duty to provide specialized instruction as required by the Student's IEPs. 2024:585, p. 9.
- The IEPs of 9 other students required direct instruction from a special education teacher outside the gen ed setting. Without an appropriately licensed sped teacher, District was unable to provide those other students with the sped services outside gen ed as required by their IEPs. 2024:583, p. 20.



Licensure

2024:551

2024:566

2024:577

2024:583

2024:585

- BOCES developed a “Plan B” service model. Case manager would oversee, consult with, and coordinate with interventionist in accordance with Student’s IEP. However, case manager did not observe or supervise interventionist’s classroom instruction. Interventionist, not case manager, provided all direct specialized academic instruction. Interventionist also developed the lesson plan based on IEP goals and progress sand collecting the raw assessment data for progress reporting. 2024:577, pp. 5-6. (BOCES lost this issue. See 2024:577, p. 12; District lost on a similar plan in 2024:566, p. 11.)
- Signing para who had previously worked as an educational interpreter for ten years, no longer qualified due to her lack of an associate’s degree. 2024:551, p. 12.



LRE

2024:540

2024:548

2024:560

- Student received 1:1 instruction in the hallway outside the classroom because Student was working on an activity that required a less noisy environment. This unilateral decision resulted in a procedural violation; however, the Student continued to receive FAPE. 2024:540, p. 22.
- Student removed from the general education solely for two reasons; workload and curriculum modifications. However, LRE cannot be determined “solely on the basis of the availability of the service, the configuration of the service delivery system, or administrative convenience. 2024:548, p. 20.
- District should not restrict student’s LRE because of his category of eligibility. The IDEA does not allow a student to be placed in a more restrictive LRE solely to provide modifications to the gen ed curriculum. 2024:548, p. 20.



LRE

2024:540

2024:548

2024:560

- The District made an appropriate offer of FAPE in consideration of an evaluation; it was Parent's decision to keep Student home from school, which took student out of his LRE as designated by his IEP. 2024:560, p. 14.
- Upon receiving Provider's note, District promptly issued a PWN proposing a reevaluation to consider Student's LRE and educational placement in light of this change in health. 2024:560, p. 14.



Based on the IEP

2024:565, p. 14

- The IEP Team discussed and then revised her IEP to reflect the behavioral data captured by the ABC sheets and how that data impacted her behavioral needs.
- The IEP was revised to reflect Facility School as the new placement. Coordinator and Outside Placement Coordinator explained how the Facility School could meet Student's individual behavioral and social needs in addition to meeting her other needs.
- Because Student was placed in Facility School specifically to meet her needs, and her needs and placement were both described in the new IEP, the change of placement was based on Student's IEP.



Home/Hospital

2024: 582, p. 13

- Parent has relied on the District's Home Hospital program for at least two years, even telling District staff she was "exempt" from the H/H application process.
- During the same period, Student's IEP Team repeatedly developed IEPs that exclusively offered FAPE in a school setting.
- Student either has a "temporary extended illness" that prevents him from attending a full school day or he does not. The District cannot continue to make a full offer of FAPE and then allow Parent to pick what she wants and substitute H/H instruction for the rest.
- If Student has a chronic medical condition that precludes him from attending a full school day, the IEP team should consider what placement best meets his needs. Extended use of the H/H program is not appropriate without a qualifying temporary illness.



Location

2024: 586, p. 12

- Transition age student. Director determined transition locations based off the fact that student would be able to engage with peers and participate in programs that aligned with her IEP objectives and personal interests. Director also considered Student's prior conflicts with transition staff at alternative location, student's health and safety, and District's use of qualified contract staff to fulfill IEP requirements.
- Parent had opportunity to express her concerns and opinions, District showed a willingness to work with parent and address her concerns by offering a variety of locations.
- "Director had to make the determination as to the best location for Student to receive her transition services while also balancing the District's priority to maintain a safe environment for Student."





Progress Monitoring

High Frequency Issue



Progress Monitoring

2024:543

2024:548

2024:585

Decisions published as of 2/3/2025

- Evidence reflects data regarding work on goals. Not only had student been working on them, but also progressed in both goal areas until he eventually made progress that required his IEP team to adjust his goals. Though Parents desired weekly reports, IEP did not require weekly reports. 2024:543, pp. 18-19.
- Goal 2 was not properly monitored at all, meaning that the single progress report was inaccurate. 2024:585, p. 11. (Parent prevailed on this issue.)
- For four of the goals, progress was not monitored, it was not reported, or it was monitored and reported using the correct metrics. However, Parent met with school and district staff and discussed Student's education extensively in meetings and emails. 2024:548, p. 21. (District prevailed.)

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Progress Reporting

2024:573

2024:585

- A parent's right to participate in the development of their child's educational program requires that they be regularly informed of progress toward IEP goals. 2024:585, p. 11.
- Written progress reports lacked sufficient data and information to allow Parent to ascertain the rate and level of the student's progress. 2024:573, p. 9.
- The District did not adequately track progress on annual goals for one semester. However, Parent was not completely in the dark. She had at least some information from the progress monitoring she did receive, and the District convened the IEP team 3 times during the semester at Parent's request. 2024:573, p. 9.
- However, where Student's progress for both her goals was not properly monitored or reported for the entirety of the school year, the lapse was material and resulted in a denial of FAPE. 2024:585, p. 11.





Behavior Interventions



Behavior Intervention Plans

2024:583

- Student took breaks when dysregulated, leaving class to visit the AN center.
- Working to build rapport does not ensure that rapport will happen. 2024:583, p. 21.
- “There is no evidence to suggest that staff was not following Student’s 2023 IEP and BIP. Instead, Student was struggling to establish trusting relationships with staff and to adjust to having six different classes with different teachers and expectations. Thus, the SCO finds and concludes that District complied with [the IDEA].” 2024:583, p. 22



Manifestation Determination Reviews

2024: 541, p. 12

- If an MDR concludes that a student's behavior was a manifestation, the student must be returned to the placement from which the student was removed. This requirement does not apply with the parent and the school district agree to a change of placement (or in special circumstances involving serious bodily injury).
- Where student has less contact with peers, less access to general education, and less access to her specialized instruction and related services, that move is not merely a change in location, but is a failure to return the child to the placement from which the child was removed.



Disciplinary Removals

2024:570

- Any significant change in placement, such as a move from a brick-and-mortar school to an online setting, must be made upon consideration of reevaluation and “only by an IEP Team with the addition of those persons conducting such reevaluation unless the parent and the administrative unit or state-operated program mutually agree to change the IEP after the annual IEP meeting in a school year.” ECEA Rule 4.3(8)(b)(ii)(B).” 2024:470, p. 12.
- Upon receiving notice of the Student’s charges, District’s [intensive discipline team] met and determined, based solely on the nature of the charges, that Student posed a safety risk and should be immediately removed from School and placed in Online School – there was no involvement by Parent, Student, or the IEP Team in making that determination.” 2024:570, p. 12.



Disciplinary Removals

2024:541

- The District shortened Student's school day twice due to elopement. As a result of the reduced schedule, Student was excluded from the transition program for part of the school day from October-May. Within 6 weeks, student's short-term removals totaled more than ten days. All the removals were substantially similar and constituted a pattern. 2024:541, p. 10.
- The change to Student's placement reduced her opportunity to be involved in the general curriculum and deprived her of some of the specialized instruction required by her IEP. Either of these limitations would be enough to invoke the IDEA's disciplinary protections." 2024:541, p. 10.



Discipline Generally

2024:570

Decisions published as of 2/3/2025

Dicta Alert:

- In the course of its decision, CDE asserted IDEA regulations are premised on the principle that children should not be penalized for conduct that is the result of a disability.
 - CDE cited its own memorandum to support this proposition; the memorandum itself cites no regulation supporting its proposition.
- CDE also cited the Federal Register. In responding to comments suggesting that regulations should require MDR to analyze the disability for behaviors characteristic of the disability, OSERS rejected that suggestion, noting that OSERS believes the IDEA “recognizes” that a child “may display disruptive behaviors characteristic of the child’s disability and the child should not be punished for behaviors that are a result of the child’s disability.”
 - As with CDE’s memorandum, OSERS cited no IDEA provision supporting its proposition.
 - The regulation at issue in that had to do with MDRs, which IDEA requires only after 10 school days of removal.
- There is nothing in IDEA’s literal statement of findings and purposes of the act relating to discipline at all. 20 U.S.C. § 1400(c)-(d).
- The IDEA legislates procedures relating to removals from the child’s educational placement. 20 U.S.C. § 1415(k)(1)-(7).

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Remedies



Remedies

2024:541

2024:543

2024:548

2024:566

- Proposed written policies and procedures to address the use of informal removals. 2024:541, p. 16.
- 12 hours of work-based learning and community engagement activities in the local community. Plus, monthly consultation between providers and special education teacher shall occur to evaluate student's progress towards IEP goals and adjust instruction appropriately. 2024:543, pp. 20-21.



Remedies

2024:541

2024:543

2024:548

2024:566

Required a letter to parents of each elementary student eligible (year prior and current year) informing parents their student was identified in a recent state complaint decision as a student whose placement (eligibility for EEO academic standards, curriculum, program, and LRE) may not have been determined in accordance with the IDEA. Letter states district is asking to reevaluate in preparation for an IEP team meeting to discuss placement, including consideration of supplementary aids and services that might permit education in the regular classroom. 2024:548, pp. 23-25.

CDE will go on to monitor the documentation related to these procedures and will “in its sole discretion” determine whether each IEP meeting complied with requirement to program according to each student’s individualized needs.



Remedies

2024:541

2024:543

2024:548

2024:566

Required procedure offering clear guidance on the following: which centralized District employee or team will be responsible for monitoring staffing gaps among staff member. How that monitoring team will be notified whenever a responsible staff member (including charter schools) ceases provided special education for any reason (leave for longer than 11 consecutive school days, regardless of coverage), including:

- how to the District will ensure schools, including charters, will comply with the notification requirement.
- How team will receive accurate information regarding the identifies of the students who the staff member served, the services provided, coverage plan, resolution of absence, and licensure and LRE compliance along the way,
- How comp ed decisions are made and comp ed services provided.
- How to monitor assignment of new students to absent provider's caseload.

2024:566, pp. 14-15.



Service Animals

*Stadler v. Colo. Mesa
Univ., 124 LRP 10388
(Colo. Ct.App. 2024)*

- Where animal owner gave ambiguous and conflicting answers about his animal, public entity asked for more information.
- Court decided the case could proceed to trial to determine whether it was a service animal.
- Rejected “legitimate suspicions doctrine” from cases that predated the regulation limiting inquiry to 2 questions. A public entity may make only two inquiries:
 - 1) Is the animal required because of a disability?
And
 - 2) What task is the animal trained to perform?





Review \neq Revise

A slippery slope



Review & Revise

2024:540

2024:572

2024:581

2024:583

Decisions published as of 2/3/2025

- “The changing needs of some students with disabilities may demand more frequent reviews and revisions.” 2024:540, p. 24 (citing 34 C.F.R. 300.324(b)(1)(i))
- If it turns out a child is not making progress at the level the IEP team expected, the team must revisit the IEP with the *Andrew F.* standard in mind and revise it as necessary to ensure the student is receiving appropriate services and goals. 2024:540, p. 25 (Citing the Questions and Answers on *Andrew F. v. Douglas County Sch. Dist. Re-1* (EDU 2017)).
- “The IDEA contemplates that a student’s IEP may need to be reviewed and revised more frequently to address, in part, lack of expected progress toward the annual goals, a child’s anticipated needs, or other matters.”
 - 2024:581, p. 16; 2024:572, p. 8; 2024:583, p. 26.
 - All referencing 34 C.F.R. 300.324(a)(4)-(6), (b); *Andrew F. v. Douglas County Sch. Dist.*, 137 S.Ct. 988 at 994 (2017) (this case contains no discussion of mid-year meetings).

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Review & Revise

2024:540

2024:572

2024:581

2024:583

- The IEP team did not meet to review and revise the IEP as soon as student met the math goal in December 2023. Parent reached out because it was “hard to tell what is done and what is not.”
- Despite knowledge of Student meeting the math goal and Parent raising concerns, the IEP team did not convene until April 2024 to review and revise the IEP.
- SCO concluded District did not meet its obligation to review and revise to address student’s anticipated needs and other matter (meeting math goal). 2024:572, p.8;
- See *also*, 2024:583, p.26 (finding a failure to review and revise after he met the goal, but also had justifiable conclusion that team should’ve adjusted at annual meeting based on poor performance the prior year).



Review & Revise

*2024:540, p. 25, citing a new case
I.K. v. Manheim Township Sch. Dist.
2023 WL 3477830, at *3-*4 (3d
Cir. May 15, 2023)*

2024:540

2024:572

2024:581

2024:583

Between September and November, student experienced 66 incidents of self-injurious behavior, or threats to self-harm.

“[P]arents instead focus on their daughter's behavioral issues. Those problems were no doubt very troubling, but...District was not ignoring them.”

“From August to November...District implemented measures such as ‘communication logs’ (reporting behavioral information to I.K.’s parents daily), ensuring an adult was with her at all times, placing a classroom divider to separate I.K. from a problematic classmate, and requesting observation by a specialist to determine if she might benefit from additional support.”

“Even though I.K. appears to have made significant strides after her removal from the School District and placement in the private Montessori school, it does not follow that the School District failed its statutory duties under the IDEA to provide her with a FAPE..”

“The private school's approach to I.K.’s education was markedly different from...District's, but that does not undermine evidence of ... District's good faith efforts or its success in providing a reasonably calculated FAPE. On the record before us, the District Court did not clearly err in finding that I.K. received a FAPE while enrolled in the School District.”



Review & Revise

2024:540, p. 25, citing a
new case *I.K. v. Manheim
Township Sch. Dist.* 2023
WL 3477830

2024:572

2024:581

2024:583

Decisions published as of 2/3/2025

School districts are required to analyze whether the services provided in past IEPs were effective as part of their determination of whether the updated IEP is “reasonably calculated” to help the child make academic progress.

If, on this analysis, a school district found that certain services in earlier IEPs had done nothing to further the child's progress, it would not be reasonable to continue offering those services in an updated IEP, but the child's failure to progress would not render the earlier IEPs ineffective.

Isabelle K. v. Manheim Twp. Sch. Dist., 5:19-CV-05517-KSM, 2022 WL 226488, at *14 (E.D. Pa. Jan. 26, 2022), *aff'd sub nom. I. K. by & through Christopher K. v. Manheim Twp. Sch. Dist.*, 22-1347, 2023 WL 3477830 (3d Cir. May 15, 2023); *T.M. ex rel. T.M. v. Quakertown Cmty. Sch. Dist.*, 251 F. Supp. 3d 792, 808 (E.D. Pa. 2017) (illustrating that IEPs are updated based on the child's progress from earlier IEPs).

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Review & Revise

2024:540, p. 25, citing a new case *I.K. v. Manheim Township Sch. Dist.* 2023 WL 3477830

2024:540

2024:572

2024:581

2024:583

Decisions published as of 2/3/2025

Although the District did not revise Isabelle's behavioral goals, it had just updated those goals in the April 2018 IEP and Positive Behavioral Support Plan (which were implemented following a reevaluation and a Functional Behavioral Assessment).

These had only been in place for five school weeks and were intended to remain in place for at least a full school year.

It was reasonable for the District not to revise these goals before giving them a meaningful chance to take effect.

Isabelle K. v. Manheim Twp. Sch. Dist., 2022 WL 226488, at *16 (E.D. Pa. Jan. 26, 2022), *aff'd sub nom. I. K. by & through Christopher K. v. Manheim Twp. Sch. Dist.*, 22-1347, 2023 WL 3477830 (3d Cir. May 15, 2023).

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THANK YOU

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