

KENTUCKY GUIDE TO SPECIAL EDUCATION DUE PROCESS

University of Kentucky Human Development Institute
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CHAPTER 1: Introduction

As educators, we are not only concerned about how our students are doing academically, socially and emotionally today, but how they will fare in the future. To assist those working with students, this handbook has been written to answer questions you may have about educating a student whom you suspect may have a disability and for those already identified with a disability.

Federal and state laws have been enacted that provide services for children whose disabilities adversely affect their educational performance and/or ability to benefit from the general education program. Kentucky provides school age children and youth (ages 3 to 21), supplemental special education and related services through the public school district. The Individuals with Disabilities Education Act (IDEA) is the federal law that clearly spells out the procedures both schools and parents must follow when students need special education and related services. The state's special education regulations describe in detail the special education process and the procedural safeguards that apply to parents and students. You may access the Kentucky Administrative Regulations for Special Education Programs at <http://www.lrc.ky.gov/kar/TITLE707.HTM>. Being knowledgeable about the special education process and terminology used may increase your comfort level in participating in educational decision making for students with special needs.

Traditionally, special education programs have been monitored by both federal and state agencies to ensure compliance with laws. While it is important to make sure public schools are following the legal mandates and protecting the rights of parents and students identified with disabilities, compliance monitoring alone falls short of ensuring successful outcomes for students. Kentucky has made much improvement in providing meaningful access to special education and related services for students identified with disabilities, yet educational outcomes in reading and math, as well as high school graduation rates for these students continue to lag behind their classmates without disabilities.

Over the past several years the U.S. Department of Education Office of Special Education Programs (OSEP) has worked with State Education Agencies (including the Kentucky Department of Education) to promote and support changes to education that will improve results for children with disabilities. This national focus, referred to as Results Driven Accountability (RDA), aims to move from a system focused on compliance to one that emphasizes results. It places an importance on partnering with parents and other community members; providing school, district and state assessment results in understandable terms to educators, parents and community members; and using intervention and instructional programs that are based on research. Throughout this due process manual, you will see this focus referenced or embedded as an effort to improve results for students with disabilities receiving services in Kentucky public schools.

CHAPTER 2: Eligibility for Services Under IDEA

Free Appropriate Public Education (FAPE)

IDEA and Kentucky's special education laws make it clear that all students identified with disabilities have the right to a free appropriate public education (FAPE). Special education means instruction that is specially designed to meet the unique needs of the student. FAPE calls for the special education services to be provided at no cost to parents. The services are provided in what is called the Least Restrictive Environment (LRE). This means that students identified with disabilities are educated to the maximum

extent appropriate in the general education classroom with students who are not identified with disabilities. Service can be provided in a variety of settings including the regular classroom, a special classroom, home, hospital, residential setting or other settings based on the individual needs of the student. FAPE also includes other services that help the student get to school and benefit from his/her educational program. These other services are referred to as **related services**. Some examples of related services are:

- Special transportation,
- Speech, physical or occupational therapy,
- Psychological counseling,
- Other services that may be needed to help support students as they grow and learn.

(Additional discussion of Related Services can be found under Chapter 4: IEP)

Child Find

Public schools in Kentucky must locate, identify, and evaluate all children who need special education and related services, including children who are:

- Between the ages of three (3) to twenty-one (21) years;
- Residing in a home, facility, or residence within the local public school system's geographical boundaries, including children with disabilities who attend private or home schools within those boundaries;
- Migrant or homeless;
- Advancing from grade to grade;
- Incarcerated in a regional or local jail;
- Wards of the state;
- Who are either in or out of school; and
- Who may need special education and related services.

For preschool age children with disabilities, the public school district must ensure a smooth and effective transition from the early intervention program to preschool. Each public school district shall participate in transition planning conferences for children with disabilities served by early intervention programs (ex. Head Start; First Steps, etc.).

Special Education Eligibility

A primary goal of education is to provide students with programs and services that enable them to achieve success both in school and in life after they exit school. The ability to transition successfully into further education, employment, and life in the community is the end goal for a successful school experience. Children identified with a disability may be determined to need special services for them to reach their full potential. Special education services are free services provided by the school district to meet a student's unique individual needs. In Kentucky, all students eligible for special education have the right to FAPE.

To receive special education and related services, students must have an identified disability and a need for specially-designed instruction to make progress in school. Specially-designed instruction means that

general education content, materials, and methods of teaching are designed to meet each student's unique needs. A student may be eligible for special education if the student:

1. Has an intellectual disability: Mild Mental Disability (MMD) or Functional Mental Disability (FMD), Multiple Disabilities, Hearing Impairment, Visual Impairment, Speech/Language Impairment, Emotional Behavioral Disability, Orthopedic Impairment, Autism, Traumatic Brain Injury, Other Health Impairment, Deaf-Blindness, Specific Learning Disability, or Developmental Delay (only for students aged 3 through 8), **and**
2. Need special education services to make progress in school, as determined by a team of individuals (professionals and the student's parents), **and**
3. The student is age 3 to 21 years.

Additional information may be found in the Kentucky Administrative Regulations for Special Education Programs (KARs) found on the Kentucky Department of Education (KDE) website:

<http://www.education.ky.gov> and also in each local school district's Policies and Procedures Manual.

The Social Security Administration provides a benefits program for children identified with disabilities, that is totally separate from the IDEA funded Special Education program. This program, called Supplemental Security Income for Children (SSI), involves an application and eligibility process through the Social Security Administration (SSA) and provides both income and medical benefits for children found eligible as either blind or disabled based on the SSA requirements. While many children determined to be eligible for SSI benefits are also determined to be eligible and in need of special education services, it is important to remember they are separate programs with separate eligibility requirements. Parents and educators also need to know that enrollment in special education will not interfere or reduce the SSI benefits a student with a disability receives. For more information on SSI eligibility or benefits, contact the Social Security Administration at (800)-772-1213 or (800)-325-0778 (TTY).

CHAPTER 3: Determining Need for Services

At any point in time, school staff or parents may develop concerns that a student may have a disability. Signs of physical, sensory, intellectual or behavioral disability could include:

- Consistent problems getting along with others
- Difficulty communicating
- Lack of interest or ability in age-appropriate activities
- Resistance to change
- Difficulty seeing or hearing that interfere with their ability to communicate
- Health concerns that affect educational performance, including attention problems
- Difficulty with reading, writing or mathematics
- Chronic behavior or social problems that affect a student's ability to learn
- Motor skills problems that affect educational performance

Referral

Each public school system shall have a referral system that explains how referrals will be accepted and acted upon in a timely manner. The referral system shall be conducted in such a way that it prevents inappropriate over-identification or disproportionate representation by race and ethnicity of students in special education. It must ensure that each student has been provided appropriate instruction and intervention services prior to a referral for special education evaluation.

Anyone suspecting a student has a disability may make a “referral.” This includes teachers, parents and others. A “referral” is the first step in the process for deciding if a student has a disability and needs special education services. By making a referral, you are letting the school district know you think the student has a disability and should be evaluated. **The referral source may ask the school to evaluate a student for special education at any time.**

Parents may notify their child’s teacher or a school administrator that they have concerns and are making a referral. This request can be made in person, by phone or in writing, but it is always best to keep written documentation of a request for evaluation. School staff will invite the parent to a meeting to discuss the referral. At this meeting parents will be provided with a full explanation of their rights as a parent of a student with a disability and will also receive a copy of the procedural safeguard notice (parent rights) available under the IDEA.

It is important to note that making a referral, whether the referral source is a parent, teacher or other, does not ensure that the student will be evaluated, **but it does require an action. It requires that a team made up of professionals and the student’s parents, formally meet to discuss the referral concerns and begin the process of determining next steps.**

Response to Intervention (RtI)/Kentucky Systems of Intervention (KSI)

In an effort to help all struggling students, Congress has added requirements for schools to provide a research-based process called Response to Intervention (RtI).

According to the National Center on Response to Intervention, the goals of RtI are to:

- Identify students at risk of failure
- Monitor student progress
- Provide research-based interventions
- Make changes to interventions based on student progress
- Identify students with learning disabilities

The use of RtI with all struggling students has the potential of limiting academic failure and increasing the accuracy of special education evaluations. The use of RtI information may also lead to earlier identification of students who have disabilities and need special education services.

Response to Intervention (RtI) involves multiple steps including screening and using the results from the screening to determine specific interventions to meet the needs of entire classrooms or individual students. The focus is improving instruction based on student needs.

The Kentucky Department of Education refers to Response to Intervention as Kentucky Systems of Intervention (KSI) and includes resources on the KDE web page. Kentucky now includes the use of KSI as

part of the referral process for all disabilities for students in preschool through grade 12. ***Nothing in this process prevents teachers or parents from referring a student they suspect may have a disability.*** Kentucky Systems of Intervention must not delay or deny an evaluation for students with a suspected disability. In most cases, KSI is completed prior to a referral to ensure the student has been provided with appropriate learning experiences to meet their unique needs, but in some cases, it is appropriate to complete the interventions during the evaluation process. Parent permission is not required during the KSI process since it is available to all students, but school staff are required to inform parents regarding their student’s progress on interventions provided by the school.

According to federal law (IDEA Part B), a local school system that is conducting “early intervening services” for students from kindergarten through 12th grade—emphasizing grades kindergarten through grade 3—may be able to utilize some of the IDEA B funds for these intervening services. It is required that these services are being provided for students who need additional academic and behavioral support to be successful in the regular education environment prior to referral for special education evaluation, and the local school system shall not spend more than fifteen (15) percent of the money received under IDEA Part B to provide these coordinated early intervening services. These funds are excluded from use for early intervening services for preschool students.

The Admission and Release Committee (ARC)

As parents and professionals navigate through the special education process, there are many terms and acronyms used that can be confusing. The Admission and Release Committee, or ARC as it is typically called, is the school-based team of people that decide whether a student is eligible for special education and related services and how those services will be provided. ***Decisions regarding evaluation, eligibility determination, placement and special education services for an individual student are made by a team rather than by an individual person.*** The ARC includes:

- The parent/guardian,
- The student (at age 14 and earlier, as appropriate),
- An administrator who can provide or supervise the special education services, and who has the authority to commit people and money to support the needs of the student, and who has knowledge of the general education curriculum (this may be the school principal, assistant principal, guidance counselor, Director of Special Education or another administrator),
- The student’s regular education teacher,
- A special education teacher with knowledge of the student’s disability or suspected disability,
- A representative from another agency if services by that agency such as a career/technical school, etc. are being considered,
- Someone who can explain the evaluation results (this may be someone already on the team), and
- Other individuals as appropriate, such as a physical, speech or occupational therapist, school psychologist, counselor or others.

Required members of the ARC may be excused from attendance at a meeting if the parent is notified in advance in writing and the parent agrees. That team member is required to provide input in writing before the meeting if their subject area or specialty is being discussed in the meeting.

Parents may bring anyone they choose to the ARC meeting. There are people outside of the required team that may know the student's preferences and strengths and can be a support to the parents and ARC team. This may be another family member, friend, a previous teacher, the student's coach or someone else. ***If parents plan to take a lawyer or advocate with them to represent their child, it is best that they let the school district know in writing prior to the meeting (not required).***

Evaluation

When the referral is received, a member of the ARC will schedule an ARC meeting to address the referral concerns. The parent will be provided an invitation to the meeting that will list the purpose of the meeting, the date, time and location, and a list of who is invited. Parents will also be provided with a copy of the procedural safeguards notice. If the date or time is not convenient, parents may contact the school and ask that the meeting be rescheduled to a mutually agreed upon time and date. When the meeting is convened, and all referral information is discussed, including parental concerns, the ARC will determine if an evaluation is needed.

If the ARC decides an evaluation will be completed, they will develop an evaluation plan.

- Parents must be informed of the evaluation plan, which includes the tests and other measures that will be used, the purpose of the evaluation, and by whom the tests and measures will be completed.
- Information parents provide about their child is very important and must also be included in the evaluation. Participation by all members of the ARC in developing the evaluation plan will lead to the most appropriate individualized evaluation.
- Parents will be asked to provide written permission (consent) to evaluate their student. The school cannot test a student for the first time or remove them from the regular classroom unless parents agree to this in writing.

If the ARC decides an evaluation is not needed, the ARC must provide parents with the following:

- A full explanation as to why the evaluation is not necessary,
- An explanation of the procedural safeguards, which includes the right as a parent to challenge this decision and ask for mediation or a due process hearing.

Once written permission is received for the school district to evaluate the student, the school district has 60 school days to:

- Complete the evaluation,
- Meet again as an ARC to discuss the evaluation results, provide parents with a written evaluation report, and determine if the student has a disability,
- Write an Individualized Education Program (IEP) if the student is determined to have a disability,
- Determine if the student needs special education and related services,
- Determine the Least Restrictive Environment needed to carry out the IEP, and
- Begin providing the services included in the student's IEP.

Note: The ARC should follow the above bulleted actions in the sequence listed, in order to follow appropriate due process.

The evaluation will provide a full picture of the student's strengths and needs. The law requires that schools follow certain guidelines in completing the evaluation of each student to make sure the evaluation provides accurate information.

- Tests and evaluation materials must be provided in the student's native language (the language spoken at home).
- A variety of tests or strategies must be used to gather information concerning the student's strengths and needs. No single test may be used to determine if the student has a disability.
- All tests must be administered by trained individuals and they must follow the specific instructions that are provided for each test. The tests also must be used for the purposes they were intended.
- The tests and evaluation materials used must take into consideration the student's sensory (vision or hearing), motor, or communication (speech) problems so the evaluation shows the student's true abilities. It would be unfair, for example, for a student with a vision loss to be labeled with a Mild Mental Disability because they received a low score on an ability test or academic test that required vision to complete. The evaluation plan developed by the ARC must use tests and measures appropriate for the individual student's needs.
- The student must be evaluated in all areas of the suspected disability. Based on the concerns discussed in the referral meeting, these areas may include health, vision, hearing, social and emotional problems; general intelligence; adaptive behavior (what the student typically does for themselves in different areas and in a variety of settings including at home); academic performance such as reading, writing, or math; communication and motor abilities. Since evaluation plans are developed to examine individual student's needs, all children will not be tested in the same areas.

Transition from Early Intervention (First Steps)

First Steps is an early intervention program administered by the Kentucky Department of Public Health. Children from birth to age 3 years who have a significant developmental delay or a physical or mental condition that is likely to cause a delay, may be eligible. First Steps provides intervention services in the student's natural environment, which could include the home, daycare or in the community. It involves an evaluation and eligibility process and a written plan called an Individual Family Services Plan (IFSP). The Kentucky Administrative Regulations require public schools to provide a transition process for those children receiving services through First Steps as they approach their third birthday and exit from First Steps services. School system staff will work closely with First Steps providers and parents to make sure current evaluation information is obtained and reviewed, and the ARC uses that information along with information from the student's last IFSP to determine eligibility and need for special education services. If the student is determined eligible, an IEP must be in place by his/her third birthday.

Independent Educational Evaluation (IEE)

Once the evaluation is completed, what happens if parents disagree with the results?

- Parents have the right to have an independent educational evaluation (IEE) completed by a qualified person who does not work for the school district. The school may ask, but not require parents to explain why they disagree with the evaluation completed by the school.

- The school district must pay for the independent evaluation unless it believes its evaluation is appropriate **and** requests a due process hearing.
- An IEE must follow the same requirements the school uses for evaluations, including the qualifications of the evaluator.
- Parents have the right to obtain an independent educational evaluation and pay for it themselves at any time. Regardless of who pays for an evaluation, if the results are provided to the ARC, the ARC must consider the information in its decisions. The law does not require recommendations by an evaluator be followed, only that the results be considered. Decisions are made by the ARC as a committee, not by an individual. Remember, parents are important members of the ARC and therefore do have input into the decisions made for their child.

Determining Eligibility

After all evaluations are complete, the ARC must meet and make the following important decisions:

- The ARC will review the results of the evaluation. Someone at the ARC meeting must be qualified to explain the evaluation results, including answering questions regarding the student's evaluation.
- The ARC will decide if the evaluation results meet the specific criteria for one of the disabilities listed in Chapter 2 of this handbook. For a student to be determined eligible under one of these disabilities, they must meet the specific criteria adopted by the Kentucky Department of Education, and the student's disability must adversely affect his or her educational performance. The ARC will use an eligibility form that lists all the criteria for the suspected disability. The evaluation results will be used as evidence as to whether the student meets the criteria listed.
- If the student meets the criteria for one of the disability categories, the ARC will determine if they need special education and related services to make progress in the general education curriculum. A decision that a student needs special education and related services will result in the ARC team developing an IEP.

Chapter 4: Services for Students Identified with Disabilities

Individual Education Program (IEP)

Once a student has been determined eligible for special education services, an Individualized Education Program, commonly referred to as the IEP, must be developed. This is a plan written by the ARC (including parents), that tells what special education services will be provided to the student and how they will be implemented. It will include all programs and services needed to help the student be involved and make progress in the general curriculum. The ARC will use information from a variety of sources, including the evaluation report to make sure the student's unique individual needs are addressed. An IEP must be in effect before special education and related services are provided.

In Kentucky, development of the IEP is guided by the Kentucky Academic Standards (KAS) which were updated in 2015 to ensure students have access to the general curriculum. For students identified with moderate and severe disabilities, the Kentucky Practical Living and Career Studies, the Kentucky Alternate Assessment aligned to Kentucky Academic Standards, and the Kentucky Employability and Foundational Academic Standards documents continue to provide curriculum guidance in the

development of IEPs. For detailed information on IEP development, access the *Guidance Document for Individual Education Program (IEP) Development July 2018* which can be found at <https://education.ky.gov/specialed/excep/forms/Pages/IEP-Guidance-and-Documents.aspx>.

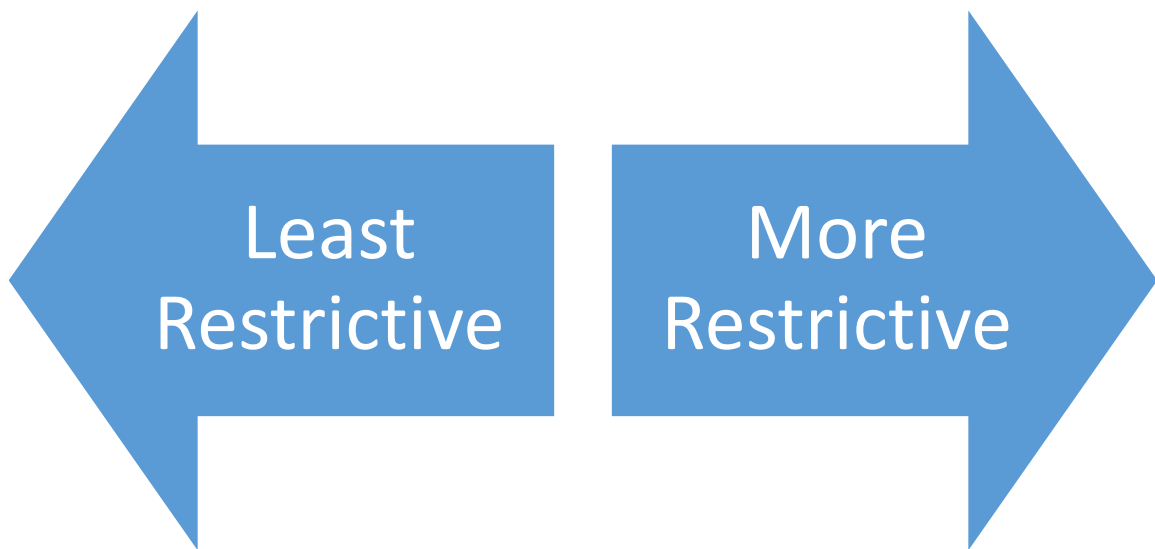
Contents of the IEP

- **Present Levels of Academic Achievement and Functional Performance:** This is a statement about what the student *currently* knows and can do. It looks at how the disability affects his/her achievement and involvement in the general curriculum. This information is used to develop the remaining sections of the IEP. Information from a variety of sources is used to get a full picture of what the student can do, including their strengths, challenges and interests. The following areas must be described in the present levels summary:
 - Communication skills- How well the student understands and expresses language, including articulation and fluency.
 - Academic Performance- How he/she performs in academics, such as basic reading and comprehension, math calculation and reasoning, oral and written expression, listening and learning styles.
 - Health, vision, hearing, and/or motor skills- Any information relevant to health and physical needs is included.
 - Social and emotional- This includes functional performance information about the student's social and interpersonal behavior and skills.
 - General intelligence- A summary of the student's aptitude, knowledge application, thinking, memory, reasoning and problem-solving skills.
 - Transition needs- A summary of his/her community experience, employment, post-school living objectives, acquisition of daily living skills, etc. (This is required for students beginning at the 8th grade or at age 14, whichever comes first.)
 - Functional vision/learning media assessment- For those students identified with a visual impairment, this summary will identify the impact of the student's visual impairment on literacy skills.
 - Functional hearing, listening and communication assessment- For those students identified with a hearing impairment, this summary will identify the impact of the student's hearing impairment on their educational performance.
- **Consideration of Special Factors:** The IDEA requires that six (6) special factors be considered by the ARC in developing the IEP. Information reported in the Present Levels Summary will support if special factors exist. If special factors are identified, services or devices to address those factors must be included in the IEP. These special factors are:
 - Behavior Issues (refer to Chapter 6 for more information on behavior concerns and the IEP requirements)
 - Limited English Proficiency or English Learner
 - Blindness/Visual Impairment
 - Communication Needs
 - Deaf/Hard of Hearing (this includes direct instruction by a teacher who communicates through American Sign Language)
 - Assistive Technology (devices that assist students in performing tasks in school)

- **Measurable Annual Goals:** The IEP Includes academic and functional goals for the student that are measurable and that the ARC team believes can be reasonably accomplished within a year. The measurable annual goals may include individual steps called objectives.
 - The IEP must state how the student’s progress toward the annual goals will be measured; and
 - When parents will be provided reports on the student’s progress toward meeting the annual goals. Progress reports will be received at least as often as report cards are given.
 - The IEP will also specify the method of measurement to be used to document the student’s progress toward meeting the measurable annual goals.
 - Progress monitoring data are to be collected by the educators working with the student. These data are to be presented and discussed during ARC meetings. If progress is not being made, the ARC must decide if the IEP goals, specially designed instruction (SDI) and related services are appropriate and make necessary changes. Collection and analysis of progress monitoring data is critical in determining the student’s successes and challenges, and in development of future IEP goals and services.
- **Specially Designed Instruction (SDI):** Simply put, this is what the teacher does to instruct, assess, and re-teach the student. It involves adapting the content, methodology or delivery of instruction. Specially designed instruction is:
 - Systematically designed and implemented to address the assessed, unique needs of the student,
 - Necessary for the student to make progress toward the annual goal,
 - Planned, designed and initially implemented by a special education teacher, and
 - Not available regularly in general education to the degree or intensity needed.
- **Supplementary Aids and Services:** These are strategies, devices, and services that are needed by the student to meet his/her goals. They enable the student to be involved and make progress in the general curriculum and provide them with equal opportunity to participate in nonacademic and extracurricular activities. Some examples of supplementary aids and services include use of a communication system, large print text, extended time to complete assignments, graphic organizers, visual schedules, visual timers, organization systems, movement breaks, adult assistance, assistive technology devices, etc.
- **Accommodation Determination:** The IEP will include a statement explaining any accommodations the student will use on state and district-wide testing. The purpose of accommodations on assessment is to allow the student’s score to reflect what he/she has learned from the general curriculum. Accommodations must be related to the student’s disability, with evaluation data to support them. They must be documented on the IEP and used as part of the regular instructional routine. Accommodations cannot be used just for testing purposes. The IEP must be written to help the student gain skills needed to be successful on the general curriculum, therefore accommodations are determined annually. As the student’s skills improve, his/her reliance on specific accommodations may be reduced. For example, a student whose disability requires them to need grade-level material read aloud to them, may over the course of time gain reading skills to the level that will allow use of a reader to be reduced for some assignments and faded out. Accommodations are not intended to be a replacement for

instruction or use of assistive technology. In writing the IEP, the ARC may discuss ways to reduce the use of accommodations over time.

- **Participation in the Alternate Assessment Program:** In Kentucky, all students are tested on specific standards at each grade level. Some students with the most significant cognitive disabilities require an alternate way to participate in the testing. The ARC makes this decision carefully. If a student is determined eligible for the Alternate Assessment, upon graduation, he/she will receive an Alternate Diploma rather than the regular diploma. The ARC makes this decision annually, so it is possible for a student who was previously determined eligible for the Alternate Assessment to be changed to the regular assessment.
- **Least Restrictive Environment (LRE) and Placement Determination:** Federal and state laws require that students identified with disabilities receive their educational services in settings that will provide them as many opportunities as possible to be with students who are not disabled. This is called the Least Restrictive Environment or LRE. Determining the Least Restrictive Environment and placement determination are one and the same. The ARC is determining *where the IEP services* will be carried out. The LRE is a continuum of services that goes from least restrictive to more restrictive:



**Regular-
Class** **Special-
Class** **Special-
School** **Homebound
Instruction** **Hospital/
Institution**

To determine the Least Restrictive Environment to implement a student's IEP, the ARC will look at several important factors.

- The ARC will ensure the student attends the school he/she would attend, if he/she did not have a disability, unless the IEP indicates that another school is appropriate.
- The ARC will review the services outlined in the IEP to determine where these services will be delivered. The first consideration is to implement the student's IEP in the regular classroom. The student must not be placed in special classes or special schools unless

the ARC determines that education in general education classes with aids and services cannot be achieved appropriately.

- If the ARC determines a student's IEP needs to be implemented outside of the regular classroom, the amount of time spent there must be listed.
- The ARC must also determine any potential harmful effects on the student or the quality of services that he/she needs. The student may not be removed from education in age-appropriate general education classrooms solely because of needed modifications to the regular curriculum.
- **Related Services:** These are services that are necessary for the student to benefit from the special education outlined in the IEP. Since related services are determined based on the student's unique needs, there are many different types of related services that may be provided. Following is a list of examples of some related services (since this is not an exhaustive list, other related services may be considered):
 - Special transportation
 - Speech language therapy
 - Physical and/or occupational therapy
 - Audiology services
 - Interpreting services
 - Psychological services
 - Counseling services
 - Recreation therapy
 - Orientation and mobility
 - Medical services for diagnostic or evaluation purposes
 - School health services
- **Extended School Year Services (ESY):** ESY services are services provided to a student beyond the normal school year, so the student does not lose skills already learned when out of school for an extended period, such as over the summer or long breaks. The ARC will determine the need for ESY services by examining data collected over the year. If the student loses skills over a break which takes him/her a long time to relearn, ESY services may be needed. These services are not intended to teach new skills; therefore, the ARC will specify which IEP goals will be worked on during the ESY period. Since ESY services are determined based on the student's unique needs, the time needed for ESY (amount of time and frequency) will be unique to the student and not determined based on a summer program schedule for other students with ESY needs.
- **Secondary Transition:** As the student/youth gets older, the ARC will determine what is needed to prepare him/her for a successful life after high school. This involves planning for the transition in leaving high school and entering adult life and is included in the IEP. Life after high school, or post-secondary life includes further education such as college or vocational school, employment, adult education, adult services, independent living, and community participation. This planning is based on the student's strengths, needs and interests. It includes instruction, related services, community experiences, development of employment and adult living goals, and when appropriate, acquisition of daily living skills and a functional vocational evaluation. The ARC begins this process in the 8th grade, or when the student turns 14, whichever is sooner. It may occur earlier, if appropriate for the student. These plans will include the kind of education or training the student will receive, the kind of job they might pursue, the type of setting they

may choose to live in, and how they will participate in community activities. It is important to involve other agencies such as university, college or vocational school representatives, the Office of Vocational Rehabilitation, Comprehensive Care Center, Office for the Blind, The Commission for the Deaf and Hard of Hearing, and local centers for independent living to get a good plan in place for the student.

College and Career Readiness

From the time the student begins receiving special education services until they exit school, all special education programs and services should be preparing the student for a successful transition to adult life, including college and career readiness. Appropriate secondary transition is critical to the long-term success for the student/youth and should be a priority for everyone involved, including the parents and student as they get older.

As difficult as it is to think about, parents will not always be present in their child's life. This makes it very important for both parents and schools to develop individual student goals and programs that will lead to increased functionality and independence for students with disabilities, including those with the most significant disabilities. When a student's ARC is addressing secondary transition goals and services, they should encourage participation in community activities and services that can lead to more independent living skills. Some schools offer **Community-Based Work Transition Programs (CBWTP)** that enable students with disabilities to work under the direction of a job coach within the community. This could be at local grocery stores, fast food restaurants, banks or many other businesses that choose to participate. Students will receive pay for their work and learn many independent living skills that come from working in an employment setting. In some cases, employers will offer students jobs after they leave the public school setting. This is a good example of the potential success that can come from participation in a CBWTP. Other community-based programs may also be available.

Parents of students with disabilities who are receiving SSI benefits sometimes express concern over the students' potential loss of SSI eligibility or reduction of benefits, due to earning money through employment. The Social Security Administration (SSA) allows individuals to earn some income without any loss of benefits. Interested parties can contact a representative from SSA to get the specific criteria that applies. In most cases, SSI benefits for a full-time student with a disability will not be impacted by employment through a CBWTP. Students identified with disabilities gain financial as well as personal benefits by working, including benefits to self-esteem, self-advocacy and increased independence.

In addition to working toward career readiness, a student's program will also work toward helping them prepare for college or post-secondary training programs. The Vocational Rehabilitation agency can provide guidance and, in some cases, funding for college or post-secondary training programs, so it is very important to get them involved in each student's ARC meetings and IEP development in the last years of high school. Representatives from different universities, colleges or training programs may also be helpful. By the time a student identified with a disability reaches his/her late high school years, the student has accomplished much and likely has overcome many challenges. Parents and school personnel need to work closely with students in their last few years of high school to make sure their college and career interests and goals can be attained, by providing needed supports, training, guidance and opportunities.

Chapter 5: School District Responsibilities to Students and Parents

Implementation and Continuation of Special Education Services:

- **Initial Evaluation:** As discussed in Chapter 2, the public school district has the responsibility under *Child Find* to locate, evaluate and identify all children with a disability who reside in the district's boundaries. **Informed written parental consent must be obtained before the evaluation can begin.** This requires parents to be informed of the evaluation and of the specific tests and measures that will be completed with the student. The initial evaluation must be completed prior to determining eligibility for a disability category and prior to development of an IEP and beginning special education services.
- **Placement:** Chapter 4 discusses the Least Restrictive Environment and placement decision. Parents are part of the decision-making team that makes the important decisions about their student's education program. They are part of the team that develops the IEP and determines the placement (educational setting) the student needs in order to meet his/her unique needs. At this point in the process the ARC must ask for ***informed, written, parental consent to provide special education and related services.*** Special education services cannot begin for the first time without a parent's written permission.
- **Annual Review:** The student's IEP can remain in place for 12 months. Prior to the end of that 12-month period, the ARC will invite parents to another meeting called an annual review. At that meeting, the student's progress from the special education and related services written in the IEP will be discussed. A new IEP will be written for the next 12-month period and the LRE will again be determined. At any time during the 12-month period an IEP is in effect, if the parent or any other member of the ARC sees a need to meet early (before the annual review), a meeting can be scheduled to discuss those concerns and make any necessary changes to the IEP.
- **Progress Monitoring and Current Information:** A critical factor in developing appropriate IEPs on an annual basis is to collect and analyze up to date information about the student's progress on IEP goals and classroom progress on the general curriculum. In this respect, current information means information gathered within a twelve-month period. A variety of monitoring tools can be used for this purpose including curriculum-based measures, authentic assessment, direct and indirect measures. The IEP calls for selection of the method of measurement for measurable annual goals. This enables the ARC to plan for data collection and provides an understanding of how that information will be used. A recent decision by the United States Supreme Court adds to the importance and relevance of progress monitoring data. In ***Andrew F. v. Douglas County*** (March 22, 2017), the Supreme Court unanimously ruled that "a student offered an educational program providing 'merely more than minimis' progress from year to year can hardly be said to have been offered an education at all." The decision went on to say the IDEA "requires an educational program reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances." While the full impact of this court decision on special education services has yet to be demonstrated, it is evident that more than minimal progress is now the standard. Quality progress monitoring data can help the ARC make instructional decisions that lead to greater progress and long-term student success.
- **Re-evaluation:** A re-evaluation of the student will be conducted at least every three (3) years. It can be completed earlier if the ARC determines there is a need. A re-evaluation is like an initial evaluation regarding parent involvement and the need to obtain current information to see if

the student still has a disability and continues to need special education services. The re-evaluation may not necessarily include all the same tests and measures that were completed on the initial evaluation. The ARC members, including the parents, will review a variety of information including the student's previous assessments, current progress, results of the student's performance on state and district assessments and other information including information provided by the parents. If the ARC determines additional information is needed, it will ask for parental permission to complete more assessments. The school district must make "reasonable attempts" to receive parental consent to complete the re-evaluation, but if they do not receive a response, the district can proceed with the re-evaluation. "Reasonable attempts" to obtain parent permission may include:

- Telephone calls,
 - Registered letters with return receipts required,
 - Visits to the parent.
 - The re-evaluation must be completed prior to the 3-year anniversary of the student's last evaluation.
- **Procedural Safeguards:** The parent of a student with a disability, or a parent of a student suspected of having a disability, has the right to be notified of the safeguards in place to protect the rights of their student. These safeguards are referred to as procedural safeguards and are specifically stated in a document called the *Procedural Safeguard Notice*. This notice must be provided to the parent of a student identified with a disability at least annually and at the following times:
 - At the time of the initial referral or parent request for an evaluation,
 - When the school proposes to change the identification, evaluation, educational placement, or the provision of a free, appropriate, public education (FAPE) of the student,
 - If the school refuses a parental request to change the identification, evaluation, educational placement, or provision of FAPE.
- **Confidentiality and school records:** The Family Educational Rights and Privacy Act (FERPA) is the federal law in place to protect confidentiality of student information. Additional Kentucky provisions are also in place. According to both federal and state law, the school district is required to have procedures in place to maintain the privacy of each student's educational records. Some of these confidentiality safeguards include:
 - Providing annual notice of confidentiality safeguards,
 - Ensuring that student records will be seen only by parents and those individuals that work with the student or have an educational need to see the student's information,
 - The student's records cannot be shared with others without written parent/guardian permission unless there is a legal reason to do so, and
 - Parents have the right to see their student's educational records within 45 calendar days of requesting to see those records.
 - If parents believe there is information in their student's educational records that is inaccurate or misleading, they have the right to inform the school and ask for action to correct the problem. The school district must have a procedure in place to address this issue.

Chapter 6: Procedures for Behavioral Concerns

Discipline for Students Receiving Special Education Services

When the ARC develops a student's IEP, it must consider behavioral concerns as it determines special factors that may interfere with the student's education. If behavior is a concern, the ARC must address this in the IEP. This will include programs that use positive approaches to manage or change the behavior of concern. It also includes recognizing and rewarding appropriate behaviors and teaching appropriate behaviors to replace problem behaviors. Positive behavioral approaches do not include punishment, embarrassment or isolation of the student. The purpose is to help them develop effective social skills and/or the ability to manage their behavior appropriately. When an ARC can anticipate potential problems based on prior behavior or evaluation information, the IEP can be written in a way to better meet the student's individual needs.

Sometimes behavior concerns occur that were not anticipated when the IEP was written. If this happens, the ARC may need to meet and consider what steps can be taken to address the problem behaviors.

- **Functional Behavior Assessment (FBA):** An FBA is a method of gathering information regarding a student's behavior that can then be used to develop positive behavioral supports to remedy the problem. An FBA is *not* a form of discipline. An FBA will:
 - Clearly define the behavior so it can be observed and recognized by others,
 - Determine the seriousness of the behavior,
 - Provide information about when and where the behavior is occurring,
 - Provide the ARC with information to help make an educated guess as to why the behavior is occurring (the purpose of the behavior).
 - Prior written consent is required before a district may conduct an FBA.
- **Behavior Intervention Plan:** After information is gathered through a Functional Behavior Assessment, the ARC uses the information to put a plan in place to help the student develop the social skills and behaviors needed to be successful. An effective behavior intervention plan will include:
 - Strategies to reduce the effects of things that trigger the behavior,
 - Teaching appropriate behavior to replace inappropriate behavior,
 - Strategies to increase appropriate behavior,
 - Strategies to decrease inappropriate behavior, and,
 - How to determine if the plan is working.

The Kentucky Department of Education has guidance documents available that can help in dealing with behavior concerns. This information can be found at www.state.ky.us/agencies/behave/homepage.html.

Suspension and Expulsion Concerns

If a student identified with a disability has been suspended for more than 10 days or is being considered for expulsion due to their behavior, it is a “**disciplinary change in placement**” under Kentucky law. A “change in placement” means the student will receive educational services in a more restrictive setting, such as from regular high school to an alternative school.

- **Suspension of a student identified with a disability:** In Kentucky, there are procedures that must be followed when a student identified with a disability is disciplined by removing (suspending) the student from school. A school district may suspend a student with a disability for 10 *consecutive* school days. In some cases, the student may be suspended no more than 10 *total* school days within a school year, if the removals form a pattern. The local school district’s special education policies and procedures may limit the days of suspension to less than 10 days, so when addressing a specific student concern, it is advisable to ask the local Director of Special Education or look at the district’s policies and procedures.
- **Expulsion of students identified with a disability:** A student identified with a disability may be expelled from school under certain conditions. Again, legal procedures must be followed that are similar to the rules for suspension of more than 10 days.

If a student has been suspended for more than 10 days or is being considered for expulsion from school, the ARC must meet and answer some very important questions. This process is called a Manifestation Determination.

- **Manifestation Determination:** The ARC must review all relevant information about the student, then determine if the behavior that resulted in their disciplinary change in placement (suspension or expulsion) is a *manifestation* of his or her disability. In other words, did the student’s disability cause the behavior, **or** is the behavior a result of the student’s IEP not being fully implemented?
 - If the answer to either of these questions is **yes**, then the student’s behavior is determined to be a manifestation of their disability. The student’s placement (educational setting) cannot be changed unless parents agree to the change. An FBA must be completed if there is not a current one and a Behavior Intervention Plan must be written. If a Behavior Intervention Plan is already in place, it must be reviewed. The ARC will then make any necessary changes.
 - If the behavior is determined **not** to be a manifestation of the student’s disability, the school district may expel the student or suspend for more than 10 days. **However, educational services must continue to be provided to the student.**
- **Interim Alternative Setting:** Under “special circumstances,” it does not matter if the behavior is a manifestation of the disability. In Kentucky, these “special circumstances” occur when at school or at a school function, the student:
 - has a weapon;
 - possesses or sells illegal drugs; or,
 - inflicts *serious bodily injury*, which is defined by federal law.

If a student identified with a disability engages in any of these “special circumstances,” federal and state law allow the school to place the student in an interim alternative setting. This is a setting that allows the student access to the general curriculum, provides the special education services and addresses his/her behavior as described in the Functional Behavior Assessment. The student may be assigned to the interim alternative setting for up to 45 school days regardless of whether the behavior that triggered the disciplinary action is a manifestation of the student’s disability.

Chapter 7: Remedies Available for Parent Concerns

As a parent and member of the ARC, parents have the right to express concerns and expect them to be addressed. At any step during the special education process, parents should make concerns known. At each ARC meeting a document called the conference summary will be completed. If a parent has a concern or a point they disagree with, this should be voiced in the meeting and documented in the conference summary. This will likely result in a discussion of the concern and hopefully an agreed upon resolution. If there is continued disagreement or the issue does not get resolved, another meeting may be scheduled to talk more about the concern(s). In some situations, it is beneficial to reconvene later to resolve issues in that it allows ARC members (including parents) to think things through, review decisions that have been made and return for resolution of the concerns. Most concerns or disagreements can be resolved in an ARC meeting.

Sometimes disagreements occur that are not easily resolved at the school district level. If this occurs, there are several ways to resolve disputes:

- **Mediation:** This is a free, voluntary, and confidential process designed to help parents and school administrators resolve disagreements. Parents and the school administration must be willing to participate, if mediation is to be used. It cannot be a required process and may not serve to delay or deny a parent the right to file a complaint or a due process hearing. With mediation, parents and school personnel meet with a trained, neutral person called a mediator to try and resolve the disagreement. The mediator will not make the decision but will help the parents and school personnel reach an agreement. If this process is successful, a final agreement will be developed that includes a resolution to the problem and a timeline for completing the specific actions included in the agreement.
- **KDE Formal Written Complaint:** Another option available to parents in resolving disagreements is to file a formal complaint with the Kentucky Department of Education. A complaint can be filed by a parent of a student with a disability, and any person or organization that believes the IDEA has been violated. In filing a complaint an individual is alleging that the school district has violated a requirement of state or federal Special Education law. There are several requirements in filing a KDE Complaint. It must:
 - Be in writing (even if the parent has spoken with a KDE consultant)
 - Include a signature
 - Be filed with the KDE within one year of the alleged violation
 - Detail what part of the law is not being followed and provide supporting facts.

The KDE Complaint process cannot be used to address the following issues:

- Violations of Section 504 of the Rehabilitation Act
- Claims of student abuse or neglect
- Matters under the sole authority of the school district, such as employment of a teacher, assignment of teachers, or student assignments.

Formal written complaints must be resolved within 60 calendar days, in most cases.

- **Due Process Hearings:** This can be requested when a parent has concerns about their student’s program, placement, evaluation, or the provision of a Free Appropriate Public Education (FAPE). It must be requested in writing and be filed within three (3) years of the date the parent or district knew (or should have known) about the issue. There are certain exceptions to this rule which relate to omissions or misrepresentations by the school district. After a request for a hearing is filed, parents and the school district must have a resolution meeting unless waived. This provides the district the opportunity to resolve the dispute which led to the request for the hearing. The resolution meeting must be held within fifteen (15) days of the district receiving notice of the due process hearing.

During the hearing process, “stay put” will be in place. This means the student will remain in his/her current placement until the hearing process and appeals are completed. The only exceptions to “stay put” are if the student is transitioning from the Kentucky Early Intervention System (First Steps), or the parent is appealing the placement of their student in an interim alternative setting. Parents will likely need an attorney if they choose to go to a due process hearing. The local school district is responsible for maintaining a list of low cost legal aid that parents may wish to consult. The attorneys and/or legal aid agencies included on this list must have no contractual or business agreement with the local school district, therefore represent no conflict of interest.

The Kentucky Department of Education will assign a hearing officer to preside over the process. The hearing officer will be impartial and will not take sides. The hearing officer cannot work for any agency responsible for educating or caring for the student and cannot have any personal or professional interest that could create a conflict in making a fair decision. The hearing will proceed much like a court case, with witnesses, testimony and information presented by both sides (parents and school district). The hearing officer will make a decision and provide it to both sides in writing. The entire hearing process must be completed within 45 days from the time the request for a hearing is received by the Kentucky Department of Education unless a continuance is granted.

The decision of the hearing officer is final unless the parent or the school district appeal the decision to the Exceptional Children Appeals Board. The decision by the Exceptional Children Appeals Board can be appealed to court. If the parents prevail, attorney fees may be available. (More details regarding the hearing process can be found in the Procedural Safeguard Notice.)

The following should be included in a request for a due process hearing:

- The student’s name and address
- Name of the student’s school
- A description of the problem
- Facts about the problem
- A proposed solution to the problem

Conclusions:

Educating students identified with disabilities can be at times overwhelming. The procedures and processes put in place to guide the development and implementation of special education services can seem complicated and burdensome. This due process handbook has been intentionally written in a manner to provide information taken from the Kentucky Administrative Regulations (707 KAR 1, revised August 26, 2008) in reasonably clear language.

The likelihood of developing quality educational programs increases when parents and school staff are all informed and focused on meeting the individual student's needs. Therefore, it is important for families and school staff to work together as partners in developing and implementing the educational programs for students. Open communication and mutual respect are the cornerstones for effective family/school partnerships.

Parent Resources

Listed below are suggestions on how parents can support and encourage their child's learning and educational program, followed by resources that can be shared with families.

- Attend school meetings whenever possible. Prepare in advance by making a list of your child's strengths, challenges, interests, goals you have for your student, and issues you want addressed in the meeting. You may take someone with you to the meeting to assist you.
- Speak up when you have a question or concern. Ask your child's teacher, principal or other service provider when you have a question.
- When in an ARC meeting, request the conference summary from the previous meeting be reviewed. It is always good for the committee members to refresh their memories regarding prior concerns and previously agreed upon actions. Ask to have monitoring data reviewed when revising the IEP.
- Maintain copies of your child's evaluations, IEPs and other special education records.
- Communicate concerns or requests in writing and always keep a copy for your own records.
- Each year let your child's teacher(s) and service providers know you want to be involved in your child's education.
- Keep the teacher or appropriate school staff informed of any medical problem or medication that may impact your child.
- Ask your child's teacher how you can practice or reinforce your child's school activities at home.
- Encourage behavior that leads to success in school. Teaching your child to accept responsibility, follow rules and organize their school materials can be very helpful.
- Talk with other parents of children with disabilities. Ask about local parent groups or activities available for parents.
- If time permits, volunteer to help at school. This will help you see how things work at school and what types of activities and experiences your child receives at school.
- Both you and the school want your child to be successful. Working together can help your child have an enjoyable, successful school experience.

School Resources Available for Parents

- **Teacher(s):** Your student's teacher(s) will be able to answer many questions you have concerning day-to-day activities your student experiences. The teacher can answer questions regarding the IEP, specific school work, projects or activities in which your student is involved. Teachers can also let you know how your student is getting along socially and behaviorally at school. Ask your student's teacher(s) about regular communication avenues, such as the best means of communicating with them (daily notebook, email or phone number). Regular communication between you and your student's teacher(s) can benefit everyone.
- **Related service providers:** If your student receives a related service such as speech, occupational or physical therapy, get to know the therapist. They may be able to make suggestions for activities you can do at home with your student that can maximize the benefit your student is getting from the school-based activities or therapy. It is also a good way to just be "in the know" about what your student is doing and learning at school.

- **School Psychologist:** Find out who the psychologist is at your student's school. He/she can be a valuable resource in addressing any social-emotional needs your student may develop. All children have social-emotional needs that change as they grow and gain new experiences. Some students with disabilities go through periods with heightened social-emotional needs and may require additional support. If needed, the school psychologist can provide counseling, social-skills training, assist with behavioral interventions, and provide consultation with teachers to help them meet the student's ever-changing needs. They are a good source to help with referrals to other professionals. The psychologist can also work with teachers and other staff in making changes to the classroom or other areas of the school environment that can lead to a better learning experience for your student.
- **Family Resource/Youth Service Center Director (FRYSC):** One of the beneficial resources available through Kentucky's Public Schools is the Family Resource/Youth Service Center. Parents should visit their local FRYSC and ask about programs and services available. These services may include referrals to other agencies, educational opportunities provided for parents, and disability support groups. The FRYSC Director can provide you a list of local, regional and state resources.
- **School Principal:** The principal can answer programmatic and procedural questions you may have, along with filling you in on all aspects of the general education program at your student's school. He/she can also refer you to other school district staff that can answer program specific questions. Principals are responsible for disciplinary action regarding students. Therefore, they can address questions regarding rules, behavior expectations and discipline. Remember the confidentiality safeguards in place that apply to your child also apply to other students. If there is ever a behavioral or discipline situation involving your student and others, the principal can only discuss the specifics regarding your child. Likewise, your student cannot be discussed with another parent.
- **Director of Special Education:** When you have questions or concerns that have not been answered at the school level, you can always address them with the district Director of Special Education. They have knowledge and expertise in special education law, general education programs, and special education programs and services. If a parent does not agree with an issue discussed in an ARC meeting, they may find it beneficial to ask for a subsequent meeting and request the Director of Special Education be in attendance. In some cases, further discussion with additional members present can result in different decisions. In other situations, further discussion brings about a better understanding or perspective as to why a decision is best. The goal of all members of the ARC and the Director of Special Education is to provide a special educational program to meet the individual student's needs. Very often meeting a student's needs can be done in multiple ways, so all those working to develop and implement an individualized program need to be open to different methods, materials and strategies. Providing quality special education programming to meet an individual student's needs is **not** about "doing what has always been done" it is truly individualizing to meet a specific student's needs.

Additional Resources:

- **First Steps:** A statewide early intervention system that provides services to children with developmental disabilities from birth to age 3 and their families.
(877) 41STEPS or (877) 417-8377
- **Kentucky Autism Training Center (KATC):** Works to strengthen the state's system of support for persons affected by autism. One of the roles of KATC is to empower families through providing resources, services and support information (ex. videos and workshops).
(502) 852-4631
www.louisville.edu/education/kyautismtraining
- **Kentucky Department of Education (KDE):** The Division of Learning Services provides information on all aspects of special education programs in Kentucky's public schools.
www.education.ky.gov
- **Kentucky Office of Vocational Rehabilitation:** Assists Kentuckians with disabilities to achieve suitable employment and independence. Various services are available to students identified with disabilities as they are preparing to exit high school and enter adult life.
(800) 372-7172
www.ovr.ky.gov
- **Kentucky Protection and Advocacy (KPA):** Promotes the rights of individuals with disabilities in Kentucky. The website includes brochures/publications of benefit to parents including, *How to Negotiate in ARC Meetings*, and *Partners in Advocacy: A Guide to Special Education Planning*.
(800) 372-2988
www.kypa.net
- **KY SPIN:** Kentucky Special Parent Involvement Network - The statewide Parent Training and Information Center. It provides training and support to people with disabilities (birth - age 26 years), parents and families and those who serve them.
(800) 525-7746 www.kyspin.com
- **Kentucky State Advisory Panel for Exceptional Children:** Provides policy guidance with respect to special education and related services for students with disabilities in Kentucky as defined by special education regulations and applicable state and federal law.
www.education.ky.gov
(502) 564-4970
- **University of Kentucky Human Development Institute:** The Human Development Institute has developed a resource manual (*the Kentucky Disability Resource Manual*) designed primarily for use by individuals with developmental disabilities and related conditions. The focus of this manual is to provide easy-to-read information concerning available resources, and to provide immediate contact information for the purpose of applying for resources and/or locating additional information. In many cases, it includes definitions and eligibility for services directly from the agency websites that offer these programs. You may notice that many of the resources listed in this manual are directly linked to regional Community Mental Health Centers. Often, and especially with children under the age of three and for adults, a local Community Mental Health Center will be the point of entry for an individual to gain access to many programs and services. For school-aged students and adolescents, the most direct route to services is often through the local public school district. An online version of this manual with a site search

engine is also available at www.hdi.uky.edu. This website has been tested for web accessibility and is accessible to screen readers. Alternate formats of this manual are available upon request. The list of resources provided within this manual is not meant to be exhaustive.

(859) 257-1714

www.hdi.uky.edu

Glossary of Special Education Terms:

- **Admission and Release Committee (ARC):** The ARC is the team of individuals that make educational decisions for a student who needs special education. It includes the parent, student (as appropriate), regular education teacher(s), special education teacher(s), district representative (principal, Director of Special Education, guidance counselor, etc.), evaluators, and related service providers.
- **Behavior Intervention Plan (BIP):** A plan included as part of the IEP for a student who has behaviors that impact their learning or that of others. The BIP includes the problem behaviors in need of changing and positive behaviors and strategies to be taught.
- **Collaboration/Co-teaching:** A service delivery in which the student is served in the regular classroom and a special education teacher and regular education teacher work together to implement the IEP and provide instruction and access to the general education curriculum.
- **Consent:** Written permission given by the parent. The parent must be fully informed of everything for which consent is being sought. Since consent is voluntary, a parent has the right to take it back at any time.
- **Due Process:** A hearing process that provides all students with a Free Appropriate Public Education (FAPE). Due process includes procedural safeguards to protect the rights of students identified with disabilities and their parents.
- **Due Process Hearing:** A process in which disagreements between parents and schools can be resolved much like in a court setting. An impartial hearing officer is assigned and will decide the appropriate plan for the student. Parents and school districts can have attorneys present.
- **Educational Performance:** A student's abilities in academic and non-academic areas. Academic areas may include reading, math, communication, progress in meeting goals in the general curriculum, and performance on state-wide tests. Non-academic areas may include daily living skills, behavior, social skills, mobility and mental health.
- **Extended School Year (ESY):** Special services provided outside of the regular school day or calendar. Data must show that a student identified with a disability is not able to return to previous learning levels after breaks in instruction, such as over the summer, when given a reasonable amount of time to regain skills. ESY services are not meant to teach new skills, but to prevent loss of skills that cannot be regained in a timely manner.
- **Fine-Motor Skills:** The coordinated movement of small muscles for purposes of manipulating small objects. This includes the ability to grasp, hand strength, and visual-motor control.
- **Free Appropriate Public Education (FAPE):** Special education and related services provided to a student identified with a disability that is provided at public expense, includes preschool through secondary school education, and applies to all students with a disability, including those suspended or expelled from school.

- **Functional Behavior Assessment (FBA):** A process of collecting information concerning problem behaviors so that positive behavioral supports and interventions can be developed. It involves gathering information to help determine what purpose the problem behavior serves for the student. Most behaviors either help the student gain something desired such as attention or escape something unwanted like school work. Knowing the purpose of the behavior can help in designing an effective intervention.
- **Gross-Motor Skills:** The use of large muscle groups used in activities such as walking, running, jumping, etc.
- **Hearing Officer:** A person selected by the Kentucky Department of Education who runs the due process hearing. They remain totally impartial, meaning they do not take sides with parents or school officials, and make decisions regarding the appropriate program for the student.
- **Interim Alternative Education Setting:** The alternative setting chosen by the ARC that allows the student access to the general curriculum, provides the special education services in the IEP, and addresses the behavior concerns identified in the functional behavior assessment. School personnel may recommend up to a 45-day placement to an interim alternative education setting when at school or at a school function, the student has a weapon, has or sells illegal, drugs, or inflicts *serious bodily injury*, which is defined by law.
- **Independent Educational Evaluation:** An evaluation that is completed by qualified persons who are not employed by the school district a student attends.
- **Individual Education Program (IEP):** An individual education plan written to meet the unique needs of a student identified with a disability. It is a legally binding agreement that guarantees the services specified in the plan will be provided to the student.
- **Least Restrictive Environment (LRE):** The educational setting that provides the student access to the general curriculum and same age peers as much as possible based on the student's needs. Determining the LRE is a decision made annually by the ARC.
- **Local Education Agency (LEA):** In federal and state regulations this term is used to describe the local school district.
- **Manifestation Determination:** A process completed within an ARC meeting to determine if behavior that would typically result in a student being disciplined by the school is a direct result of the student's disability. If the ARC determines the behavior is a result of the disability, then the student cannot be disciplined in the same manner as his/her non-disabled peers. It involves the completion of a Functional Behavior Assessment and a Behavior Intervention Plan.
- **Occupational Therapy (OT):** Therapy that can be provided in the school setting to improve a student's ability to perform tasks for independent functioning relevant to their IEP goals. OT also includes fine motor skills and sensory integration. School based therapy can only be provided if it is needed to achieve the IEP goals and is not meant to meet the student's total occupational therapy needs.
- **Orientation and Mobility (O&M):** This service is provided by a qualified person in which a student is blind or has a visual impairment and O&M services are included in the IEP to teach the student how to safely and effectively move through his/her environment.
- **Physical Therapy (PT):** Physical Therapy can be provided in the school setting to improve functional gross motor skills identified by a student's IEP goals. In the school setting, the PT works to assist the student in meeting IEP goals and is not meant to meet the student's total physical therapy needs.

- **Placement:** The setting in which a student will be educated. It is a decision made by the ARC and is determined based on the Least Restrictive Environment for the individual student.
- **Psychological Services:** Services such as administering psychological and educational tests, interpreting the results of those tests, and consulting with parents and school staff to plan school programs to meet the individual student's needs.
- **Recreation:** Services that teach or assist a student to participate in leisure, extracurricular, or recreational activities both inside and outside of school. This includes the location of resources/programs and use of adaptive recreation equipment.
- **Regular Class Placement:** The settings in which students without disabilities are educated.
- **Related Services:** The federal regulations for the IDEA define related services as "transportation and such developmental, corrective, and other supportive services as are required to assist a student with a disability to benefit from Special Education, and includes speech pathology and audiology, psychological services, physical and occupational therapy, recreation, including therapeutic recreation, early identification and assessment of disabilities, counseling services, including rehabilitation counseling, and medical services for diagnostic or evaluation purposes." The term also includes school health services, social work services in schools, and parent counseling and training.
- **Resource Room:** A type of classroom where a student can receive intensive instruction in specific subjects, such as reading or math, from a special education teacher for part of the school day.
- **Response to Intervention (RtI):** A multiple step system of intervention for all preschool to 12th grade students which includes behavior, math and reading.
- **School Health Services:** A related service that includes nursing and/or health-related services needed to allow a student to attend school and which are performed by a nurse or other trained person, but not those services which must be provided by a physician.
- **Self-contained or Special Class:** A type of special education placement in which a student receives most or all his/her instruction in a class with students with disabilities.
- **Specially Designed Instruction (SDI):** This describes what the teacher does to adapt the content, teaching methods, and delivery of instruction to best meet the needs of the student. Specially designed instruction is also where the IEP should describe all instruction needed for the student to use assistive technology devices, materials or services.
- **Speech Language Pathologist (SLP):** A person qualified to diagnose specific speech or language disorders, provide speech and language therapy, and collaborate with parents, students, and teachers about speech and language disorders.
- **State Education Agency (SEA):** In federal and state regulations this term is used to describe the Kentucky Department of Education.
- **Supplementary Aids and Services:** Aids, services and other supports such as large-print materials, braille, calculators and other assistive technology, behavior management, counseling, etc., that are provided to help students with disabilities to be educated with students without disabilities to the maximum extent possible.
- **Transition:** In Kentucky, beginning at age 14 or when the child is in the 8th grade, the ARC must discuss preparation for the student to enter the adult world. At age 16, there must be written goals that reflect this preparation. Transition plans must address work, continuing education after high school, living situations, recreation/leisure, and community participation.

- **Transportation:** This includes travel to and from school and between schools; travel in and around school buildings; specialized equipment such as special or adapted school buses, lifts and ramps, as needed to provide special transportation.
- **Vocational Education:** Educational programs which prepare individuals for paid employment.

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