

Arizona Autism Coalition's
1st Annual AUTISM EXPO

presents

TOP 10 IEP TIPS

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KGK

Kirsch-Goodwin & Kirsch, PLLC

ATTORNEYS AT LAW - SCOTTSDALE, ARIZONA

The law firm of Kirsch-Goodwin & Kirsch is dedicated to advising and representing students in all school related matters including at IEPs, Due Process, MDRs and disciplinary matters including suspensions and expulsions, bullying, and restraint and seclusion issues.

Hope Kirsch is a licensed special education teacher and special education attorney. She advises and represents students and their families throughout Arizona in all school related matters and disputes. Prior to her law career, Hope was a special education teacher and school administrator for nearly 20 years in NYC in settings ranging from self-contained classes to special education day schools and hospital programs. She supervised and trained special education teachers in teaching strategies, curriculum development, IEPs and behavior management. Hope earned a B.S. in special education from Boston University, an M.A.(Ed.) in special education from New York University, 30+ post-graduate credits in educational supervision and administration, and her J.D. from Brooklyn Law School. She is admitted before the state and Federal District courts in NY, NJ, AZ and the 9th Circuit. She is AV-rated. Most importantly, she is the proud aunt to young man on the spectrum.

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Lori Kirsch-Goodwin has been a litigation/trial attorney for over 25 years with over 30 jury trials. She obtained her B.A. at Syracuse University and her law degree at the University of Bridgeport (now Quinnipiac University). She is admitted to the state and federal district courts in New York, New Jersey, Arizona and the 9th Circuit Court of Appeals. Lori entered the special education arena over 12 years ago when one of her twin boys was evaluated for special education and related services, and has been advocating for and representing other families since. Her son with special needs is now entering his second year at a local community college. Lori brings her litigation skills to the table as well as her sensitivity for the families she represents. Lori is AV® Preeminent rated by her peers and judges, representing the highest rating in legal ability and ethical standards. Lori recently won a case before the 9th Circuit Court of Appeals involving the appropriateness of a school's selection of location of a school for a student on the spectrum.

1. Organize, organize, organize

Notebook

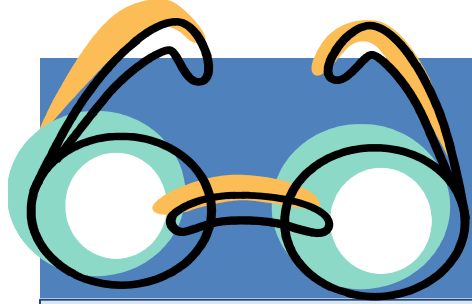
- Meeting notices
- REDs a/k/a Pre-MET or MET-I
- Evals – school, outside (IEE, private)
- METs
- IEPs – drafts and final
- PWNs
- PSN, emails, statutes, notes



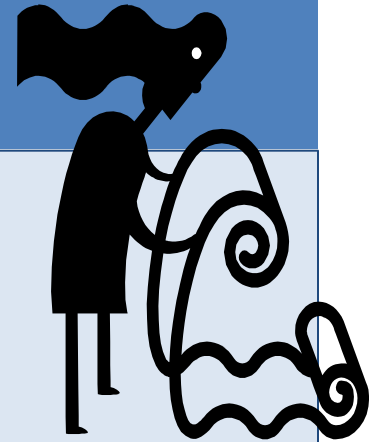
Create a Cover

Johnny's IEP Book

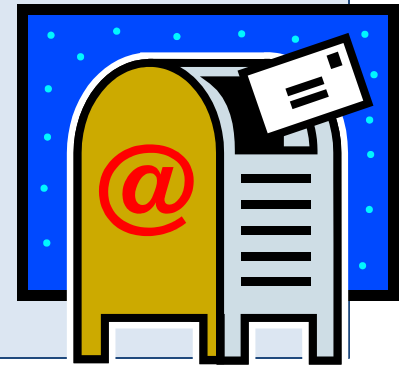





2. Read notice



- Notice requirement 34 C.F.R. § 300.322
- *Early enough*
- “Mutually agreed on time & place”
- Purpose, time & location
- *Attendees*
- PSN 34 C.F.R. § 300.503
- Sign & return



A word about parent participation

- Can schools hold IEP meetings w/o parents?
- *Doug C.* case
- Can schools hold the following w/o parents:
 - Teaching methodology?
 - Lesson plans?
 - Coordination of services?
 - Placement decisions?
- **Alternative**  **means** 34 C.F.R. § 300.3287

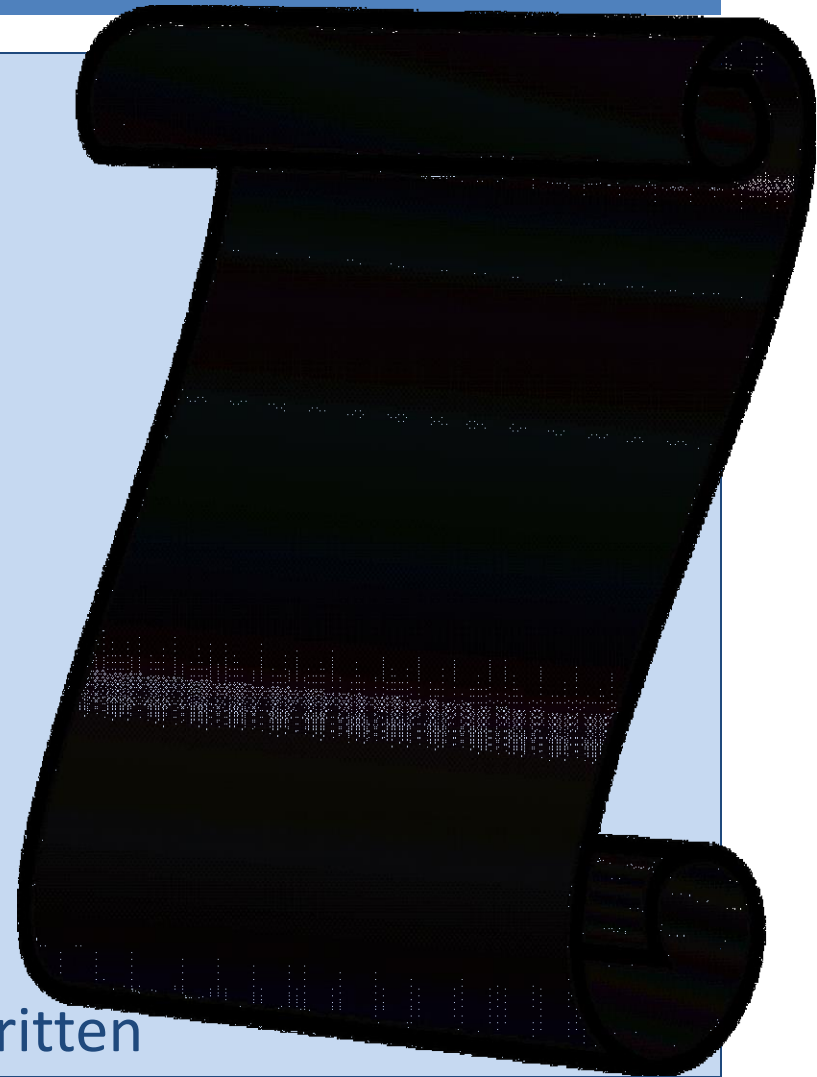


Procedural Safeguards

34 C.F.R. 300.504

- ✓ IEE
- ✓ PWN
- ✓ Parental consent
- ✓ Access to ed records
- ✓ State & DP complaints
- ✓ Mediation
- ✓ Stay-put
- ✓ IAES
- ✓ Unilateral placement in private school
- ✓ Disclose evals in DP
- ✓ State-level appeals
- ✓ Civil actions
- ✓ Attorneys' fees

In “understandable language” –
“native lang or other mode” if not written



3. The IEP Team

IEP Team 34 C.F.R. §300.321

- Teacher (gen ed & SPED)
- PEA rep
- Someone to interpret
- Parent
- Child
- Others with knowledge



Quiz: Who is NOT a member of the IEP team?



- The child
- The child's siblings
- A regular education teacher
- The SPED teacher
- The school's attorney
- Another student
- A parent's cousin

4. Prepare

Review MET and Evals

Examine education records

Request and review DRAFT IEP & Agenda

Have someone else review

What do you hope to accomplish?

Prepare list of questions, concerns



Understand assessments

Standard Scores (SS)

Percentile ranks

Grade levels

Grade equivalents

Stanines

www.wrightslaw.com

5. What to expect at the meeting

What do you hope to accomplish?

Sequence:

PLAFP (needs) → Goals → Services →
.....**Placement**

Discuss ESY, nonacademic services

Can members be excused?

Anatomy of an IEP



- Demographic information
- Documenting participation – attendance
- Present Levels (PLAFP/PLEP)
- Goals
- SPED and RS – services (location, frequency, provider)
- Placement (level of service)

34 C.F.R. § 300.320

A Word About Transition

When

What (I-13 Requirements)

Age-appropriate assessments; Goals; Activities;
Courses of Study; Aligned IEP Goals;

7 activity areas IEP team must consider

Instruction

Community Experiences

Related Services

Employment

Adult Living

Daily Living Skill (if appropriate)

Functional Vocational Evaluation (if appropriate)

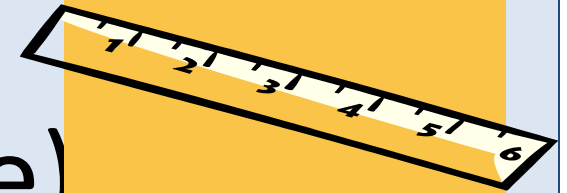
A word about goals

- Include academic & functional goals
- To meet child's needs that result from the child's disability &
- Enable child to be involved in and make progress in the general education curriculum

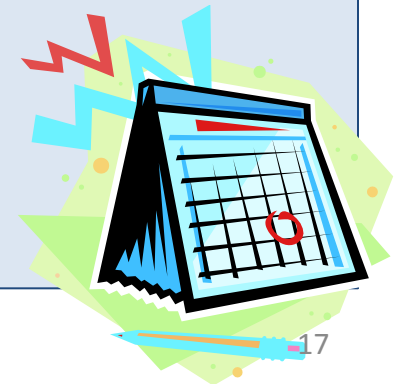
34 C.F.R. §

300.320(a)(2).

SMART Goals



- **S**pecific
- **M**easurable (baseline)
- **A**ction words, **A**chievable
- **R**ealistic, **R**elevant
- **T**ime-limited



Measurable or Not Measurable?

Draw
Understand
Turn in
State
Determine
Say
Appreciate
Develop
Enhance
Trace
Read orally

Improve
Retell
Maintain
Match
Feel
Sequence
List
Label
Participate
Seek
Appropriate

Measurable or Not Measurable?

Draw

~~Understand~~

Turn in

State

~~Determine~~

Say

~~Appreciate~~

Develop ???

~~Enhance~~

Trace

Read orally

~~Improve~~

Retell

~~Maintain~~

Match

Feel ???

Sequence

List

Label

~~Participate~~

Seek

~~Appropriate~~



Keep in mind

Not just academics!

Purpose of IDEA: To ensure that all children w/ disabilities have available to them a FAPE that emphasizes SPED & RS designed to meet their unique needs & **prepare them for**



further education



employment



independent living




6. Placement

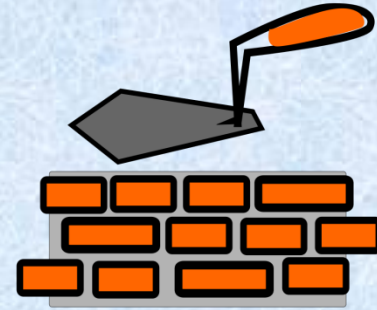
- LRE placement = “maximum extent appropriate” w/ typical peers 34 C.F.R. § 300.114 (a)(2).
- Continuum

Rachel H. 4-factor test:

1. Ed benefits gen ed vs. SPED
 2. Non-acad benefits gen ed vs. SPED (social interaction)
 3. Effect of others
 4. Cost associated w/ providing svcs/aids in gen ed
- Sacramento City Unified School District v. Rachel H.*, 14 F.3d 1398 (9th Cir. 1994).

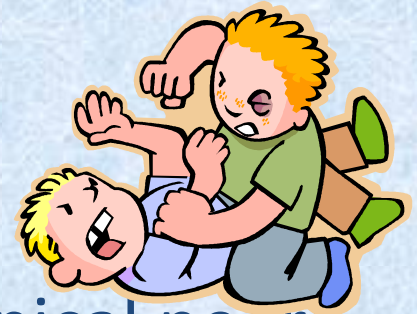
Placement vs. Location

- Educational **PLACEMENT** = LOS (LRE along continuum) 
- **LOCATION** = bricks and mortar
- IEP Team → Placement
- Administration → Location
- Caveat: *Appropriateness*



Factors in Location – is it appropriate?

- Student-staff ratio
- Functioning levels of other
- Transitions
- Physical features of setting
- Services and supports available
- Ages
- Behaviors of peers
- Opportunities for interactions with typical peers
- Distance from home (“as close as possible to the child's home” and “would attend if nondisabled” 34 C.F.R. § 300.116)



Predetermining Placement

- Procedural violation
- IDEA mandates parent involvement in D-M about educational placement
- IEP meetings
- Open-mind
- Consider parents' input
- Meaningful participation

Quiz : Predetermination???

“This is where your child will be next year.”

“These are some examples of possible placements.”

“We can’t place students there.”

“This is what we’re offering.”

“We think our program is better.”

“Option A is the best option.”

“We don’t do that.”

“The district refuses to do that.”

“Yeah, we can’t do that.”

“We think a better program for Johnny is ...”

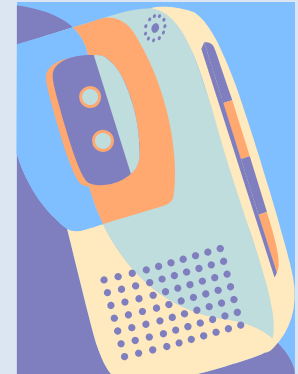
“We decided that program is best for Johnny.”

“We think ...”

“The data shows ...”

7. Helpful hints

- Signing – attendance only
- Tape record
- Notes
- Excusing attendees
- Be practical
 - ❖ Know what you are entitled to, *Rowley*
 - ❖ Work collaboratively
 - ❖ Think outside the box



8. Participating, consensus, predetermination

- IDEA requires parents be “afforded the opportunity to participate in the decision-making process” 34 C.F.R. § 300.322(a)(2)(ii); 501(b)
- Reaching decisions – the “consensus”
- Predetermination

IEPs for students with ASD

Designed to meet unique needs AND

Prep for further ed, employ and indep living

34 C.F.R. § 300.1

- Goals & services to address:
 - ✓ Social
 - ✓ Behavior (FBA & BIP)
 - ✓ Communication / speech and language
 - ✓ Sensory / OT
 - ✓ Functional / adaptive life-skills / hygiene

Case

IEP statement:

Student will "improve his functional academic skills from a level of not completing assignments independently to a level of being able to read, write and do basic math skills **independently**"

Vague, general statement fails to demonstrate IEP is reasonably calculated to result in educational benefit

Vague, immeasurable, poorly written goals



denial of FAPE.

Independent Sch. Dist. No. 701 v. J.T. (D. Minn. 2006)

9. Consensus & What if I don't agree?

- Obtain PWN
- Mediation 34 C.F.R. § 300.506(a)
- State complaint (1 year) 34 C.F.R. §§ 300.151 - 153
- Due Process (2 years) 34 C.F.R. §§ 300.507 - 508
- Mediation 34 C.F.R. § 300.510 vs. Resolution

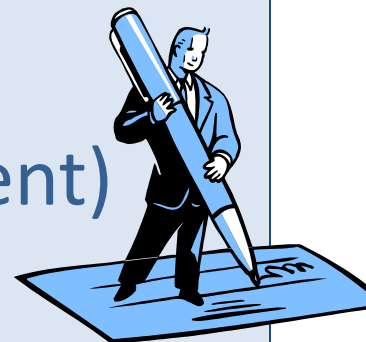
See also Arizona Admin Code R7-2-405.

ADE website



10. What now?

- Review and sign IEP, initial each page
- PWN (34 C.F.R. § 503) (id, eval, placement)
- Progress reports
- Update notebook
- Check school work
- Addendums
- How often are IEPs and how often can I have an IEP? 15 - 30 – annual - triennial





Quiz: Timelines

**COMING
EVENTS
CALENDAR**

- Emergency IEP meetings
- Notice of unilateral placement in private school
- IEP until MET
- IEPs
- Re-evals
- State Complaints
- Due Process Complaints
- OCR Complaints

The End

