



NASET's IEP Component Series

Updated Information and Resources Regarding Special Factors in IEP Development

The Individuals with Disabilities Education Act (IDEA) lists five special factors that the IEP team must consider in the development, review, and revision of each child's IEP. Read IDEA's exact words. The importance of these special factors in the education of children with disabilities and the need for individualized consideration of these factors in IEP development and revision cannot be underestimated. The special factors are: (1) Behavior; (2) Limited English proficiency; (3) Blindness or visual impairment; (4) Communication needs/Deafness; and (5) Assistive technology. This edition of NASET's IEP Components series will provide you updated information and resources regarding special factors in IEP development.

The Individuals with Disabilities Education Act (IDEA) lists ***five special factors that the IEP team must consider in the development, review, and revision of each child's IEP.*** Read IDEA's exact words.

The discussion below will highlight the importance of these special factors in the education of children with disabilities and the need for individualized consideration of these factors in IEP development and revision. The special factors are:

- Behavior
- Limited English proficiency
- Blindness or visual impairment
- Communication needs/Deafness
- Assistive technology

IDEA's Exact Words

IDEA's regulations for considering these special factors appear at §300.324(a)(2)(i)-(v) and read as follows:

(2) ***Consideration of special factors.*** The IEP Team must—

- (i) In the case of a child whose **behavior** impedes the child's learning or that of others, consider the use of positive behavioral interventions and supports, and other strategies, to address that behavior;
- (ii) In the case of a child with **limited English proficiency**, consider the language needs of the child as those needs relate to the child's IEP;
- (iii) In the case of a child who is **blind or visually impaired**, provide for instruction in Braille and the use of Braille unless the IEP Team determines, after an evaluation of the child's reading and writing skills, needs, and appropriate reading and writing media (including an evaluation of the child's future needs for instruction in Braille or the use of Braille), that instruction in Braille or the use of Braille is not appropriate for the child;
- (iv) Consider the **communication needs** of the child, and in the case of a child who is **deaf or hard of hearing**, consider the child's language and communication needs, opportunities for direct communications with peers and professional personnel in the child's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the child's language and communication mode; and
- (v) Consider whether the child needs **assistive technology** devices and services. [§300.324(a)(2)]

The IEP team must determine if any of these factors are relevant for the child and, if so, address the factor in the child's IEP.

Special Factor 1: Behavior

When the IEP meeting rolls around to considering the special factors, the team might begin by asking:

- Does this child's behavior interfere with his or her learning or the learning of others?

If the answer is "yes," then the team must consider the use of positive behavioral interventions and supports, and other strategies, to address that behavior [§300.324(2)(i)]. Members will talk about what the child needs and include this information in the IEP. As indicated in IDEA, this will include consideration of the use of positive behavioral interventions and supports (PBIS) and other strategies to address the child's behavior.

More about PBIS and IDEA

The behavior challenges that accompany many children to class these days are well known and of great concern to educational stakeholders from the classroom level up to Congress and back down again. Congress addressed how behavior problems can affect a child's learning, or the learning of others, in the 1997 reauthorization of IDEA. IDEA '97 also explicitly involved the IEP team in considering whether positive behavior supports or other strategies were necessary when a child's behavior was interfering with learning—either the child's own learning, or the learning of others in the class or school. **Functional behavioral assessments** became an important and required element in determining why a child was behaving in disruptive or challenging ways, and behavior intervention plans detailed how the problem would be addressed.

PBIS plays a role in the broader picture of addressing child behavior. It is intended to be used **before** problem behaviors become interfering behaviors, is based upon understanding why a child has problem behaviors and what strategies might be helpful, and seeks to stop or reduce the problem behaviors so that punishment is not necessary. Much research has been conducted into its effectiveness.

An excellent resource on this topic is the **National Technical Assistance Center on Positive Behavioral Interventions and Supports** (PBIS) that the Office of Special Education Programs (OSEP) funds. The Center strongly recommends adopting a ***schoolwide*** system of PBIS, which has been found to be more effective than individual responses to disciplinary infractions and child misbehavior.

Here are three especially useful ones on the PBIS Web site.

State contact information

http://www.pbis.org/links/pbis_network/default.aspx

Implementer's blueprint and self-assessment for schoolwide behavior support

http://www.pbis.org/pbis_resource_detail_page.aspx?Type=3&PBIS_ResourceID=216

FACTS, a two-page interview completed by people (teachers, family, clinicians) who know the child best, and used to either build behavior support plans, or guide more complete functional assessment efforts.

<http://www.pbis.org/resource/246>

Determining What Behavior Supports Are Needed

How does the IEP team determine what behavior supports might be appropriate and effective for a specific child? As pointed out in the IEP Team section on the **regular education teacher**, IDEA 2004 indicates that one of the roles of the regular education teacher on the team may include determining what behavior supports and other strategies would be appropriate for the child [§300.324(a)(3)]. This includes **supplementary aids and services** and **program modifications and support for school personnel**.

Certainly, **functional behavioral assessment, or FBA, can also play a critical part in determining what behavior supports a child needs**. According to the Missouri Department of Elementary and Secondary Education:

A functional behavioral assessment (FBA) is a process to identify the function of a student's behavior. The information collected during the FBA process should be used to create effective behavior supports and plans.

Within FBA, behavior is seen as serving a *purpose*, as communication, as performing some function for the child. FBA's goal is to identify what that purpose, function, or communication is for the child. Understanding why a child misbehaves is crucial to developing appropriate behavior supports.

Thus, for IEP teams considering the special factor of "positive behavioral interventions and supports and other strategies," the FBA may be a crucial step in determining why the child is behaving in a way that impedes his or her learning or that of others. Fortunately, many resources exist to help IEP teams address behavior issues in IEP development. We've already mentioned the OSEP-funded PBIS Center. Have a look at the list below of additional resources that teams may find helpful. It's brief, yes, but oh, will it lead you to more!

Resources on Behavior, PBIS, FBAs, and BIPs

5-part Suite on Behavior

Center for Parent Information and Resources

<http://www.parentcenterhub.org/behavior/>

Special Factor 2: Limited English Proficiency

This factor relates to children with limited English proficiency (LEP) and the consideration of a child's language needs as such needs relate to his or her IEP. There are 350,000 LEP children receiving special education, so many IEP teams are likely to discuss this special factor.

Helpful checklist for IEP teams | Check out **Resource D-4** in *Building the Legacy*, NICHCY's training curriculum on IDEA. It can help IEP teams consider what language needs a child with limited English proficiency might have.

Assessing children with limited English proficiency | School systems and parents are often concerned about how to assess LEP children who also have disabilities. Here are three resources you may find helpful for addressing assessment issues.

Smarter Balanced: Is your state using the Smarter Balanced Assessment with English language learners and students with disabilities? If so, have a look at the Smarter Balanced's [Accommodations for English Language Learners and Students with Disabilities](#).

[RTI-Based SLD Identification Toolkit: Considerations for ELL](#) | From the RTI Action Network, this toolkit provides guidance for the instruction of students who are culturally and linguistically diverse and for making valid decisions for determining special education eligibility.

The National Center on Educational Outcomes (NCEO)'s *Standards-based Instructional Strategies for English Language Learners with Disabilities*.

<http://www.cehd.umn.edu/NCEO/Onlinepubs/ELLsDis18/ELLsDisRpt18.pdf>

How is “limited English proficiency” defined? | IDEA defines “limited English proficient” at §300.27 as meaning the same thing as the definition given in section 9101(25) of the Elementary and Secondary Education Act (ESEA), which reads:

“(25) **LIMITED ENGLISH PROFICIENT**.—The term ‘limited English proficient’ when used with respect to an individual, means an individual—

“(A) Who is aged 3 through 21;

“(B) Who is enrolled or preparing to enroll in an elementary school or secondary school;

“(C)(i) who was not born in the United States or whose native language is a language other than English;

“(ii)(I) who is a Native American or Alaska Native, or a native resident of the outlying areas; and

“(II) who comes from an environment where a language other than English has had a significant impact on the individual's level of English language proficiency; or

“(iii) who is migratory, whose native language is a language other than English, and who comes from an environment where a language other than English is dominant; and

“(D) whose difficulties in speaking, reading, writing, or understanding the English language may be sufficient to deny the individual—

“(i) the ability to meet the State's proficient level of achievement on State assessments described in section 1111(b)(3);

“(ii) the ability to successfully achieve in classrooms where the language of instruction is English; or

“(iii) the opportunity to participate fully in society.”

Special Factor 3: Blindness and Visual Impairment

The third special factor relates to the needs of children who are blind or visually impaired. For these children, the IEP team must provide for instruction in Braille and the use of Braille—unless the team “determines, after an evaluation of the child’s reading and writing skills, needs, and appropriate reading and writing media (including an evaluation of the child’s future needs for instruction in Braille or the use of Braille), that instruction in Braille or the use of Braille is not appropriate for the child [§300.324(2)(iii)].

Helpful checklist for IEP teams | A helpful checklist is provided as **Resource D-5** in *Building the Legacy*, NICHCY’s training curriculum on IDEA, and can help IEP teams consider this special factor.

Considerations for this special factor | Following the words and logic of IDEA’s requirement, you can see that the IEP team will need to “provide for instruction in Braille and the use of Braille,” **unless...**

- ...the team determines that instruction in Braille or the use of Braille is not appropriate for the child. And the team can only determine that...
- ...**after** an evaluation of the child’s reading and writing skills, needs, and appropriate reading and writing media.

Such an evaluation also must include an evaluation of the child’s future needs for instruction in Braille or the use of Braille.

The specific focus of this special consideration is on a child’s need for **Braille** instruction. The IEP team must also consider other appropriate supports and instruction to address a child’s needs related to blindness or visual impairment. Having **accessible instructional materials** is essential. Some examples include enlarged print materials, audiotaped materials, math manipulatives, or NIMAS-formatted materials.

Obviously, considering this special factor involves doing so with great deliberation and after gathering the necessary data and evaluation information. Blindness and visual impairment can impact almost all areas related to a child’s academic and non-academic participation in school and must be thoroughly understood by a child’s IEP team.

Statistics on Children Who Are Blind or Visually Impaired

- Children in U.S. who are legally blind: 55,200 (American Foundation for the Blind, 2006)
- Children 6-21 in U.S. served under IDEA’s category “Visual Impairments”: 26,113 (U.S. Department of Education, 2006)
- Children in U.S. using Braille as their primary reading medium: 5,500 (American Foundation for the Blind, 2006)

Special Factor 4: Communication Needs, Especially When Child is Deaf or Hard of Hearing

The fourth special factor that the IEP team must consider when developing a child’s IEP is that child’s **communication needs**. In the case of a child who is deaf or hard of hearing, team members must consider the child’s:

- language and communication needs;
- opportunities for direct communications with peers and professional personnel in the child’s language and communication mode; academic level; and

- full range of needs, including opportunities for direct instruction in the child’s language and communication mode [§300.324(2)(iv)].

It’s important to note that, **regardless** of a child’s disability, IEP teams must consider a child’s communication needs. In determining the child’s communication needs, the IEP team might ask:

- What communicative demands and opportunities does the child have?
- Does the child have the skills and strategies necessary to meet those communicative demands and take advantage of communicative opportunities?
- Can the child fulfill his or her need to communicate in different settings?
- Does the child communicate appropriately and effectively, and if not, why not? How would the deficit in communication be described?

Considering a Child’s Communication Needs

If the IEP team determines that the child has communication needs, then the team will need to address these in the IEP, including (as appropriate) through the statement of annual goals, provision of special education and related services, supplementary aids and services, which includes assistive technology, or other relevant instruction, services, and supports.

Considering the many elements included in this special factor will no doubt engage the IEP team in substantial discussion. The following may be helpful in framing and/or informing those discussions.

Communication modes | In the definition of “native language” (§300.29), “**mode of communication**” is described:

(b) For an individual with deafness or blindness, or for an individual with no written language, the mode of communication is that normally used by the individual (such as sign language, Braille, or oral communication). [§300.29(b)]

Some children with disabilities may use one or more of the modes of communication mentioned above. Other children (those with more severe disabilities, such as deaf/blindness, severe cognitive or physical impairments, or more severe forms of autism) may not be able to communicate adequately in any of those ways. Without question, the communication needs of these children must be taken into consideration when developing the IEP.

Understanding how a child does (or does not) communicate is paramount to designing appropriate instruction and services. And while any significant impairment in a child’s ability to understand and use language plays an enormous role in a child’s ability to learn and make progress in the general education curriculum, it does not, in and of itself, mean that a child cannot learn and make progress. Indeed, meeting and supporting a child’s communication needs can be pivotal to the child’s full participation and progress in the general education curriculum and nonacademic activities.

Alternative ways of communicating | What are some of the alternative ways of communicating? Here are some examples of different communication modes, from very basic to highly sophisticated.

- Eye gaze/eye pointing
- Facial expression/body language/gestures
- Head nod yes/no
- Vocalizations/word approximations

- Object/picture/photo symbols
- Communication symbols
- Sign language
- Facilitated Communication via Assistive Technology
- AAC or Aug Comm device

Communication methods in deafness | For children who are deaf or who have a hearing impairment (see statistics further below), there are a variety of different modes for communicating, including:

- Auditory/Oral Method
- Auditory-Verbal Method
- Cued Speech Method
- American Sign Language (Bilingual/Bicultural)
- Total Communication Method. (U.S. Department of Education, 2005)

The first three of these—auditory/oral, auditory-verbal, and cued speech—all include a spoken language approach to communicating. More about all these approaches is available at:

Alexander Graham Bell Association, <http://www.agbell.org>

American Society for Deaf Children
<http://deafchildren.org>

Laurent Clerc National Deaf Education Center
<http://www.gallaudet.edu/clerc-center.html>

National Institute on Deafness and Other Communication Disorders Information Clearinghouse
<https://www.nidcd.nih.gov/health/hearing-ear-infections-deafness>

Interpreting services | IEP teams may find it useful to examine the definition of *interpreting services* to determine how the communication needs of children who are deaf or hearing impaired can be addressed. Interpreting services are listed in IDEA as a “related service” and, when used with respect to children who are deaf or hard of hearing, include:

(i) Oral transliteration services, cued language transliteration services, sign language transliteration and interpreting services, and transcription services, such as communication access real-time translation (CART), C-Print, and TypeWell; and

(ii) Special interpreting services for children who are deaf-blind. [§300.34(c)(4)]

As a **related service**, then, these interpreting services may be made available to the child, if the IEP team determines that he or she needs the service in order to benefit from special education.

Supplementary aids and services | **Supplementary aids and services** are also used to support a child with disabilities and must be specified by the IEP team on the child’s IEP if the team determines that the child needs such services. These often are relevant for children who are deaf or who have hearing loss. They are defined as:

...aids, services, and other supports that are provided in regular education classes, other education-related settings, and in extracurricular and nonacademic settings, to enable children with disabilities to be educated with nondisabled children to the maximum extent appropriate in accordance with §§300.114 through 300.116.

The IDEA 2004 has modified this definition from the one used previously—it now includes *extracurricular* and *nonacademic* settings within its scope. This addition is in keeping with this special factor’s emphasis upon the child’s opportunities to communicate with peers and professional personnel in his or her language or communication mode. Supplementary aids and services provided in extracurricular and nonacademic settings will now enlarge the range of settings in which the child would have such communication opportunities.

Statistics on Children Who Are Deaf or Hard of Hearing

- Children in U.S. born with hearing loss every year: 12,000 (Alexander Graham Bell Association for the Deaf and Hard of Hearing, 2006)
- Children under 18 with hearing loss: 17 of every 1,000 (National Institute on Deafness and Other Communication Disorders, 2006)
- Children 6-21 in U.S. served under IDEA’s category “Hearing Impairments”: 71,964 (U.S. Department of Education, 2006)

Helpful Materials

A helpful checklist is provided as **Resource D-6** in *Building the Legacy*, NICHCY’s training curriculum on IDEA, and can help IEP teams shape their discussion of this special factor and make appropriate determinations for a child who is deaf or hard of hearing.

A rich source of information on communication can also be found in the *Communication Fact Sheets for Parents* series of the National Technical Assistance Consortium for Children and Young Adults Who Are Deaf-Blind (NTAC), a member of OSEP’s TA&D Network. You’ll find these online at: <http://documents.nationaldb.org/products/communication-a.pdf>

Special Factor 5: Assistive Technology

The fifth and final special factor that the IEP team must consider relates to whether the child needs assistive technology (AT) devices and services.

Helpful checklist for IEP teams | A helpful checklist is provided as **Resource D-9** in *Building the Legacy*, NICHCY’s training curriculum on IDEA, and can help IEP teams consider this special factor.

IDEA 2004’s definitions | The definitions of AT devices and AT services contained in IDEA 2004 read as follows:

§300.5 Assistive technology device.

Assistive technology device means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve the functional capabilities of a child with a disability. The term does not include a medical device that is surgically implanted, or the replacement of such device.

§300.6 Assistive technology service.

Assistive technology service means any service that directly assists a child with a disability in the selection, acquisition, or use of an assistive technology device. The term includes—

- (a) The evaluation of the needs of a child with a disability, including a functional evaluation of the child in the child’s customary environment;
- (b) Purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by children with disabilities;

- (c) Selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing assistive technology devices;
- (d) Coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;
- (e) Training or technical assistance for a child with a disability or, if appropriate, that child's family; and
- (f) Training or technical assistance for professionals (including individuals providing education or rehabilitation services), employers, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of that child.

Considering AT

Assistive technology devices can help many children do certain activities or tasks. Examples of these devices are:

- devices that make the words bigger on the computer screen or that “read” the typed words aloud—which can help children who do not see well;
- electronic talking boards—which can help students who have trouble speaking; and
- computers and special programs for the computer—which can help students with all kinds of disabilities learn more easily.

AT must be considered for all children with disabilities, regardless of disability, and as is true for other special factors, consideration must be individualized. Assistive technology services include evaluating the child to see if he or she could benefit from using an assistive device. These services also include providing the devices and training the child (or family or the professionals who work with the child) to use the device.

For many children, the first line of inquiry is whether the child's IEP can be implemented satisfactorily in the regular educational environment with the use of supplementary aids and services. Since AT devices or services can be provided as supplementary aids or services, a child's IEP team may need to consider whether a particular child requires a particular AT device or service, or whether school personnel require aid or support to enable a child with a disability to be educated satisfactorily in the regular education environment. Section 300.320(a)(4) of IDEA requires the IEP team to include a statement of the special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the child, or on behalf of the child. This would include any AT devices and services (determined by the IEP team) that the child needs in order for the child to receive a free appropriate public education (FAPE).

Another topic that an IEP team may need to consider on a case-by-case basis is whether a child with a disability may need to use a school-purchased AT device in settings other than school, such as the child's home or other parts of the community, in order for the child to receive FAPE.

The ABCs of AT

The **Center on Technology and Disability** (CTD) is an excellent place to learn more about AT for children with disabilities. CTD has an entire section of its website devoted to the **IEP process**, which can be very helpful to teams deciding what type(s) of AT would directly benefit a given student. CTD also offers many of its family-friendly fact sheets and materials in **Spanish**.

State AT Projects

State-level contacts and technical assistance centers exist to support capacity building with respect to AT and keep abreast of this rapidly developing field. The spectrum of available AT devices has grown remarkably just in the time span since this special factor was introduced into the law as part of the 1997 amendments to IDEA. Get in touch with the contacts and centers in your State, which you can identify by visiting the “[Find Your State Program](#)” page at the Association of Assistive Technology Programs.

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