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Preface

This book proposes a way to prepare the heart and soul, the nitty-gritty, the critical parts of the IEP in a way that is SIMPLE, CLEAR, USEFUL, ECONOMICAL, WORTHWHILE, COMMON 'SENSICAL,' LEGALLY CORRECT and REVOLUTIONARY. It is different from the way almost all of us have been writing **Individualized Education Program (IEP)** present levels of performance, goals and statements of service.

Sadly, many professional people who work with Individualized Education Programs (IEPs) would vote, given the chance, to abolish them. IEPs have taken up several hundred million hours (a conservative estimate) of special education personnel time that most teachers would far rather have spent in direct teaching with students. This has to change. Society cannot, nor should it, continue to invest this much time and money with little benefit to show for it.

In 1997 and again in 2004 when Congress revisited special education law (IDEA, the Individuals with Disabilities Education Act), it detailed the need for increased emphasis on measurable and measured goals, on students making genuine and measured progress, and on that student progress being regularly and meaningfully reported to parents.

This book will help every IEP team member respond effectively and without undue effort to this Congressional mandate.

However, be alerted — this is not IEP business as usual. It's much more than that. Please join us . . .

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Cynthia Herr

Part I:

About Goals & Objectives

Introduction: IDEA

For decades one federal law has guided every aspect of special education services in the United States. The Individuals with Disabilities Education Act, commonly called IDEA, provides many benefits and protections to every eligible child who has a disability, and to his or her parents. The detailed framework of IDEA provides for full and individual evaluations, independent evaluations, the provision of special education and related services, individualized placement decisions within a continuum of placement options, protections in disciplinary actions, and much more.

FAPE

The major purpose of IDEA is to make a free, appropriate public education (FAPE) available to every child who has a disability. But how do we know when an education program is "appropriate" and so constitutes FAPE?

The U.S. Supreme Court has answered this twice. First, in 1982 in *Rowley*, the court said that an appropriate program was on that was "reasonably calculated to allow the student to receive educational benefits." However, the amount of benefit required to reach the level of appropriate was not spelled out.

Some lower courts said *Rowley* merely required an education program that offered more than *de minimus* benefit to be sufficient for FAPE. Thirty-five years later, the Supreme Court ruled again on the standard for evaluating the sufficiency of an education program and the Court held that the progress contemplated by the IEP must be "appropriate for the student's unique circumstances."

More will be said later about specifics related to program appropriateness. Now what is important to keep in mind is that the purpose of IDEA and all that it requires is to provide an appropriate program for every child with a disability.

As we develop IEPs and select and write goals, we must always remember to focus on the goal of providing an appropriate, individualized program for every IDEA-eligible student. If an appropriate program is not evident on the IEP, the school district may be required to fund private schooling or services for that student.

IEPs

The heart of IDEA is a written document called an Individual Education Program (IEP). While all IDEA benefits and protections are important, it's the IEP process, with parents as full and equal participants with the school personnel in developing the IEP, that determines what services the child will actually receive. These services, as spelled out in the IEP, must provide FAPE. Thus the IEP determines what happens in the child's education. The IEP is the "make or break" component in FAPE for every IDEA child.

The IEP document must include certain elements for all children plus two additional items for students fourteen years and older. The first three components of the IEP are key, and they are what this book is about:

1. The child's present levels of academic and functional performance; (PLAAFPs)

2. Measurable annual goals and, for some children, measurable objectives; and

3. A statement of needed special education and other services.

Just as the IEP is the heart of IDEA, these three items are the heart of the IEP. Together, they are the key pieces of the whole law and the child's education.

A three-fold inquiry determines these key pieces of the IEP:

1. What are the child's unique needs?

2. What services will the school employ to address each need? and

3. What will the child be able to accomplish as a result of the services?

Fig. 1

The IEP is the heart of the Individuals with Disabilities Education Act (IDEA), and measurable goals and objectives are the heart of each IEP.

This three-fold inquiry translates directly into the three critical elements of the IEP: the present levels of performance, the goals and objectives, and a statement of the special education services which will move the child from the PLAAFPs to the goals. This book is about the heart within the heart, shown in Fig. 1.

Goals and Objectives

Early on, IDEA distinguished objectives from benchmarks. It said short term objectives "break the skills described in the annual goal down into discrete components," while benchmarks described "the amount of progress the child is expected to make within specified segments of the year." This distinction seems to make very little difference, if any. Now most educators use the term objectives to include both, and that is what we do.

IDEA originally required objectives for all goals and IEPs.

Since 2005, short-term objectives have been required only on the IEPs of those students who are assessed using alternate standards rather than grade level standards. For other IEPs, short-term objectives are no longer mandated. However, we believe that prudent IEP teams will continue to use them for compelling educational and legal reasons.

With the new emphasis on accountability, effectiveness of the services provided, and objective progress assessment and reporting, it would be foolhardy for a school district to allow a student to fail to make progress for an entire year without objective assessment. Furthermore, progress must still be reported to parents at least as often

as it is reported to parents of non-disabled children. Even a casual reading of hearing and court decisions in IDEA cases over recent years shows that hearing officers and judges recognize the critical role of objectively measured progress in the education of children who have disabilities.

In addition to the huge legal risks in not objectively measuring progress at least every grading period, it is also courting educational disaster. When a child with a disability is not making adequate or appropriate progress, time is of the essence. It is unconscionable to allow a child to remain month after month in a less-than-effective program. In fact, with careful data collection, it is usually possible to determine whether a program is effective for a particular child within a few weeks. As schools move rapidly toward research-based and proven interventions, we can be certain the legal and educational focus on results and outcomes, objectively measured and shown, will only increase.

The rationale of some who urged eliminating the IDEA requirement for short-term objectives was the need for more instructional and preparation time for professional staff. Without in any way disputing the value of and the need for the best possible use of professionals' time, our view is that a failure to include short-term objectives in every IEP is short-sighted, legally risky and very poor practice. In recent years many, perhaps most, professionals involved in writing IEPs have become increasingly proficient in writing useful and measurable objectives. The time required to do this is a mere fraction of the value received, once a minimal level of proficiency is reached. Far more time could be saved in IEP preparation by a judicious prioritization and a limiting of goals, and by eliminating unnecessary general education curriculum and standards from all IEPs while focusing on those aspects of the child's' education that must be **individualized** and on those special education services necessary to enable the child to **access** the general curriculum. From the beginning of IDEA the federal intent has been that most IEPs be 3-5 pages long. If IEP teams examine afresh what an IEP is "supposed to be" and proceed accordingly, including objectives on all IEPs, far more time can be saved, with far better results than by omitting vital objectives.

The purpose of objectives is to assess progress. IDEA has not eliminated the requirement that progress must be measured and reported. If an IEP team chooses

not to include objectives, it must still determine how progress will be assessed at least as often as every grading period. Hearing officers and judges are more and more frequently cautioning against reliance on subjective measures such as teacher judgment. Vague, global terms such as "emerging" or "progressing" are also rapidly becoming as unacceptable legally as they are educationally. We know of no easier, better or more efficient way to access progress than by using short-term objectives. The use of measurable objectives is both best educational practice and safe legal practice. To write IEPs without them is to risk a great deal for no valid reason.

To try to get by without measurable and measured short-term objectives is to court educational, legal and perhaps financial disaster. Without measured progress, a child may be found to have been denied FAPE. A finding that a child has not been given FAPE may be the beginning of a district having to pay for private schooling or provide compensatory education. However, the most important consideration is that every child should always be receiving effective services. Time is a precious commodity, never more so than for a child who needs successful intervention as soon as possible. Short-term objectives allow prompt action when it is needed, provided they are actually measured, i.e., the child's progress is assessed.

Throughout the discussion that follows we will occasionally use the term "progress markers" to refer to objectives to remind us all that the function, the purpose of objectives is to allow us to mark progress. Progress markers, objectives, and benchmarks are the same thing. A goal is just a one-year progress marker. All objectives, goals, benchmarks, or progress markers must be **measurable**. The all important relationship among the annual goals, objectives, and progress assessment is a focus of much that follows.

When Congress most recently amended IDEA, new importance and emphases were placed on:

1. Special education students making more progress;

2. Special educators accurately and objectively measuring student progress; and

3. That progress being accurately and meaningfully reported to parents.

Many special educators, teachers and other professionals experience IEPs as burdensome legal documents, laboriously completed and quickly filed — with the hope they are never monitored and with no intention of ever using them. At the same time, many parents experience the IEP development process as intimidating, frustrating and pointless. Too often hours are spent laboring over IEP goals and objectives, and even then the results are frequently unsatisfactory, non-measurable and never-to-be-measured. However, measurable goals and objectives can be surprisingly fast, easy to write, and helpful — once the skill has been learned.

A Bit of History

Before writing measurable goals, a bit of historical perspective may be helpful. Educational practice around IEP goals has evolved further and faster than has the law. Standards-based goals, grade-level content, robust academic instructions, and similar concepts are frequently heard in today's discussion of IEPs, even though they do not appear in IDEA.

The advocacy movement, urging full inclusion of student with disabilities with disabilities in regular classes, gained momentum in the early 1980s when the federal Office of Special Education staunchly advocated "mainstreaming" as it was called then. If students were to be included in regular classes, it stood to reason their possible involvement in the general curriculum world be newly emphasized, and it was.

In 1982, the U.S. Supreme Court held (*Rowley*) that children who have disabilities and who are placed in regular education classes are entitled to a program which enables them to "achieve passing marks and advance grade to grade" as do children who do not have disabilities. This *Rowley* holding is all but totally unknown and/or disregarded by schools and parents. Few IEPs offer the service that would be required for children with disabilities to make true grade-level progress on a par with students who do not have a disability. Many courts simply do not know that educators place millions of children in regular classes even though they cannot possibly meet grade level standards with the services offered.

Some lower courts said *Rowley* required only "some" benefit, "any" benefit or more than *de minimus* benefit to be sufficient for FAPE. In 2017, The Supreme Court ruled again (in *Endrew*) on the standard for evaluating the sufficiency of an education program. The Court held that the progress contemplated by the IEP goals must be "appropriate for the student's unique circumstances." If a child cannot reasonably be expected to move smoothly through the regular curriculum, then "the IEP need not aim for grade-level achievement," according to the Supreme Court.

In other words, goals need not be derived from the general curriculum nor need they reflect grade-level performance. Rather, they must address the child's needs and take into account that child's unique circumstances.

The debate between those who favor goals based on the general curriculum and those who focus on an individual's needs for special education continues. More will be said later about this issue.

Important Guidelines for IEP Development

Our ideas about IEPs, IEP meetings, and goals are formed largely from our own experiences and are often limited to how one school district or building staff handles these matters. However, how an IEP is developed can be as important as the finished document itself. The IDEA regulations are detailed and occasional minor errors are inevitable. However, several major issues continue to be seen frequently. Understanding and following the vital principles below will go a long way toward insuring an IEP that complies with IDEA and provides a FAPE:

1. Parents are full and equal partners with district personnel as IEP team members. Parent participation in IEP development is vital and a denial or limitation of it can deny FAPE.

2. School staff may come to an IEP meeting prepared with evaluation findings and proposed recommendations regarding IEP content, but they must make it clear to the parents at the outset of the meeting that the services proposed by the school

are only recommendations for review and discussion with the parents. Parents have the right to bring questions, concerns, and recommendations to an IEP meeting as part of a full discussion of the child's needs and the services to be provided to meet those needs.

3. IDEA mandates that the IEP team must include a representative of the public agency who: (a) is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children with disabilities; (b) is knowledgeable about the general curriculum; (c) is knowledgeable about the availability of resources of the public agency, and must have authority to commit agency resources, i.e., to approve expenditures.

4. Every statement of a present level of academic and functional performance (PLAAFP) must give rise to a goal and to services to enable the child to reach the goal. PLAAFPs must be written in objective, measurable terms.

5. Goals are required in all areas of the child's unique needs and are not restricted to a category of eligibility nor to the general curriculum. Once a child is found to be IDEA eligible, *all* his or her unique needs need to be addressed, not just those in the area or category of eligibility. District IEP team members are often heard to mistakenly say, e.g. "He is learning disabled in reading, so we can only have goals in that area, not in writing or math." Another common erroneous belief is that if the child is not identified as emotionally or behaviorally disturbed, then a behavior plan or therapy is not necessary or appropriate for inclusion on the IEP.

6. Goals are *not* required in areas of the general curriculum where only accommodations and modifications are needed. The necessary accommodations and modifications must, however, be included on the IEP.

7. Administrative personnel may not override IEP team decisions concerning the IEP and the services to be provided. The IEP team as a team (not any one member) has full authority and responsibility to determine what services are necessary to provide a FAPE.

Other questions and issues still arise and are often dealt with by relying on district practice and habit, i.e., "We've always done it that way" rather than on legal guidance

from IDEA itself, from federal education agencies, or from hearing decisions and cases. Two of these practices have been clarified by legal guidance:

1. Related services personnel need not attend IEP meetings, but their written or other input can be very helpful and may be essential.

2. Scheduling an IEP meeting so all critical team members may attend is essential, even though it may be difficult. A federal appeals court has ruled that the parents' reasonable scheduling needs take priority over district personnel scheduling and over IEP timelines such as the required annual review[1]. It is hard to over-estimate the legal importance of full and equal parent participation in the IEP development.

Measurability

"Measurability" is an important ingredient in IDEA. Before going any further, let us look at what IDEA says about measurable goals and progress reporting. The IEP must contain:

"A statement of measurable annual goals, including academic and functional goals … [and] a description of how the child's progress toward meeting the annual goals … will be measured and when periodic reports on the progress the child is making toward meeting the annual goals (such as through the use of quarterly or other periodic reports, concurrent with the issuance of report cards) will be provided." (20 U.S.1414 (d)(1)(A)(i)(I, II).

Once the IEP team has developed measurable annual goals for a child, the team must:

(1) Develop strategies that will be effective in realizing those goals, and

(2) For some students, develop measurable, intermediate steps (short-term objectives) that will enable parents, students, and educators to monitor progress during the year, and, if appropriate, to revise the IEP consistent with student instructional needs.

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1. *Doug C. v. State of Hawaii Department of Education*, 720 F. 3d 1038 (9th Cir. 2013).

IDEA leaves no doubt that measurability is both mandated and absolutely essential. Without measurability, progress cannot be monitored. However, measurability alone is not sufficient. Goals and objectives must be both *measurable* and *measured* in order to determine progress and to make necessary revisions to the IEP.

What exactly does measurable mean? Unfortunately, IDEA doesn't define it for us. So, we will examine measurability and non-measurability, as well as look closely at other important terms.

Measurable

"Measurable" is the essential characteristic of an IEP goal or objective. When a goal isn't measurable, it cannot be measured. If it cannot be measured, it violates IDEA and may result in a denial of FAPE to the child.

> A measurable goal allows us to know how much progress has been made since the last measured performance.

To measure something is to perform a particular operation, **to do** something. To measure one's weight, stand on a scale. To measure temperature, look at a thermometer. To measure tire pressure, put a gauge on the valve stem. And so on. To measure is to perform an action of some type. An important question to keep in mind when writing measurable goals and objectives is, "What would one do to see if the child has accomplished this goal or objective?"

Another key consideration is whether, if several people evaluated the student's performance, they would come to the same conclusion about accomplishment of the goal or objective.

If the goal were that Rocky would learn "to cope appropriately with being teased," evaluators could easily disagree whether certain responses demonstrated appropriate coping. If the goal were, "When teased, Rocky would make no verbal response and would walk away," observers would be likely to agree.

A third issue is that when the goal or objective is measured, we must be able to say **how much** progress has been made since the present level of performance or previous goal or objective was measured. "How much" requires some degree or level

of quantification. This is not to say we must insert 80% (or any other %) into every goal and objective! Doing that routinely, as many people do, has some sad and some absurd results, as we'll see later.

One further characteristic of a measurable goal or objective is that it can be measured as it is written, without having to refer to additional, external information. Whether a student can "count to 10 without error" can be readily determined as it is stated. But "will improve counting skill" cannot be assessed without additional information about the previous counting skill level. It also fails to indicate how much improvement (i.e., to what level), will satisfy the goal. In sum, a measurable goal or objective:

1. Reveals what to do to measure whether the goal or objective has been accomplished;

2. Yields the same conclusion if measured by several people;

3. Allows a calculation of how much progress it represents; and

4. Can be measured without additional information.

These four characteristics describe measurability. In addition, a measurable goal or objective contains (1) an observable learner performance (what the learner will be doing, such as counting, writing, pointing, describing, etc.), (2) any important conditions such as "given software," or "given access to a dictionary," and (3) measurable criteria which specify the level at which the student's performance will be acceptable (e.g., speed, accuracy, frequency, quality).

If a goal or objective contains a given or condition, the given is usually stated first. The learner's performance is stated next, and the desired level of performance or criteria is stated last. Notice that in these four examples, two contain givens and two don't:

1. Given 2nd grade material, Jerry will read orally at 60 wpm with no more than 2 errors.

2. Jeremy will tantrum fewer than 5 minutes per week.

3. Given a 15 minute recess period, Jason will initiate a positive interaction with at least one peer.

4. Jonathan will copy 20 letters per minute legibly.

Before going any further, we suggest you examine these goals and objectives to see if each satisfies our four indicators of measurability and if you can identify the given (if present), the learner performance, and the criterion or level of expected performance. Now we need to look more closely at each element of a measurable goal or objective — the given, the performance and the criterion.

Givens

Goals sometimes require a statement of a given and sometimes don't. Common sense is the guide, as shown in these examples:

A **given** is needed:

Given access to the Internet, the student will locate ten sources of information on topic X. (Without the Internet, it would be a different goal.)

A given is **not** needed:

The student will bounce to a height of one foot, five consecutive times without falling off a trampoline. (The 'given' trampoline is embedded).

A **given** is needed:

Given a calculator, the student will correctly solve ten 3-digit x 2-digit multiplication problems in one minute. (Without the given, it becomes a different, but also completely legitimate task.)

A given is **not** needed:

The student will swim 200 yards in X time without stopping, using two strokes of her choice. (We can assume the presence of water.)

Common sense is the best guide for when a given needs to be stated explicitly. If the goal is that Joe zips his trousers on 10 consecutive trials, we can assume he has trousers that zip. Don't put conditions that aren't needed and never use "instruction"

as a given. It is always an assumed given – if the student could already perform the goal without instruction, it wouldn't be a legitimate or appropriate goal.

Learner's Performance/Behavior

Often, the most problematic element of measurable goals for many of us to acquire or grasp is the **observable**, **visible** or **countable behavior**. Here are some examples of observable, and not observable behaviors:

Observable	Not Observable
matching author to book title	appreciating art
reading orally	enjoying literature
constructing a time line	understanding history
dressing one's self	becoming independent
speaking to adults without vulgarities	respecting authority
pointing, drawing, identifying, writing, etc.	improving, feeling, knowing

Of course, we hope our students will appreciate, enjoy, understand, respect and more. Of that there is no doubt. But for purposes of measurable progress markers, we must ask ourselves what we hope to see, the visible behavior that we'll accept as indicating that our student is appreciating nature, enjoying literature, or being respectful to adults.

Criterion or Level of Performance

The criterion is simply how well the learner must do — the level of performance required — to meet the goal. To say we want Becky "to identify (name) colors" is not sufficient. If she named only red and blue, would that satisfy the goal? Does she need to name puce and mauve?

The criterion is the height to which the performance must rise, or the depth to which it must fall (if digging a 3' deep post hole) to be successful. Frequently used criteria include 4 of 5 trials, 3 consecutive days, once a day, etc. The most abused criterion,

beyond a doubt, is percentage. For example, Benny will "use three anger management skills with 80% accuracy," or Kenny will "maintain appropriate eye contact with 90% accuracy." What good will it do Benny to use three anger management skills partially correctly? How will you measure whether Kenny maintains eye contact with 90% accuracy (what is accuracy when it comes to eye contact)? The history of how this strange use of percentage began appears to be lost, but we now must bury the custom. It makes good sense to say Katy will perform 2 digit by 1 digit multiplication problems with 98% accuracy, or she will correctly spell 95% of the 6th grade spelling words dictated to her. However, the use of percentage needs to be carefully limited to a narrow range of goals. Never again should Don be requested to "improve his behavior with 75% accuracy," nor Annabel be required to "improve her behavior 80% of the time." And most especially, we should not aspire to have Josh "cross the street safely 80% of the time."

Non-Measurable

Just as measurability is so essential that it must be achieved in every useful, legally correct goal or objective, so non-measurability must be diligently avoided. Unfortunately, many IEPs offer abundant examples of non-measurable goals and objectives.

Some examples, all from real IEPs, follow.

"Rebecca will increase her active listening skills."

This goal has no criterion to indicate the level at which Rebecca must perform to reach the goal, nor does it specify the behavior of "active listening." If two or more people wanted to see if Rebecca had accomplished this, they might well disagree with each other. Even if we knew what this goal writer meant by "active listening skills," we could not tell if Rebecca had "improved" without knowing the previous level of her skills. Thousands and thousands of goals use this "student will improve" format. It is not measurable, not acceptable and not useful. To improve this goal, we must ask what the writer meant. What might Rebecca do that would make us think she is "actively listening?" Perhaps "following oral directions" would be an acceptable,

visible learner performance. This **measurable** version is probably closer to what was intended: "Given 5 simple, two-step oral directions such as, 'Fold your paper and hand it in,' Rebecca will correctly complete 4 of the 5 two-step directions."

"Tammy will increase basic and other life skills."

This goal suffers exactly as did Rebecca's, i.e., "increase," like "improve," requires additional information about previous levels of performance. "Basic and other life skills" is even broader and more vague than "active listening skills." This goal, in short, has no visible learner performance and no criterion for performance. Thus it, like Rebecca's, is not measurable, useful nor compliant with IDEA's mandate. What might this goal writer have intended? Literally, hundreds of behaviors could have been meant by "basic and other life skills," ranging from independent toileting or teeth brushing, to dressing, using the Internet, shopping, or budgeting. Any effort to translate Tammy's goal into a measurable one would be a guessing game. This goal writer didn't give us even one helpful clue.

"Kevin will decrease his inappropriate remarks to other children 90% of the time."

"Decrease his inappropriate remarks" is indeed a visible learner performance, but what in the world is "90% of the time?" This is gibberish. Suppose Kevin makes an average of 10 inappropriate remarks daily. Presumably this gibberish writer intended to reduce that by 90 percent, i.e., to have Kevin make no more than one inappropriate remark daily. If so, that is exactly what should have been said: Kevin will make no more than one inappropriate remark to other children daily. If a school day is 5 hours long, 90% of that period of time would be 4.5 hours. Perhaps we are to understand that for 4.5 hours Kevin will be decreasing his inappropriate remarks. This problem of trying to quantify or specify a performance criterion by inserting a "percentage of time" is serious and pervasive. If one is tempted to use that ploy, it is helpful to ask "What period of time am I really talking about?"