

Andrew F. is a landmark Supreme Court decision on the meaning of a free appropriate public education (FAPE). The case involved a boy with autism and ADHD, who made almost no progress on his IEP goals because his behavioral and academic needs weren't addressed.

Use these talking points from *Andrew F.* to advocate for better services and supports in your child's IEP.

1

Talking Point

The services and supports in the IEP must help your child meet grade-level standards.

From the *Andrew F.* Decision:

“For most children, a FAPE will involve integration in the regular classroom and individualized special education calculated to achieve advancement from grade to grade.”

From U.S. Department of Education (ED) Grade-Level Standards Guidance (November 2015):

“IEP goals must be aligned with grade-level content standards for all children with disabilities.”

Explanation:

With *Andrew F.*, the requirements of FAPE are clear. Kids with learning and attention issues who have IEPs should be getting the services they need to perform as well as their general education peers.

2

Talking Point

The IEP must be “reasonably calculated” to help your child make progress (and school staff must truly believe it will do so).

From the *Andrew F.* Decision:

“A school must offer an IEP reasonably calculated to enable a child to make progress.... Crafting an appropriate program of education requires a prospective judgment by school officials.”

From ED FAQs About *Andrew F.* (December 2017):

“If a child is not making expected progress toward his or her annual goals, the IEP Team must revise, as appropriate, the IEP to address the lack of progress.”

Explanation:

The test of whether a child's IEP is appropriate looks to the future. This means the school must believe that the IEP that's in place *now* has a very good chance of helping your child make progress. The IEP must be “reasonably calculated” to do so. If past services and supports haven't been effective, the team needs to consider a change.

3

Talking Point

The IEP must include behavioral services and supports that your child needs in order to learn.

From the *Endrew F. Decision*:

“[The student] exhibited multiple behaviors that inhibited his ability to access learning in the classroom.”

From ED’s Behavioral Supports Guidance (August 2016):

“The failure to consider and provide for needed behavioral supports through the IEP process is likely to result in a child not receiving a meaningful educational benefit or FAPE.”

Explanation:

The boy in the *Endrew F.* case wasn’t making progress because of his behavior issues. For instance, he climbed over furniture and ran away from school.

When a child can’t make progress because of behavior needs, the IEP must have services and supports to address the needs. Otherwise, it’s a denial of FAPE.

4

Talking Point

The school must have a compelling explanation for why the services in the IEP will help your child make progress.

From the *Endrew F. Decision*:

“A reviewing court may fairly expect those [school] authorities to be able to offer a cogent and responsive explanation for their decisions.”

Explanation:

It’s not enough for school staff to believe the IEP will help your child make progress. The school must have a logical and convincing explanation of why it will work. The IEP team must lay out how IEP services will lead to the progress that’s expected.

5

Talking Point

As a parent, you help decide whether the IEP has the input it needs to be appropriate for your child.

From the *Andrew F. Decision*:

“This fact-intensive exercise will be informed not only by the expertise of school officials, but also by the input of the child’s parents or guardians.”

Explanation:

The school must get parent input when determining if the IEP will help your child make progress. But it’s not just passive. You have the right to be involved and give your opinion on whether the IEP is appropriate for your child.

6

Talking Point

The IEP should be “ambitious” about your child’s future and what can be accomplished.

From the *Andrew F. Decision*:

“[The IEP] must be appropriately ambitious in light of his circumstances, just as advancement from grade to grade is appropriately ambitious for most children in the regular classroom.”

From *ED’s Grade-Level Standards Guidance (November 2015)*:

“In a situation where a child is performing significantly below the level of the grade in which the child is enrolled, an IEP Team should determine annual goals that are ambitious but achievable. ... The goals should be sufficiently ambitious to help close the gap.”

Explanation:

IEP goals must help close the gap for kids who are far behind. Achieving at grade level may not happen in a single year, but there should be a plan for catching up over time.

7

Talking Point**Your child must have the chance to meet “challenging” objectives.****From the *Endrew F. Decision*:**

“The goals may differ, but every child should have the chance to meet challenging objectives.”

From ED’s Twice-Exceptional Guidance (December 2013):

“Students who have high cognition, have disabilities and require special education and related services are protected under the IDEA and its implementing regulations.”

Explanation:

IEP goals are set to meet your child’s specific needs. Although those needs differ from student to student, the Supreme Court says each student’s goals need to be challenging.

This may be especially relevant to twice-exceptional kids, who have learning and attention issues and are also gifted. For these kids, FAPE may mean IEP goals that exceed grade level, like an AP class or similar program.

8

Talking Point**It’s not enough for the school to simply go through the motions and check boxes on the IEP.****From the *Endrew F. Decision*:**

“The school district protests that these provisions impose only procedural requirements—a checklist of items the IEP must address—not a substantive standard enforceable in court. But the procedures are there for a reason, and their focus provides insight into what it means, for purposes of the FAPE definition, to ‘meet the unique needs’ of a child with a disability.”

Explanation:

The IEP process isn’t just a set of procedures. The school must treat your child as an individual and meet your child’s unique needs. The school also has to collaborate in a meaningful way with you, the parent.

How can you use the Supreme Court's landmark *Andrew F.* decision to improve your child's IEP? Use this worksheet to identify issues you're concerned about and to find ways to talk about them using *Andrew F.* language.

Your concern: The IEP doesn't seem to have a plan to help your child reach grade level.

1

Talking Point

The services and supports in the IEP must help your child meet grade-level standards.

List the areas where your child is below grade level:

Why do you believe the IEP won't help your child reach grade level in this area?

Suggested script: "I understand that the IEP is supposed to help my child achieve grade-level standards. However, my child is behind in _____, and it doesn't seem like the IEP has a plan to help my child catch up. How can we work as an IEP team to help my child achieve at grade level and advance to the next grade?"

Your concern: The IEP seems to offer the same programs or services that didn't help your child make progress in the past.

2

Talking Point

The IEP must be "reasonably calculated" to help your child make progress (and school staff must truly believe it will do so).

List the areas where your child hasn't made progress:

Have the services or program in each area changed?

Suggested script: "I know that the IEP needs to be 'reasonably calculated' to help my child make progress. Since my child has not made progress in _____, I feel it's time to look at how _____ strategy and/or service has worked. If it's not working well, it may be time to consider other options. Does the team feel we have enough information, or do we need to gather more evaluative data or bring in more expertise to help inform changes?"

Your concern:

The IEP doesn't address your child's behavior issues.

3

Talking Point

The IEP must include behavioral services and supports that your child needs in order to learn.

List the areas where your child's behavior is getting in the way of learning:

What types of services or support do you think may help?

Suggested script: "I know that my child has the right to services and supports to help with behavior. However, the IEP doesn't address _____. When can we talk about including behavioral supports and services to help my child make progress in school?"

Your concern:

The school hasn't offered compelling explanations for its decisions about services or accommodations.

4

Talking Point

The school must have a compelling explanation for why the services in the IEP will help your child make progress.

List decisions the school hasn't fully explained:

What else do you want to know about the decision?

Suggested script: "I know I'm entitled to cogent and responsive explanations of why the school is making certain decisions. But I haven't gotten an answer about _____. Can you provide a fuller explanation of how this decision offers my child a free appropriate public education?"

5

Talking Point

As a parent, you help decide whether the IEP has the input it needs to be appropriate for your child.

List parts of the IEP that need more input from experts:

What experts do you think should be consulted?

Suggested script: "I am aware that my child's IEP must have the expertise and input of the entire IEP team, as well as any other information that helps. When can we sit down and revisit all the information we have on hand, including outside evaluation results and notes from the private tutor?"

6

Talking Point

The IEP should be "ambitious" about your child's future and what can be accomplished.

List where you feel your child's IEP goals aren't ambitious enough:

What goals would you like to see?

Suggested script: "I know that my child's goals should be appropriately ambitious. Even if my child is behind in academics, the IEP goals should aim to help my child catch up. When can we look at present level of performance and put services and supports in place, so we can set goals that allow my child to meet the same standards as his peers?"

7

Talking Point

Your child must have the chance to meet “challenging” objectives.

List the areas where you feel your child isn't being challenged:

What ideas do you have to make the goals more challenging?

Suggested script: “I'm aware that my child's IEP must include goals that align to state academic standards. I also know that the instructional strategies should allow my child to meet challenging goals. Given my child's present level of performance, can you explain how these goals are challenging?”

8

Talking Point

It's not enough for the school to simply go through the motions and check boxes on the IEP.

List ways in which it seemed the school was simply “checking the boxes”:

What would you like to discuss and collaborate with the team on?

Suggested script: “I'm concerned that the IEP team is just going through the motions, and that this IEP isn't designed for my child's unique needs. When can we review the IEP through the lens of my child's specific needs and make sure we're doing more than running through a checklist?”