



Progress Monitoring: Legal Issues and Recommendations for IEP Teams

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Progress monitoring is essential to evaluating the appropriateness of a child's individualized education program (IEP), yet many IEP teams fail to develop or implement progress monitoring plans, improperly delegate such responsibilities, or use inappropriate measurements to determine student progress. Not all IEP teams plan or implement progress monitoring for behavior intervention plans. Those teams that do include progress monitoring often do not meet federal requirements, or their practices do not provide meaningful data. How can we improve IEP progress monitoring for students with disabilities?

Both the Individuals With Disabilities Education Act of 1997 (IDEA) and the 2004 Individuals With Disabilities Education Improvement Act (IDEIA) require that a student's individualized education program (IEP) include:

- A statement of the child's present level of academic achievement and functional performance;
- A statement of measurable annual goals;
- A statement of the special education, related and supplemental services to be provided to the child;

- An explanation of the extent, if any, to which the child will not participate with nondisabled children in the regular class and in the activities;
- A statement of any individual appropriate accommodations that are necessary to measure the academic achievement and functional performance of the child on state and district-wide assessments;
- A statement of dates and duration of services provided;
- Appropriate, measurable post-secondary goals and the transition services to be provided; and
- A statement of how the child's progress toward the annual goals will be measured (20 U.S.C. § 1414(d)(1)(A)).

The progress monitoring provision also requires that the IEP specify how the child's parents will be regularly informed of the child's progress toward the goals, and the extent to which progress is considered sufficient (20 U.S.C. § 1414(d)(1)(A)(i)(III)). Progress monitoring helps IEP teams address any lack of expected progress toward the annual goals of the Code of Federal Regulations (1999) (34 C.F.R. § 300.324(b)(1)) and make decisions concerning the effectiveness of curriculum delivery (Peck & Scarpati, 2005).

Progress monitoring is essential to evaluating the appropriateness of a child's program, yet there is less compliance with this required component of the IEP than any other (Yell, 1998), and current progress monitoring practices often fail to produce vital and meaningful data (Pemberton, 2003).

Legal Decisions

Several administrative and judicial decisions have focused on the absence of adequate progress monitoring. In general, courts have been unwilling to accept school district assertions concerning the appropriateness of a student's program absent proof in the form of data (Zelin, 2000). A review of recent decisions concerning progress monitoring reveals five primary areas of concern regarding progress monitoring:

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- The IEP team fails to develop or implement progress monitoring plans;
- Responsibilities for progress monitoring are improperly delegated;
- The IEP team does not plan or implement progress monitoring for behavior intervention plans (BIPs);
- The team uses inappropriate measures to determine student progress towards graduation; or
- Progress monitoring is not frequent enough to meet the requirements of IDEA or to provide meaningful data to IEP teams.

Lack of Plans for Progress Monitoring

IDEA 1997 clearly required that a student's IEP include a plan for progress monitoring, yet many IEPs have been deemed inadequate—to the extent of denying students with disabilities an appropriate education—because of a lack of such plans or a failure to implement them.

In *Pennsbury School District* (2000), the hearing officer concluded that an IEP lacked “adequate statements regarding how [the student's] progress toward the annual goals will be measured” (102 LRP 10466) and that the IEP was not reasonably calculated to provide educational benefit to the student. The hearing officer in *Escambia County Public School System* (2004) issued a stronger decision, concluding:

The most glaring deficiency was the absence of a notation as to whether [the student] had mastered any of his benchmarks . . . without the dates of mastery of benchmarks indicated on the IEP a parent cannot determine the progress that the child has been making during the school year . . . it is crucial that a parent (or other IEP member) be able to examine the IEP document to see if satisfactory progress is being made toward the attainment of the student's annual goals and if not, whether there is a need for adjustments to his program (42 IDELR 248).

Another state administrative review officer noted that “simple checkmarks indi-

cating progress rather than regression or achievement of [the student's] goals” did not meet the requirements of IDEA, and ordered the IEP team to reconvene and draft an IEP with “objective measures of measuring progress” (*Rio Rancho Public Schools*, 2003, 40 IDELR 140).

IDEA 1997 CLEARLY REQUIRED THAT A STUDENT'S IEP INCLUDE A PLAN FOR PROGRESS MONITORING, YET MANY IEPs HAVE BEEN DEEMED INADEQUATE TO THE EXTENT OF DENYING STUDENTS WITH DISABILITIES AN APPROPRIATE EDUCATION BECAUSE OF A LACK OF SUCH PLANS OR A FAILURE TO IMPLEMENT THEM.

Responsibility for Progress Monitoring

Progress monitoring is the responsibility of the IEP team. At the time an IEP is developed, it must specify and document plans for progress monitoring, including what will be monitored, who will monitor, when and where the monitoring will be conducted, and how the data will be reported.

Although paraprofessionals and aides may assist in data collection for progress monitoring, the IEP team is charged with determining if the child's progress is sufficient. Two administrative decisions from Iowa highlighted the duties of IEP teams concerning progress monitoring. In *Sioux City Community School District v. Western Hills Area Education Agency 12* (2003), the administrative law judge concluded that the school district failed in its responsibility to monitor progress of a seven-year-old child with autism who was fully included in a general education first-grade classroom. Although the paraprofessional was involved in data collection, the special education teacher specified on the IEP to monitor progress did not

regularly observe in the general education classroom and did not monitor or record progress toward goals. The administrative law judge determined that the “confusion of roles and responsibilities of IEP implementation and progress monitoring” may have been an “artifact of insufficient planning” for the child's full inclusion (103 LRP 37969). Similarly, in *Linn-Mar Community School District v. Grant Wood Area Education Agency 10* (2004), a 19-year-old student with autism was placed with an associate who was responsible for instruction, behavior management, and data collection. Yet the IEP team failed to document his progress, although the parents provided extensive documentation of the student's behavior deterioration and the inadequacy of his special education program. The administrative law judge (ALJ) concluded that

The progress monitoring data presented by the school district is vague for certain IEP components and nonexistent for others. Few meaningful data are available to help the IEP team review progress or confidentially convince this ALJ that the programs offered to [the student] were calculated to provide meaningful benefit (41 IDELR 24).

The parents were awarded 3 years of compensatory education.

AT THE TIME AN IEP IS DEVELOPED, IT MUST SPECIFY AND DOCUMENT PLANS FOR PROGRESS MONITORING, INCLUDING WHAT WILL BE MONITORED, WHO WILL MONITOR, WHEN AND WHERE THE MONITORING WILL BE CONDUCTED, AND HOW THE DATA WILL BE REPORTED.



Behavior Intervention Plans

Both IDEA 1997 and the IDEA of 2004 require IEP teams to consider factors including “in the case of a child whose behavior impedes his or her learning or that of others, consider, when appropriate, strategies, including positive behavioral interventions, strategies, and supports to address that behavior” (20 U.S.C. § 1414(d)(3)(B)(i)). The intent of the provision is to develop proactive, preventive approaches to behavior problems rather than reactive or punitive responses such as time-out or suspension (Bartlett, Weisenstein, & Etscheidt, 2002).

Although neither IDEA nor federal regulations specified the components of a behavioral intervention plan (BIP), the administrative law judge in *Mason City Community School District v. Northern Trails Area Education Agency 2* (2001) concluded that a BIP must be based on assessment data, be individualized to meet the child’s unique needs, include positive behavioral support strategies, be implemented as planned, and be monitored to determine the effect of the planned interventions. Another administrative law judge determined that the lack of specificity and progress monitoring for a BIP for a young child with Asperger’s syndrome rendered the IEP inappropriate (*West Des Moines Community School District v. Heartland Area Education Agency*, 2002). The IEP team must “assess what is or is not working for [the student] whom everyone has agreed is dealing with significant behavioral challenges” (36 IDELR 222).

Progress Toward Graduation

Case law has clarified that in order to graduate a student with a disability under IDEA, the student must meet a district’s general graduation policies and achieve sufficient progress toward IEP goals and objectives (*Kevin T. v. Elmhurst Community School District No. 205*, 2001).

In *Black River Falls School District* (2004), a hearing officer concluded that although the student met general graduation requirements, he failed to make progress on IEP goals and objectives. No objective criteria were used to determine progress, and the district failed to make a determination about the sufficiency of progress and the student’s readiness to graduate.

Frequency of Reporting Progress

IDEA requires that the IEP must include a statement of how the child’s parents will be regularly informed of both progress toward goals and the extent to which that progress is sufficient (20 U.S.C. § 1414(d)(1)(A)(viii)). Teams must also report progress “at least as often as parents are informed of their nondisabled child’s progress” (20 U.S.C. § 1414(d)(1)(A)(viii)(II)).

Two decisions found that the frequency of progress monitoring was inconsistent with IDEA’s requirements, or was not frequent enough to provide the IEP team with meaningful data. In *Alta Loma Elementary School* (2002), a school district failed to report a student’s progress toward IEP goals three times during the year, the frequency that parents of nondisabled children were informed. Although this did not result in denial of an appropriate program, the student’s parents argued that without such information, they were not able to participate fully in the development of their child’s IEP. The 19-year-old student with a progressive muscular disorder in *Del Norte County Unified School District* (2000) required frequent data collection and quarterly assessments of his communication skills. The hearing officer concluded that frequent assessment of communication progress would provide the IEP team “with the accurate assessment data needed to make any changes necessary in [the stu-

dent’s] communication devices and/or communication goals and objectives” (33 IDELR 50).

Improving Progress Monitoring for Students With Disabilities

Develop Plans for Progress Monitoring That Include Multiple Measures

The IEP team must select an appropriate progress monitoring approach for each student goal or objective. Simple checkmarks or arrows as progress indicators are insufficient. If checkmark summaries are used, they must be based on data collected and accessible to the IEP team, and should include direct measures, indirect measures, and authentic measures of progress.

Direct measures may include behavior observation or curriculum-based assessment (CBA). Behavior observation is a valid index of student performance and assists in progress monitoring; techniques include frequency recording, duration recording, interval recording, and time sampling (Maag, 2004). CBA is an evaluation of a student’s performance in the specific curriculum employed by the school. The method involves direct observation of performance and repeated recordings of student response (Hargrove, Church, Yssel, & Koch, 2002). Criterion-referenced tests (CRT) and curriculum-based measurement (CBM) are two types of CBA measures. CRTs are teacher-constructed tests to assess student performance in a hierarchy of skills from the curriculum (Jones, 2001). A CBM is a set of standard, simple, short-duration fluency measures of reading, spelling, written expression, and mathematics to assess key indicators of student achievement (Shinn & Shinn, 2001). Direct measures provide valid and reliable indications of student progress.

Student progress may also be monitored with *indirect measures* to supplement the direct, objective methods. Indirect measures include rubrics, goal attainment scaling, or student self-monitoring. Rubrics are useful measures of student performance for a variety of goals and objectives. A rubric describes performance competencies on a Likert-

type scale with both qualitative and quantitative descriptions. For example, a rubric for a writing goal may include a performance description ranging from “fresh and vigorous” to “nonspecific and immature” in evaluating word choice or from “clear descriptions and explanations” to “completely lacking” in evaluating story development (Schirmer & Bailey, 2000, p. 54). Variations of rubric-based measures include T-charts (Stanford & Reeves, 2005), spelling rubrics (Loeffler, 2005), and mnemonic rubrics (Jackson & Larkin, 2002). Goal attainment scaling (GAS) is similar to a rubric approach; it involves rating student responses on a 5-point scale of best-to-worst outcomes. For example, the scale for a student goal of accuracy may include a range from totally correct to totally incorrect, and the scale for a goal concerning compliance to teacher directions may range from never to always. GAS provides a “time efficient and user-friendly” account of student progress (Roach & Elliott, 2005, p. 15). Teachers may use GAS daily as a repeated measure of student progress, or students might use the scale as a self-monitoring measure.

Student self-monitoring is another index of progress. Students can be cued to monitor behavior and to record the occurrence or nonoccurrence of the behavior. Self-monitoring has been used extensively in school settings (Wheeler & Richey, 2005), but is rarely considered as a source of progress monitoring data for IEPs.

Progress monitoring may also be enhanced by including *authentic measures of performance*. Informal conferences with students help teachers assess student performance (Alexandrin, 2003). Teachers may summarize the conversations in anecdotal notes included in a student’s IEP file. Portfolio approaches to progress monitoring might also be considered; student work samples may provide important indicators of progress toward IEP goals. Students should be involved in the construction and evaluation of their portfolio work (Kleinert, Green, Hurte, Clayton, & Oetinger, 2002). Assistive technology can be used to help construct portfolios for students with severe

disabilities (Denham & Lahm, 2001). Similarly, videotaping can effectively supplement other measures, and may be shared with parents to show a child’s level of performance and improve parental awareness of the child’s progress (Hundt, 2002).

Specify the Who, Where and When of Progress Monitoring

After identifying the IEP goals and settling on progress measures, the IEP team must specify how the progress monitoring plan will be implemented. This includes identifying the individuals responsible for data collection, along with the location, dates, and time of data collection. Although paraprofessionals and aides may assist in data collection, the IEP team is responsible for decisions concerning the adequacy of student progress. Certain members of the IEP team may be responsible for direct measures such as behavior observation (e.g., a school psychologist), and teachers, parents, or students may collect indirect measures. Members of the IEP team who are responsible for implementing IEP goals should also be responsible for monitoring progress toward those goals. The team should also establish frequency of data collection, to provide sufficient data for evaluating the student’s progress.

THE IEP TEAM MUST SPECIFY HOW THE PROGRESS MONITORING PLAN WILL BE IMPLEMENTED, IDENTIFYING THE INDIVIDUALS RESPONSIBLE FOR DATA COLLECTION, ALONG WITH THE LOCATION, DATES, AND TIME OF DATA COLLECTION.

Monitor Both Academic and Behavioral Goals

Often academic goals for students with disabilities are specified in the IEP document, and behavioral goals are included in a BIP. Plans for evaluating BIP effectiveness should include both direct and indirect measures (Wheeler &

Improving Progress Monitoring

- Develop plans for progress monitoring that include multiple measures.
- Specify the who, where, and when of progress monitoring.
- Monitor both academic and behavioral goals.

Richey, 2005). As with academic goals, the BIP should clearly specify the “who, where, and when” for progress monitoring.

MEMBERS OF THE IEP TEAM WHO ARE RESPONSIBLE FOR IMPLEMENTING IEP GOALS SHOULD ALSO BE RESPONSIBLE FOR MONITORING PROGRESS TOWARD THOSE GOALS.

IEP teams must also recognize graduation as an academic goal, and plan to collect data supporting a student’s readiness for graduation. Importantly, IDEA requires that appropriate, measurable postsecondary goals be developed for students with disabilities (20 U.S.C. § 1414(d)(1)(A)(i)(VIII)). Progress monitoring of postsecondary goals helps to ensure that transition plans and services are appropriate and that students with disabilities are “prepared to lead productive and independent adult lives” (20 U.S.C. § 1404(c)(5)(A)(ii)).

Final Thoughts

The 2004 reauthorization of IDEA ensured that progress monitoring remain a required component of an IEP; other provisions mandated greater accountability for student progress. The President’s Commission on Excellence in Special Education highlighted the importance of adequate progress moni-

toring in several findings. One recommendation was to increase a focus on results: "IDEA will only fulfill its intended purpose if it raises its expectations for students and becomes results-oriented . . . judged by the opportunities it provides and the outcomes achieved by each child" (President's Commission on Excellence in Special Education, 2002, p. 8).

Progress monitoring is a vital component of an IEP and essential to evaluating the appropriateness of a child's program. By improving progress monitoring, IEP teams will ensure that the educational programs developed for students with disabilities will be meaningful and beneficial.

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