The Legal Implications of Data, Measurable Goals and Progress Reports…Oh My!

**Legal Requirements:**

Data:

Data is required as part of the eligibility consideration process in determining if a student is a student with a specific learning disability – to ensure that underachievement is not due to lack of appropriate instruction in math or reading, Teams must consider:

* Data that demonstrate that prior to, or as part of, the referral process, the child was provided appropriate instruction in regular education settings, delivered by qualified personnel; and
* Data based documentation of repeated assessments of achievement at reasonable intervals, reflecting formal assessment of student progress during instruction, which was provided to the child’s parents. 34 C.F.R. § 300.309(b).

Very specific data collection set out in the State Board Rule on Specific Learning Disability, 160-4-7-.05(i)

Goals and Objectives:

The IDEA requires that every IEP include a statement of measurable annual goals, including academic and functional goals, designed to:

* Meet the child's needs that result from the child's disability to enable the child to be involved in and make progress in the general education curriculum; and meet each of the child's other educational needs that result from the child's disability.
* For children with disabilities who take alternate assessments aligned to alternate achievement standards, a description of benchmarks or short-term objectives.
1. C[.F.R. § 300.320](http://www.specialedconnection.com/LrpSecStoryTool/servlet/GetReg?cite=34+CFR+300.320) (a)(2).

Progress Reporting:

The IDEA requires that every IEP include 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 will be provided (such as through the use of quarterly or other periodic reports, which may be provided concurrent with the issuance of report cards).

 34 C.F.R. § 300.320 (a)(3)

**Case Law:**

While Districts do not have to provide specific methodologies, if a student is not exhibiting progress, then methodologies should be abandoned or changed in order to enable a student to make progress on his goals. *Draper v. Atlanta Indep. Sch. Sys*., 518 F.3d 1275 (11th Cir. 2008)(where District declined to change reading methodology despite student’s failure to progress past a third grade reading level over a number of years).

Because the evaluation of a student's progress is so closely tied to the student's IEP goals, the district must ensure that the goals included in each student's IEP are clear and objectively measurable. *Kuszewski v. Chippewa Valley Schs.*, 131 F. Supp. 2d 926 (E.D. Mich. 2001), *aff'd*, 56 F. App'x 655 (6th Cir. 2003, *unpublished*) (holding that measurable goals must have "sufficiently objective criteria" for measuring progress).

The IDEA does not establish a specific number of goals that must be included in an IEP, as that would contradict the premise that every IEP should be individualized. However, there should be at least one annual goal for each area of need. *See Bellflower Unified Sch. Dist.*, [54 IDELR 66](http://www.specialedconnection.com/LrpSecStoryTool/servlet/GetCase?cite=54+IDELR+66) (SEA CA 2010) (finding that a 5-year-old boy's IEP was deficient because it did not contain goals to address his lack of attention in the classroom, his lying down in class, or his inability to participate in classroom activities)

**Sample Goals and Objectives – What Not to Do:**

1.1 Beth will improve her math computation skills to a more appropriate grade level to 70% as measured by work samples.

1.2 Reagan will demonstrate appropriate behaviors throughout the school environment 3 out of 5 days as measured by data collection.

1.3 Beth will satisfy the requirements and complete all of the CC-GPS standards for 8th grade science with no less than a passing grade as measured by data collection, classroom assignments, quizzes and tests.

1.4 Reagan will refrain from touching others inappropriately 50% of the time as measured by data collection.

**Practical Guidance:**

Virtually all goals should include some sort of measure by data collection, even if it also includes another measure

The student’s baseline should either be incorporated in the goal or drive the goal in some way

Goals should be measured at a fairly high percentage or else you need to re-assess the goal

You should not have goals that simply re-state the Common Core-Georgia Performance Standards (CC-GPS)or state that a student will make a certain grade in a class – that is what the CC-GPS and grades already exist for

In order to show the District is providing FAPE, data showing progress on IEP goals is key

Ensure data is collected with fidelity – both in terms of how it is written and maintained and the definition of the terms being utilized (for example – if you have two individuals collecting data on “aggression” are they defining the same way?)