

SECTION 7

Educational Benefit

EDUCATIONAL BENEFIT

Introduction:

The case of Rowley v. Hendrick Hudson School District was the U.S. Supreme Court's first interpretation of what was then called the Education for All Handicapped Children Act (now the Individuals with Disabilities Education Act, "IDEA"). This important decision is required reading for anyone working in special education. The holdings in the Rowley case have become the standard of analysis for every subsequent special education case arising in the Federal and State courts. Consequently, a working knowledge of the fundamental analysis developed by the Supreme Court justices is important when evaluating any special education matter. The Board of Education v. Rowley 1982, was decisive in our understanding today of the term **educational benefit**. Ultimately after lower court decisions and appeals, the U.S. Supreme Court concluded that the IDEA does not require that States maximize the potential of students with disabilities. The intent of IDEA was more to open the door of public education to handicapped children rather than to guarantee any particular level of education once inside.

FAPE and LRE become our guideposts decided and analyzed individually to ensure the child is receiving a basic floor of opportunity and **"educational benefit."**

Free Appropriate Public Education (FAPE) means special education and related services that:

- are provided at public expense
- meet the standards of the State
- include pre-school, elementary or secondary school and education through 22nd birthday
- is provided in conformity with the IEP

FAPE Standard

The Supreme Court established two criteria in determining FAPE

- have the procedures been adequately complied with (compliance) and
- is the IEP reasonably calculated to enable the child to receive **educational benefit**

Core Entitlements for Children with Disabilities

- a right to FAPE
- in the Least Restrictive Environment (LRE)
- as described in the IEP designed to provide **"educational benefit"**

Importance of Educational Benefit

Implicit in the congressional purpose of providing access to a "free appropriate public education" is the requirement that the education to which access is provided be sufficient to confer some educational benefit upon the disabled child. It would do little good for Congress to spend millions of dollars in providing access to a public education only to have the disabled child receive no benefit from education.

Rowley Standard

Special educators should take special notice of the Rowley case, as it is still good law and it acts as the blueprint for all cases to follow. **The two Rowley questions emphasizing procedural compliance and the benefits of the IEP should be committed to memory.** Finally, the focus of the decision on what is "appropriate" for special education students should be given special emphasis, especially in light of the social emphasis on "inclusion" in recent years.

IDEA (Individuals with Disabilities Education Improvement Act) of 2004 gave us further conceptual refinements:

- high expectations for all children
- ensuring access to the general education curriculum and standards in the general classroom, to the maximum extent possible
- preparing children with disabilities to lead productive and independent adult lives
- providing effective transition services to promote successful post-school employment or education.

So, while we know and understand the above concepts, it is critical that we analyze what we are doing over time for individual children to truly measure educational benefit. It is not just a snapshot at the time of a single IEP meeting. In a nutshell, analyze what did assessments/present levels say about needs, what goals, supports & services were agreed to in response to identified needs, was the IEP implemented and did the student make progress or gain educational benefit. True analysis looks back through years or the span of time between triennials.

EDUCATIONAL BENEFIT ANALYSIS

In preparation for an annual IEP meeting

Review the following points related to the previous IEP. **Use the worksheet provided in this section of the handbook.**

- 1) What did assessments and present levels identify as areas of need?
- 2) What did the IEP team decide was appropriate in relation to each need?
 - English Learner?
 - Disproportionality?
 - Goals?
 - Services?
 - Accommodations/Modifications?
 - Special factors (AT, Behavior Support, Low Incidence needs)?
 - Other?
- 3) Was the IEP implemented appropriately? (were all supports as services provided as written)?
- 4) Did the child make adequate progress? Did they receive **educational benefit** from the plan?
- 5) If not, what adjustments need to be made to the IEP contents to respond to lack of educational benefit? Additional assessment? Adjusted goals? Different services or level of services? Change in location where services are being delivered? (See “Educational Benefit Review Process” chart)

The Educational Benefit Review process is directed toward answering the following questions (see SESR worksheets VR & 2a):

1. Is the Assessment complete and does it identify the student’s needs?
2. Does the present level of performance include all of the needs identified in the assessment including behavioral, English learner?
3. Are all of the student’s educational needs addressed by appropriate goals and objectives?
4. Do the services support the goals and objectives including English learners, where appropriate?
5. Did the student make yearly progress inclusive of grades and standardized test scores?

6. If the student did not make progress, were the goals and objectives changed in the next IEP to assist the student to make progress?
7. If the student did not make progress, were the services changed in the next IEP to assist the student to make progress?
8. Were sufficient services provided to ensure that the student would make progress?
9. **To assess for overall compliance:** Considering the answers to each of the above, was the IEP reasonably calculated to result in educational benefit?

Reasonable Calculation of Educational Benefit

1. The IEP Team identified needs related to:
 - a. The student's ability; and
 - b. Involvement and progress in the general curriculum.
2. Goals and objectives were established in each need area.
3. Services were planned to support:
 - a. Progress toward goals;
 - b. Progress in the general curriculum;
 - c. Participation in extracurricular and other nonacademic activities; and
 - d. Education with other disabled and non-disabled students
4. The IEP Team reviewed the student's progress and adjusted the student's IEP if progress was not made and/or to address anticipated needs.

The question of how to deal with students who are not capable of obtaining passing grades under any circumstances is not clearly answered by the Supreme Court in Rowley. However, the footnotes make reference to the required full continuum of alternative settings and the need for some students to be placed in settings other than the mainstream. It is clear, especially in light of decisional case law subsequent to Rowley, that when a child is placed in a more restrictive setting, the decision must be driven by the unique needs of the student and not by administrative convenience or other factors.

Educational Benefit Analysis Over Time

We should be preparing for every annual review with this analysis. When done over a period of years, you have a comprehensive analysis and rationale for the IEP team recommendations over time. Assuming the IEP is implemented fully and in compliance, you then have a long term record of the success of a carefully planned and implemented special education program for the student. This process provides proof positive of individual educational benefit.

When San Joaquin SELPA districts participate in the state required Special Education Self Review (SESR) conducted periodically, a three year analysis or look back doing this educational benefit analysis is part of the review for several student records. Additionally when individual districts are selected for State required Verification Reviews which includes CDE participation, the same educational benefit analysis is conducted on student files by CDE.

In Summary

Our programming for students should be analytical, thoughtful and consistently designed based on individual assessed needs and the growth made from one IEP to the next. When you read an IEP you should be able to track threads through the document. Assessment report data should be visible in present levels. Needs should be visible in present levels. Services/supports and goals should be chosen and designed in response to specific, identified needs, and measurable growth should result. The result of this process over time is **EDUCATIONAL BENEFIT.**

Student's Name:

Site:

District:

Educational Benefit Review

Student Summary Worksheet

VR
Worksheet

Year 1 Assessment Area	Present Performance (Y/N)	Identified Need (Y/N)	Goals & Objectives (Y/N)	Placement & Services (Y/N)	Progress (Y/N)
Gross motor					
Fine Motor					
Communication					
Self Help					
Academic					
Social Emotional					
Behavior					
Vocational					
Other:					
Other:					
Other:					
Year 2 Assessment Area	Present Performance (Y/N)	Identified Need (Y/N)	Goals & Objectives (Y/N)	Placement & Services (Y/N)	Progress (Y/N)
Gross motor					
Fine Motor					
Communication					
Self Help					
Academic					
Social Emotional					
Behavior					
Vocational					
Other:					
Other:					
Other:					
Year 3 Assessment Area	Present Performance (Y/N)	Identified Need (Y/N)	Goals & Objectives (Y/N)	Placement & Services (Y/N)	Progress (Y/N)
Gross motor					
Fine Motor					
Communication					
Self Help					
Academic					
Social Emotional					
Behavior					
Vocational					
Other:					
Other:					
Other:					

Please make any additional notes/comments on the back of this sheet.

1. Is the assessment complete and does it identify the student's needs?
 Yes No
 Explain:

2. Does the Present Performance identify all the needs identified in the assessment?
 Yes No
 Explain:

3. Are all of the student's needs addressed by appropriate goals and objectives?
 Yes No
 Explain:

4. Do the services support the goals and objectives?
 Yes No
 Explain:

5. Did the student make yearly progress?
 Yes No
 Explain:

6. If the student did not make progress, were the goals and objectives changed in the IEP to assist the student to make progress?
 Yes No
 Explain:

7. If the student did not make progress, were the services changed in the IEP to assist the student to make progress?
 Yes No
 Explain:

8. If the student did not make progress, were sufficient services provided to ensure that the student would make progress?
 Yes No
 Explain:

9. To assess for overall compliance: Considering the answers to each of the above, was the IEP reasonably calculated to result in educational benefit?
 Yes No
 Explain:

Student's Name:

Site:

District:

Educational Benefit Review

Student Summary Worksheet

SESR
Worksheet 2a

Year 1 Assessment Area	Present Performance (Y/N)	Identified Need (Y/N)	Goals & Objectives (Y/N)	Placement & Services (Y/N)	Progress (Y/N)
Gross motor					
Fine Motor					
Communication					
Self Help					
Academic					
Social Emotional					
Behavior					
Vocational					
Other:					
Other:					
Other:					
Year 2 Assessment Area	Present Performance (Y/N)	Identified Need (Y/N)	Goals & Objectives (Y/N)	Placement & Services (Y/N)	Progress (Y/N)
Gross motor					
Fine Motor					
Communication					
Self Help					
Academic					
Social Emotional					
Behavior					
Vocational					
Other:					
Other:					
Other:					
Year 3 Assessment Area	Present Performance (Y/N)	Identified Need (Y/N)	Goals & Objectives (Y/N)	Placement & Services (Y/N)	Progress (Y/N)
Gross motor					
Fine Motor					
Communication					
Self Help					
Academic					
Social Emotional					
Behavior					
Vocational					
Other:					
Other:					
Other:					

1. Is the assessment complete and does it identify the student's needs?

Yes No

Explain:

2. Does the Present Performance identify all the needs identified in the assessment?

Yes No

Explain:

3. Are all of the student's educational needs addressed by appropriate goals and benchmarks for CAPA students?

Yes No

Explain:

4. Do the services support the goals and benchmarks for CAPA students?

Yes No

Explain:

5. Were the goals, and benchmarks for CAPA students, changed in the IEP to assist the student to make progress?

Yes No

Explain:

6. Were the services changed in the IEP to assist the student to make progress?

Yes No

Explain:

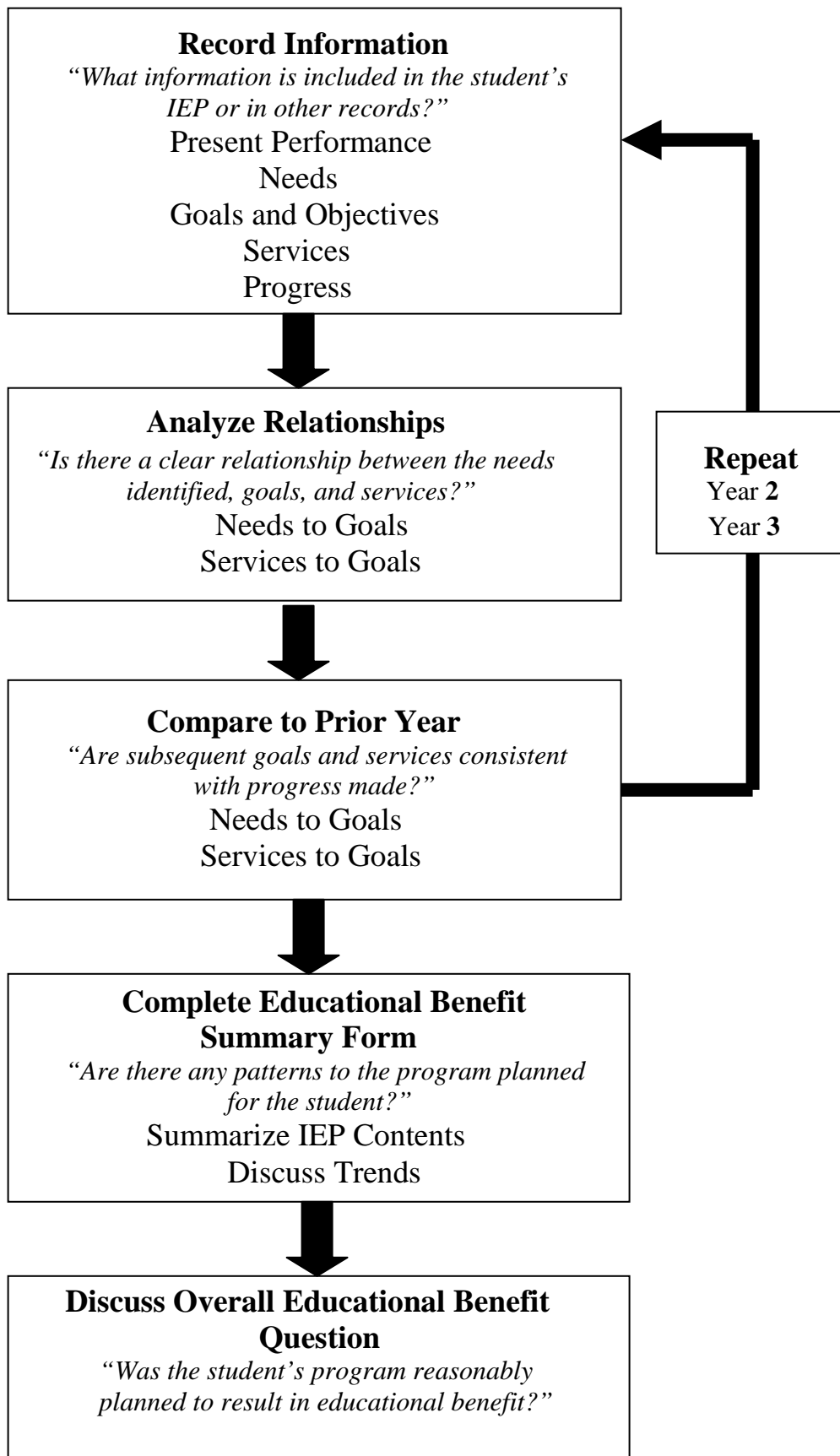
7. To assess for overall compliance: Considering the answers to each of the above, was the IEP reasonably calculated to result in educational benefit?

Yes No

Explain:

Please make any additional notes/comments on the back of this sheet.

EDUCATIONAL BENEFIT REVIEW PROCESS



Educational Benefit Review Process

Years one, two, and three

Step I Present Performance	Step II Areas of Need	Step III Goals and Objectives	Step IV Services	Step V A. Progress
<p>1. Record the student's present level of performance and strengths in the IEP.</p> <p>2. Does the assessment report include any other information that was not included in the IEP or is not consistent with what is found in the IEP?</p>	<p>1. List the needs that were identified. (Go through each of the areas in the IEP).</p> <p>2. Determine if the identified needs are based on the student's disability?</p> <p>3. Which of these needs were identified to ensure that the student is involved in and progresses in the general curriculum?</p>	<p>1. List the goals and objectives as identified on the IEP</p> <p>2. What goals and objectives, as recorded in the IEP, are associated with the student's identified needs?</p>	<p>1. Identify the services that have been designed for this student.</p> <p>2. What goal area(s) does each service support?</p>	<p>1. Determine what progress the student has made for each goal written in the student's IEP.</p>
<p>Step VI Analyze relationship to goals</p>			<p>Step VII Analyze relationship of services to goals</p>	
<p>1. What are the student's needs that resulted in goals and objectives?</p> <p>2. Are there student needs that were identified for which there are no goals and objectives?</p> <p>3. Are there any comments, notes or statements in the IEP why some needs were chosen and others were not?</p>			<p>1. What services were planned to support the IEP's goals?</p>	

After Year One: Compare Current and Prior Years

<p align="center">Step VIII</p> <p>B. Analyze relationship of progress in Prior Year to Present Performance in Current Year.</p>	<p align="center">Step IX</p> <p>C. Determine if Present Performance in Current Year is more advanced than in Prior Year.</p>		<p align="center">Step X</p> <p>D. Determine if goals in Current Year were more complex than, less complex than, or the same as in Prior Year.</p>		<p align="center">Step XI</p> <p>E. Determine if the services in Current Year were adjusted and if they were consistent with supporting the student to make progress.</p>
<p>1. Compare the student's progress as identified in the prior year with the summary of the student's present levels of performance in the current year.</p> <p>2. Are they consistent?</p>	<p>1. Determine if the student's performance in the current year is more advanced than in the prior year.</p> <p>2. If the student is more advanced or there is an increase in skill complexity in the current year: Enter a plus.</p> <p>3. If the student is less advanced or there is a decrease in skill complexity in the current year: Enter a minus.</p> <p>4. If the student's performance remains the same as the prior year: Enter a zero</p>	<p align="center">+</p> <p align="center">-</p> <p align="center">0</p>	<p>1. Compare the goals in the current year with goals in the prior year.</p> <p>2. If the goals are more complex in the current year: Enter a plus.</p> <p>3. If the goals are less complex in the current year: Enter a minus.</p> <p>4. If the goals are the same as the prior year: Enter a zero.</p>	<p align="center">+</p> <p align="center">-</p> <p align="center">0</p>	<p>1. Compare the services identified in the current year with the services identified in the prior year.</p> <p>2. If the services have increased in the current year: Enter a plus.</p> <p>3. If the services have decreased in the current year: Enter a minus.</p> <p>4. If the services have stayed the same as the prior year: Enter a zero.</p>