



Legal Requirements on Grading, Report Cards, and Class Ranking for IDEA Students

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Presented by

Jose Martin, Attorney

Richards Lindsay & Martin, L.L.P.

Austin, Texas

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Report Cards and Grading

- **34 C.F.R. §300.320(a)(3)**—IEP Contents

A description of:

- (i) how the child’s progress toward meeting the annual goals will be measured; and
- (ii) When periodic reports on progress toward the goals will be provided.



Report Cards and Grading

- **34 C.F.R. §300.320(a)(3)**—IEP Contents

Clarification on reports—“quarterly or other periodic reports, concurrent with the issuance of report cards”

Report cards are not required by IDEA, they are only listed as an example of periodic reports (see commentary on 71 Fed.Reg. 46,664 (Aug 14, 2006))

Report Cards and Grading

- **34 C.F.R. §300.320(a)(3)**—IEP Contents

“The specific times that progress reports are provided to parents and the specific manner and format in which a child’s progress toward meeting the annual goals is reported is best left to State and local officials to determine.” 71 Fed.Reg. 46,664

Report Cards and Grading

- **34 C.F.R. §300.320(a)(3)**—IEP Contents

“These periodic progress reports may be separate from, or included as part of, the regular report cards of students with disabilities with an IEP.” In re: Report Cards and Transcripts for Students with Disabilities, 51 IDELR 50 (OCR 2008).

Report Cards and Grading

- **34 C.F.R. §300.320(a)(3)**—IEP Contents

Thus, IDEA requires that each IEP indicate **how** progress will be measured, and **how frequently** periodic progress reports will be provided to parents

Key—The focus of measurement and reports of progress is the **IEP goals** (and whether progress is sufficient)

• **Additional Clarification**

Progress reports for students with disabilities must be at least as informative as report cards for nondisabled students *Shendehowa Cent. (NY) Sch. Dist.*, 114 LRP 23576 (OCR 2014)

From a §504 standpoint, OCR has ruled that progress reports for students with disabilities should be at least as frequent as report cards for nondisabled students. *Saddleback (CA) USD*, 17 IDELR 251 (OCR 1990).

• **Additional Clarification**

Can progress reports identify sp ed services or otherwise indicate the student has a disability? Yes, because these reports are provided to parents.

But, the reports cannot only indicate an IEP or sp ed services; it must “meaningfully explain” the student’s progress.” *In re: Report Cards and Transcripts for Students with Disabilities*, 51 IDELR 50 (OCR 2008).

Can progress reports distinguish sp ed curriculum classes and regular classes? Yes, “in order to properly reflect the progress of a student with a disability...” and meaningfully explain progress.

And, schools can use an asterisk or other symbols to show the difference between modified curriculum and regular curriculum classes. *In re: Report Cards and Transcripts for Students with Disabilities*, 51 IDELR 50 (OCR 2008).



Can progress reports indicate the implementation of accommodation in regular curriculum classes? Yes, even if they do not affect curriculum or content. *In re: Report Cards and Transcripts for Students with Disabilities*, 51 IDELR 50 (OCR 2008).

Practice Idea—It is advisable that notations provide *accurate* information, distinguishing between mere accommodations in regular classes and true modified curriculum classes.



Can progress reports refer to another document that more fully describes the student’s progress? Yes, that would be allowable under both IDEA and §504. *In re: Report Cards and Transcripts for Students with Disabilities*, 51 IDELR 50 (OCR 2008).

Practice Idea—If schools do this, the document referred to must “meaningfully explain” the student’s progress.



What standards should be used to report progress?

In regular curriculum classes, generally the LEA would use regular grade level standards, as with nondisabled students.

A different grading scheme should not be used in regular classes unless the curriculum is modified or IEP team or 504 committee adopts an alternate grading scheme. *Centerville (OH) City Sch. Dist.*, 40 IDELR 20 (OCR 2003).

What standards should be used to report progress?

In **modified** curriculum classes, “it would be up to the SEA and/or LEA to determine the standards to be used to measure the student’s progress or level of achievement.” *In re: Report Cards and Transcripts*, 51 IDELR 50 (OCR 2008).

And, parents should be notified of standards...

What standards should be used to report progress?

IEP team, however, can adopt a different grading system for a student in response to his unique needs. *North Hunterdon/Vorhees Reg’l (NJ) High Sch. Dist.*, 25 IDELR 165 (OCR 1996).

Only IEP team, not individual teacher, had authority to adopt alternate grading system. *Ann Arbor (MI) Pub. Sch. Dist.*, 30 IDELR 405 (OCR 1998).

What standards should be used to report progress?

Schools should not lower or modify a grade in a regular class simply on the basis of IDEA eligibility. *Eastmont (WA) Sch. Dist. No. 206*, 114 LRP 42762 (OCR 2014); *Letter to Runkel*, 25 IDELR 387 (OCR 1996).

Thus, inappropriate to reduce grades just because of accommodations. *Torrance (CA) USD*, 24 IDELR 391 (OCR 1995); *Centerville (OH) City*, 40 IDELR 20 (OCR 2003).



What standards should be used to report progress?

In *Eastmont (WA) Sch. Dist. No. 206*, 114 LRP 42762 (OCR 2014), the student's PE teacher refused to give full credit for alternative assignments done with accommodations required under her IEP. OCR ordered the grade to be recalculated.



What standards should be used to report progress?

Likewise, inappropriate to have a district-wide policy on grading of students with disabilities, as the matter may involve individualized IEP team decisions. *Ann Arbor (MI) Pub. Sch. Dist.*, 30 IDELR 405 (OCR 1998).



What if the student's IEP calls for participation in a regular class for socialization purposes only?

Then regular grading would not apply, and the student would be graded solely on criteria set forth in the IEP. *Letter to Runkel*, 25 IDELR 387 (OCR 1996).

Can a regular teacher and a sp ed teacher collaborate to grade the student's performance, as in an inclusion model?

“A collaborative grading effort between two or more educators is entirely appropriate in such circumstances. Again, this should be discussed in the IEP” *Letter to Runkel*, 25 IDELR 387 (OCR 1996).

• Guidance on Report Cards and Grading

Generally, regular grading on regular curriculum classes (unless IEP team decides differently)

On modified curriculum courses, focus on degree of progress toward IEP goals (although numerical grades are OK in addition to IEP goal progress report)

Indicate whether progress in the reporting period is sufficient to master goal by end of year

• Guidance on Report Cards and Grading

Report cards can note modified curriculum classes

Report cards can note accommodations in regular classes

Cannot categorically reduce or modify grades based on disability status or receipt of accommodations

• **Guidance on Report Cards**

Additional important Questions—

Can sp ed teachers show objective documentation supporting how they periodically measured the child's progress on IEP goals? Can they show how lesson plans link to the annual goals? This can prove critical in litigation and SEA complaints.

• **Guidance on Report Cards**

Best Practice for Modified Sp Ed Classes—Teachers should include short-term objectives or benchmarks in IEP and assess progress on each objective/benchmark in writing each grading period.

Tip—It helps if objectives are written to be observable and objectively measureable by trials.

Class Ranking, Honors, Awards

• **Issue—How to integrate students with disabilities into class ranking, honors, and academic awards in a fair and rational manner?**

Fairness issues for students with disabilities, and for nondisabled students that take rigorous high-level courses.

But, recognition of excellence in performance of students with disabilities.

Class Ranking, Honors, Awards

- **Letter to Runkel, 25 IDELR 387 (OCR 1996)—Key guidance**

Grades earned for students with disabilities cannot be categorically excluded or disregarded for class ranking purposes

No *arbitrary* discounting or exclusion.

Class Ranking, Honors, Awards

- **Letter to Runkel, 25 IDELR 387 (OCR 1996)—Key guidance**

Grades of students with disabilities can't be excluded or discounted simply because student receives sp ed support

See, e.g., *Gallia Co. (OH) Local Schs.*, 59 IDELR 264 (OCR 2012)(improper to make ADHD student ineligible for awards because 504 plan allowed test retakes for grades lower than 75)

Class Ranking, Honors, Awards

- **Letter to Runkel, 25 IDELR 387 (OCR 1996)—Key guidance**

See, e.g., *Fordland (MO) R-III Sch. Dist.*, 353 IDELR 127(OCR 1988)(Students with LDs excluded from honor roll, even when taking regular curriculum classes).

Class Ranking, Honors, Awards

- **Letter to Runkel, 25 IDELR 387 (OCR 1996)—Key guidance**

See also, *Fort Smith (AR) Pub. Schs.*, 20 IDELR 97 (OCR 1993)(improper to exclude student from honor roll because one course was graded on basis of “ability/effort”).

- **Letter to Runkel, 25 IDELR 387 (OCR 1996)—Key guidance**

Letter suggests a system of “weighted” grades (i.e., “assigning points to a letter grade based on the degree of difficulty of the subject matter completed.”)

System must be based on “objective rating criteria.”

- **Letter to Runkel, 25 IDELR 387 (OCR 1996)—Key guidance**

Or, school could require that a certain number of required “core” classes be taken in order to be ranked or receive honors and awards.

E.g., policy requiring honor roll students to perform on grade level, but which did not exclude IDEA/504 students was upheld in *Prince William Co. (VA) Sch. Div.*, 25 IDELR 538 (OCR 1996).

But, schools cannot exclude disabled students from honors classes if they need accommodations, or make them forfeit the accommodations in order to enroll (including extra time). *Wilson Co. (TN) Sch. Dist.*, 50 IDELR 230 (OCR 2008).

An unfortunately too-common occurrence...

• **Letter to Runkel, 25 IDELR 387 (OCR 1996)—Key guidance**

Can the weighting system simply assign lower weights to all sp ed classes? No, each subject must be analyzed separately and assigned a degree of difficulty factor based on its individual contents.”

See *Letter to Ickes*, 305 IDELR 50 (OCR 1989)(lower weighting OK if based on relative difficulty of content)

• **Letter to Runkel, 25 IDELR 387 (OCR 1996)—Key guidance**

See also, *Plymouth-Carver (MA) Reg'l Sch. Dist. 7*, 353 IDELR 134 (OCR 1988)(Arbitrary of uniform designation of low weights to sp ed classes, without considering relative difficulty of classes, is discriminatory).

• **Centerville (OH) City Sch. Dist., 40 IDELR 20 (OCR 2003).**

Parent challenged weighted course system of three categories of classes (Honors, Standard, Essentials)

Essentials classes intended for students that struggle with grade-level content (both nondisabled and disabled)—
Material is covered more slowly and not on grade level)

• **Centerville (OH) City Sch. Dist., 40 IDELR 20 (OCR 2003).**

OCR upheld weighted system, although a lower weight was given to Essentials class grades.

“The weighting of grades is not done in any broad classification on the basis of disability. Rather, it is done based on the difficulty of the course level and on what is emphasized in the course.”

• **Idea for Rational Weighted System**

Determine categories of courses by reference to grade-level content in state curricula:

- Above grade-level*—AP, IB, Pre-AP
- Grade-level*—Regular classes
- Modified*—sp ed classes
- Highly-modified*—Lower sp ed classes
- Not based on state content*—SC/LS

• **Idea for Rational Weighted System**

Thus, relative difficulty of class categories is rationally based on degree of divergence from State standards, and weighted accordingly

- Above grade-level—5 points*
- Grade-level—4 points*
- Modified—3 points*
- Highly-modified—2 points*
- Not based on state content—1 point*

• **Idea for Rational Weighted System**

Or, the weights could be applied by means of a multiplier for GPA calculations, for example:

- Above grade-level—1.2 multiplier*
- Grade-level—1*
- Modified—.7*
- Highly-modified—.5*
- Not based on State content—.2*

• **Idea for Rational Weighted System**

Key—System based on degree of content difficulty, not on categorical exclusion or discounting of grades earned by students with disabilities.

Some students with moderate LDs may exhibit high performance on rigorous curriculum classes (e.g., student with reading disability, but academic strengths), and may deserve awards.

Transcripts

- **Letter to Runkel (OCR 1996)**

Transcripts must not indicate sp ed or §504 eligibility, and must not designate classes as “special education,” even if they are modified curriculum courses.

But, modified curriculum courses can be noted with asterisks or other symbols indicating modified or below-grade-level curriculum (*In re: Report Cards and Transcripts* (OCR 2008)).

Transcripts

- **Letter to Runkel (OCR 1996)**

Key—Transcript notations should focus on whether course content is modified, not on disability status or disclosing special education classes.

Disclosure standards are more stringent than for report cards because transcripts go to colleges, employers, and other entities.

Graduation and Diplomas

- **Letter to Runkel (OCR 1996)**

“The diploma awarded to each student must be similar in all ‘significant respects.’”

Variations in diploma wording are allowable if based on objective criteria (such as underlying coursework attained, based on State requirements).

Graduation and Diplomas

- **Letter to Runkel (OCR 1996)**

Nothing precludes a state or LEA from modifying or adjusting graduation requirements, consistent with the IEP and state requirements, for a student with disabilities.

In some states, students not meeting minimum regular-curriculum coursework requirements get a modified-wording diploma.

In other states, there are different ways that IDEA students can obtain a diploma, but all students get the same diploma.

Tip—When discussing modified curriculum IEPs, inform parents of potential later repercussions to the student’s graduation.

Procedure—Graduation is a change in placement that requires a prior IEP team meeting for IDEA students.

Letter to Runkel, however, states that nothing in §504 requires a §504 meeting and notice of procedural safeguards prior to the graduation of a §504-only student (such §504 meetings are at the discretion of the district)



Post-graduation services—If an IDEA student graduates with a regular diploma, their right to FAPE and services terminates. 34 C.F.R. §300.102(a)(3)(i).

“Regular diploma” does not include an alternative that is not fully aligned with the State’s regular academic standards. 34 C.F.R. §300.102(a)(3)(iv).

But, services can continue post-graduation, for students **not** receiving a regular diploma...



Summary of academic achievement and functional performance—

Required for IDEA students that graduate with a regular diploma or age-out of IDEA. 34 C.F.R. §300.305(e)(3).

Summary “shall include recommendations on how to assist the child in meeting the child’s postsecondary goals.”

Otherwise, content left up to States and local officials. 71 Fed. Reg. 46,645.



Pre-graduation evaluation—Required for IDEA students that will graduate, but not with a regular diploma. 34 C.F.R. §300.305(e)(1).

Could potentially be based on a review of existing evaluation data, if parent agrees.

Tip—Best to discuss with parent in an IEP team meeting well *before* graduation.
