



**Key points:**

- IEP team, not school administrators, determines IAES
- Appropriate settings may include alternative school, alternative classroom, home instruction
- Monitor IAES throughout student's removal to ensure student receives required services

**Your quick guide to compliant IAES determinations**

Under the IDEA, a student removed to an interim alternative educational setting "must continue to receive educational services so as to enable the child to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child's IEP." 34 CFR 300.530(d)(1).

In practice, what does this look like?

Holly Boyd Wardell, a school attorney with Eichelbaum Wardell Hansen Powell & Mehl PC in Austin, Texas, elaborated on four areas to consider when determining an appropriate IAES for a student with a disability. But first, she emphasized two points:

**1. The student's IEP team is responsible for determining the IAES.** "What I've seen in my practice is that some educators are under the misconception that campus administrators determine the IAES," Wardell said. "IEP teams need to take ownership of that decision." 34 CFR 300.531.

**2. The school district is not required to provide exactly the same services in exactly the same settings as the student was receiving prior to the removal.** "This is an attempt to recognize the difficulty in replicating instruction [such as] chemistry lab or auto mechanics, where they use specialized equipment and it's very hands on," Wardell said. What constitutes an appropriate IAES will depend on each individual case. 71 Fed. Reg. 46,716; 46,722 (2006).

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Learn more in the chart below:

Location
<p>The IDEA does not specify the location of an IAES, but the <a href="#">U.S. Education Department</a> has commented that appropriate settings may include an alternative school or alternative classroom. 71 Fed. Reg. 46,719 (2006).</p> <p>Some alternative schools are run by educational cooperatives that serve students from multiple districts. "In cases like that, the IAES could be outside of the [student's] home district. That is legal," Wardell said.</p> <p>Home instruction is also an option, although ED's Office of Special Education and Rehabilitative Services has stated that it cannot be the "sole" option considered. To determine whether a homebound IAES is appropriate, the IEP team must consider factors such as the length of the removal, the extent to which the student has previously been removed from her regular placement, and the student's individual needs and educational goals. <i>Questions and Answers on Discipline Procedures</i>, <a href="#">52 IDELR 231</a> (OSERS 2009).</p>
Educational services
<p>Review the student's regular placement to determine what educational services to provide in the IAES, Wardell advised, including:</p> <ul style="list-style-type: none"><li>• The schedule of services (for example, if the student is in a resource class, know how much of the day she spends there and what goals she is working on).</li><li>• The intensity of services (for example, group instruction or one-on-one instruction).</li><li>• Accommodations and modifications.</li><li>• Recent evaluations.</li></ul> <p>Also, don't forget to continue collecting data on the student's progress toward her IEP goals while she is in the IAES, Wardell said.</p>

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### Behavior

The IDEA requires that a student removed to an IAES receive, as appropriate, a functional behavioral assessment and behavioral intervention plan with services and modifications that are "designed to address the behavior violation so that it does not recur." [34 CFR 300.530](#) (d)(1)(ii).

Whether an FBA is appropriate and necessary is up to the IEP team, Wardell said. "However, [districts] need to point to some strategy, accommodation, or service at the IAES that is going to try to prevent the behavior from recurring," she said. That could include a behavioral accommodation, social skills training, or counseling, she suggested.

Review the student's BIP to see how it aligns with behavior policies at the IAES (for example, the code of conduct at the alternative school), Wardell said. "A lot of times, the rules are established for all students, including students who are nondisabled. Sometimes, those settings have to make accommodations to their own rules for our students," she said.

### Related services

If a student requires transportation to receive FAPE, then the district must provide transportation for that student while she is in an IAES, Wardell said. See *Celina Indep. Sch. Dist.*, [59 IDELR 26](#) (SEA TX 2012).

As for other related services -- such as physical therapy or speech therapy -- if the student's IEP team has determined that the student needs those services to receive FAPE, it would be difficult to justify not providing them in an IAES, Wardell said. However, the setting and intensity of those services can be determined by the IEP team, she said. For example, a student who typically receives speech therapy in a group setting could receive shorter one-on-one sessions instead.

*Ragini Alcole covers special education issues for LRP Publications.*

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