Students with Disabilities' Behavior and Discipline:
Working together to Reduce Criminal Justice Involvement

KENTUCKY
P&A

KY-SPIN

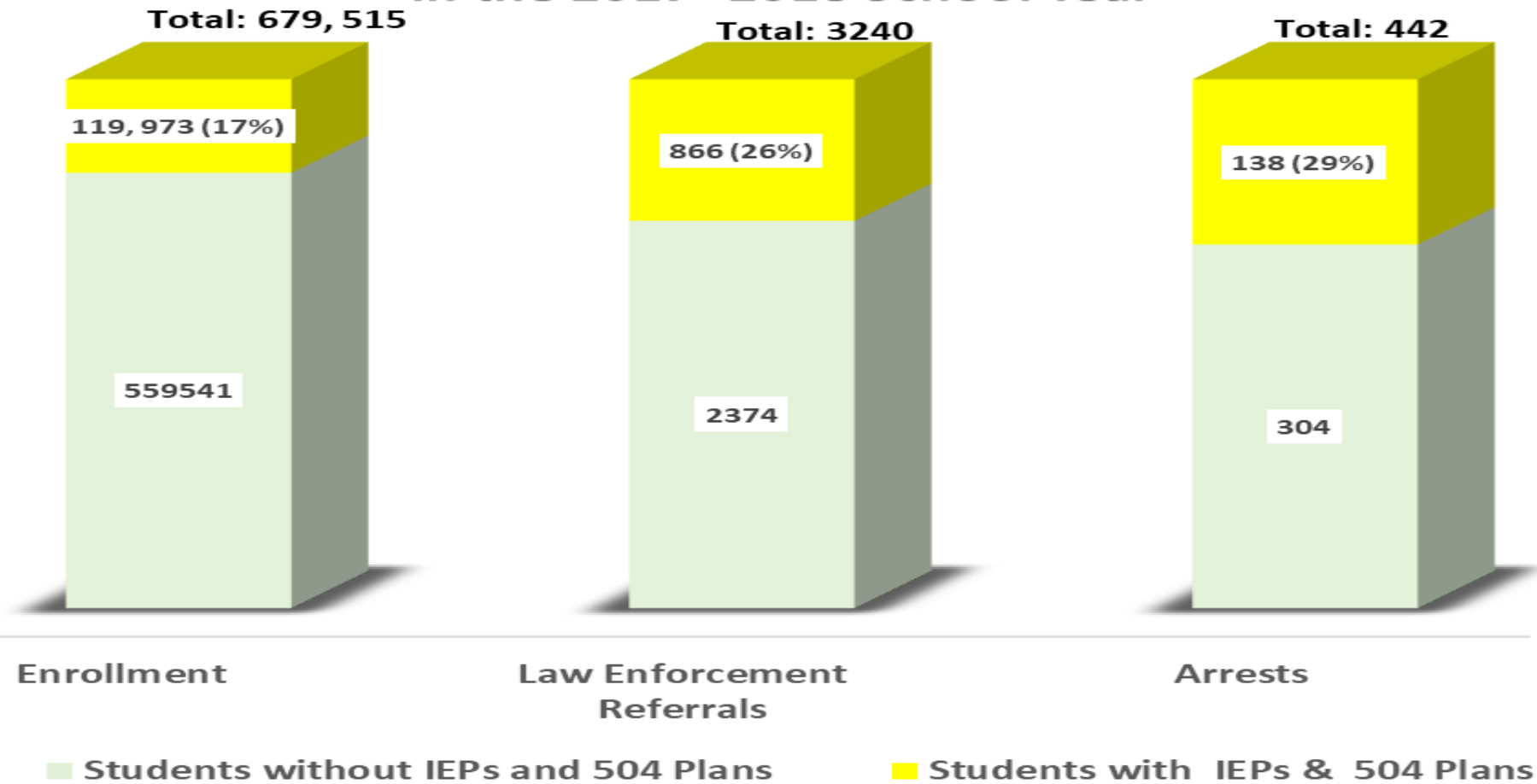# WHO IS KENTUCKY PROTECTION AND ADVOCACY?

- **Federally funded agency**
- **Legally based individual and systemic advocacy, and education**
- **Information and referral services, technical assistance and full representation**
- **Funded by 7 different grants:**
  - **Protection and Advocacy for Individuals with Mental Illness (PAIMI)**
  - **Protection and Advocacy for Individuals Developmental Disabilities (PADD)**
  - **Protection and Advocacy for Individual Rights (PAIR)**
  - **Protection and Advocacy and Advocacy for Assistive Technology (PAAT)**
  - **Protection and Advocacy for Beneficiaries of Social Security (PABBS)**
  - **Protection and Advocacy for Individuals with Traumatic Brain Injury (PATBI)**
  - **Protection and Advocacy for Voter Access (PAVA)**

Who is KY-SPIN?

- [Kentucky Special Parent Involvement Network (KY-SPIN)](#)

- Funded by the U.S. Dept. of Education under IDEA since 1988 when Kentucky first received a Parent Training and Information (PTI) Center grant

- KY-SPIN Parent Center provides training, information and support for children and youth with all types of disabilities (birth through 26 years old), their parents, families and professionals
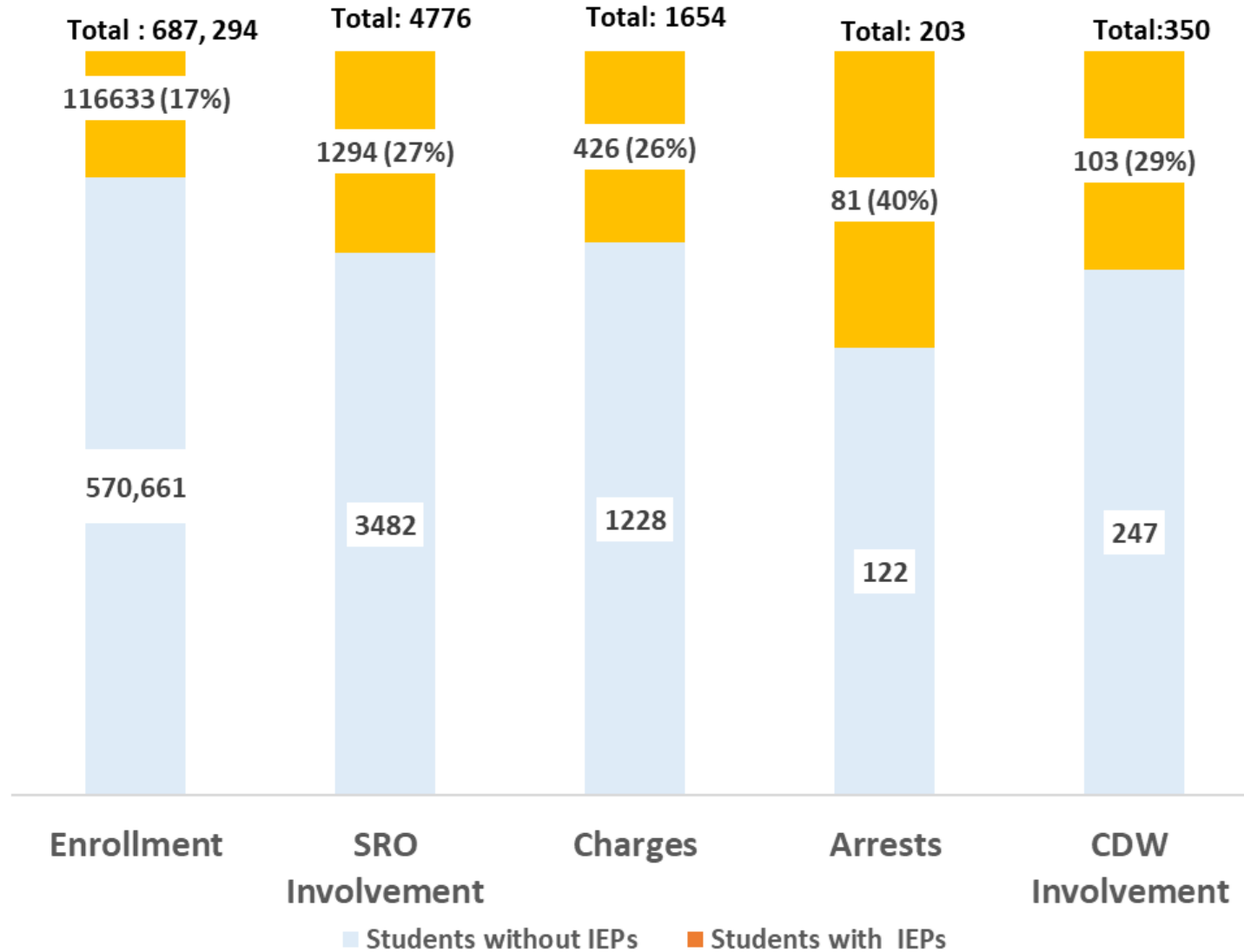
SWD (With 504s and IEPs) Disproportionality Within Discipline in the 2017– 2018 School Year

Total: 679, 515

119, 973 (17%)

559541

Total: 3240

866 (26%)

2374

Total: 442

138 (29%)

304

Enrollment

Law Enforcement Referrals

Arrests

■ Students without IEPs and 504 Plans ■ Students with IEPs & 504 Plans

Referred-to-Law-Enforcement_by-disability-and-no.xlsx
School-Related-Arrest_by-disability-and-no.xlsx, last visited October 28, 2024

Disproportionality for Students With Disabilities (IEPs only) on the 2022-2023 School Year from KDE's Report Card - Based on Events

	Enrollment	SRO Involvement	Charges	Arrests	CDW Involvement
Total	687,294	4776	1654	203	350
Students with IEPs	116633 (17%)	1294 (27%)	426 (26%)	81 (40%)	103 (29%)
Students without IEPs	570,661	3482	1228	122	247

Legend: ■ Students without IEPs ■ Students with IEPs

from

What we are seeing leading to Judicial Involvement

Behavior

Rhonda Logsdon, KY-SPIN

"It is critically important to note that research demonstrates that one's perceptions about student behavior can be the result of implicit bias rather than the student's actual behavior.Therefore, addressing any implicit bias in how student behavior might be perceived and classified should be part of State and local efforts to create inclusive and supportive learning environments."

November 2024, OSERS and OESE have jointly released guidance on functional behavior assessments (FBAs). The guidance provides educators and families with information, tools, and resources to support the broader use of FBAs and behavioral plans for all students.

BEHAVIOR

Your child's behaviors can be positive or negative, physical or verbal. **Behavior is a reaction to our surroundings, feelings, and social interactions.**

Sign

Negative behavior is a sign something deeper is going on.

Behavior is not who the person is, rather a reaction displayed.

Communication

Behavior is communicating a message to us.

A trusting relationship is key to addressing the behavior.

Discover the Source

What is the root cause of your child's negative behavior?
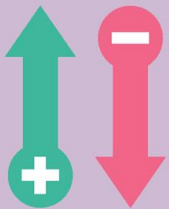What is on the surface may not have anything to do with what is actually going on.
Figuring out the source is not always easy to uncover.
It takes time, compassion, understanding and patience to discover.

Change a Negative Behavior

Address the cause of the behavior.
Be proactive, develop a **Positive Behavior Intervention Plan (PBIP)** to help with navigating surroundings, feelings, social and emotional situations in a positive way.

www.kyspin.com   800-525-7746   spininc@kyspin.com

http://www.kyspin.com/wp-content/uploads/2024/06/Behavior.pdf

- Sometimes it may be hard to figure out the root cause of our children's struggles
- What we see may only be the symptom of true cause
- Helping begins with understanding
- They may not know or know how to tell us
- How they feel matters

What tools/programs are available through School? Kentucky Multi-Tiered System of Supports (KyMTSS)

The Kentucky Department of Education (KDE) has expanded the system for response to intervention (RTI) to a more comprehensive multi-tiered system of supports (MTSS).

Kentucky's Multi-Tiered System of Supports (KyMTSS) is defined as a multi-level prevention system to support student achievement and social-emotional behavioral competencies through an integration of differentiated core instruction, assessment and intervention.

KyMTSS Website

Crosswalk: Kentucky Multi-Tiered System of Supports (KyMTSS), Response to Intervention (RTI), Positive Behavioral Interventions and Supports (PBIS) and Interconnected Systems Framework (ISF) The purpose of this document is to provide clarity to educators (e.g., leadership teams, administrators, teachers, implementation support staff, etc.) on how Response to Intervention (RTI), Positive Behavioral Interventions and Supports (PBIS) and the Interconnected Systems Framework (ISF) share foundational components and are integrated under the overarching framework of Kentucky Multi-Tiered System of Supports (KyMTSS).

What do the components of the KyMTSS graphic represent?
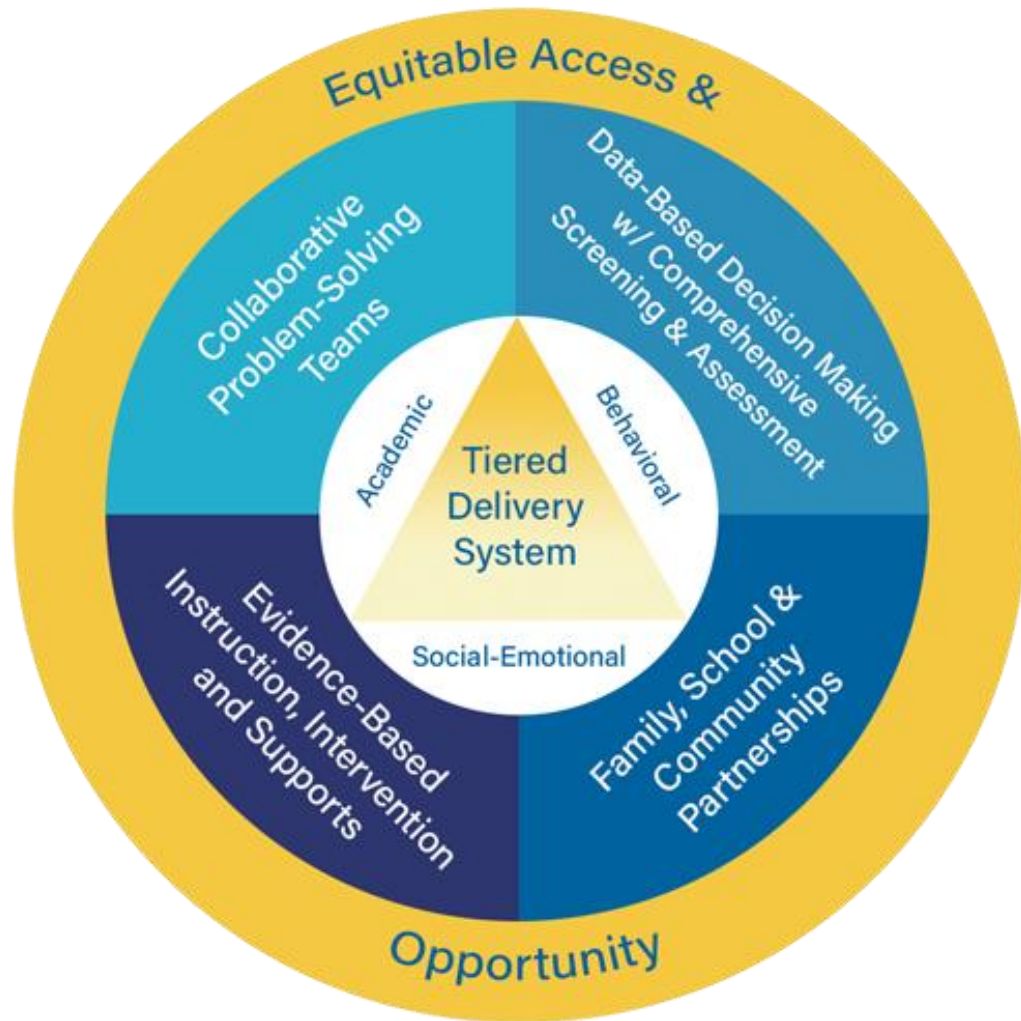
The **Equitable Access and Opportunity** component surrounds the framework to represent the intentional commitment to equity embedded within all components of KyMTSS.

At the center of the model is the familiar triangle representing the Tiered Delivery System with a continuum of **supports designed to meet the academic, behavioral and social-emotional needs of all students**.

KyMTSS Website

Family, School and Community Partnerships Component

Family, school and community partnerships are about building active, reciprocal relationships in which schools, families and community agencies and organizations engage in meaningful and culturally appropriate collaboration to improve student outcomes. Kentucky's Multi-Tiered System of Supports (KyMTSS) **provides the structure for families, schools and community members to work together to support and improve the learning and well-being of all students.**

KyMTSS Implementation Guide

Does the child/youth need an IEP or 504 Plan?

Individualized Education Program (IEP)

An **IEP** is a written program developed by an Admissions and Release Committee (ARC)/IEP team designed to meet a student's unique educational needs.

The IEP was established by the Individuals with Disabilities Education Act (IDEA) to help ensure every child's access to a Free Appropriate Public Education.

A medical diagnosis doesn't automatically qualify a child. They must fall into one or more disability categories and have an evaluation to determine eligibility.

The child's disability must show an "adverse effect" that impedes progress where educational performance is significantly and consistently below the level of children of similar age. They must need specially designed instruction and related services.

An IEP addresses

- Present Levels of Performance (PLOP)
- Measurable annual goals
- Specially Designed Instruction
- How, when, and by whom services and supports will be provided
- How, when, and by whom progress will be monitored and measured
- Related Services and Accommodations
- Transition planning (age 14+)

Section 504 Plans

What is a 504 Plan?

A Section 504 plan gives accommodations related to a student's disability to meet their needs. It is a civil rights law and not just for education. It is a written plan offering related aids and services that are aimed to meet learning needs as fully as students without disabilities are met.

Where does it come from?

Section 504 provides a broad range of protections against discrimination based on the disability by recipients of Federal financial support, which includes public schools.

- *The disability does not have to be a lasting disability to qualify under 504 (e.g. temporarily wheelchair bound or on crutches.)*

Individualized Education Program (IEP) Infographic or Video
504 Plans Infographic or Video

Functional Behavioral Assessment (FBA)

The FBA is a structured data gathering process an IEP team uses to help identify positive behavior interventions and supports to be used in the school. An FBA is used to determine the answers to the following three questions:

- Why does the student have challenging behavior?

- What reinforces the challenging behavior?

- What positive interventions help decrease the challenging behavior and increase the desired behavior.

Behavior Intervention Plan (BIP)

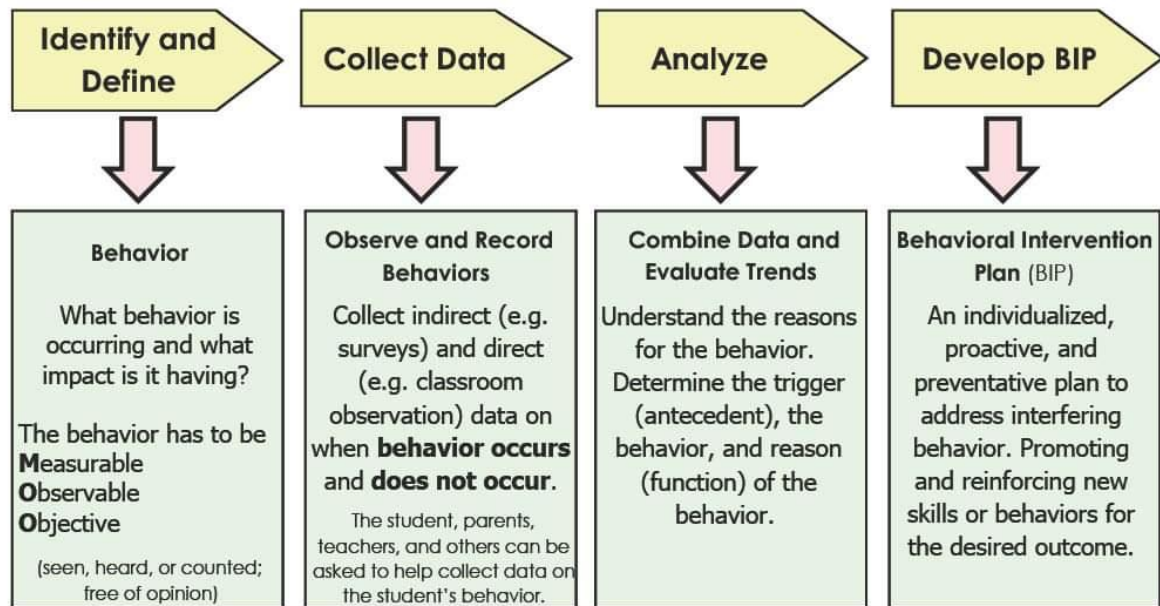A positive behavior intervention plan is a written proactive plan that is part of a child's IEP and includes strategies to help reduce or prevent the likelihood of challenging behaviors from occurring. For some students, simple interventions such as moving a desk in a classroom may make a difference. For others, a more formal plan may be needed to address the behavior.

KDE Behavior Intervention Plan (BIP)

Functional Behavior Assessment (FBA)

The Functional Behavior Assessment is a method used by the IEP/ARC team to identify behaviors and the underlying causes that influence a child's success.

Identify and Define →	Collect Data →	Analyze →	Develop BIP →
Behavior — What behavior is occurring and what impact is it having? The behavior has to be **M**easurable **O**bservable **O**bjective (seen, heard, or counted; free of opinion)	**Observe and Record Behaviors** — Collect indirect (e.g. surveys) and direct (e.g. classroom observation) data on when **behavior occurs** and **does not occur**. The student, parents, teachers, and others can be asked to help collect data on the student's behavior.	**Combine Data and Evaluate Trends** — Understand the reasons for the behavior. Determine the trigger (antecedent), the behavior, and reason (function) of the behavior.	**Behavioral Intervention Plan** (BIP) — An individualized, proactive, and preventative plan to address interfering behavior. Promoting and reinforcing new skills or behaviors for the desired outcome.

Sources & Resources:
KY Social-Emotional-Behavioral Resources & Supports - FBA/BIP Development Resources; IRIS Center: FBA & BIP
POSITIVE, PROACTIVE APPROACHES TO SUPPORTING CHILDREN WITH DISABILITIES: A GUIDE FOR STAKEHOLDERS

www.kyspin.com   800-525-7746   spininc@kyspin.com

Behavior Intervention Plan (BIP)

A formal, written plan developed by the IEP/ARC team to prevent or stop behaviors that interfere with school.

1 Student Information — Strengths, learning preferences, interests, dislikes

2 Behavior — What is/are the concerning behavior(s)?

3 Function of the Behavior — What need is the behavior serving?
- Access or Gains
- Escape or Avoidance

4 Antecedents — What events are happening PRIOR to the behavior occurring?

5 Consequences — What will happen when the behavior occurs?

6 Replacement Behaviors — What student should do instead of the current behavior
- Step away
- Calm down
- Walk away

7 Positive Proactive Teaching Strategies/Reinforcements
- Modeling
- Giving choices
- Give expectations
- Praise

8 Strategies to Avoid — Things that are known to be unsuccessful and should not be used

9 Positive Behavior — What rewards/tangibles will the student receive for appropriate behavior?

10 Supports for school personnel — What supports or training does staff need to implement the BIP?

11 Accommodations and Modifications — What accommodations and/or modifications does the student need to be successful with their BIP?
- Cues
- Chunking

12 Crisis/Safety Plan — May be needed if the student's behavior endangers themselves or others.
- Triggers
- Trauma
- Warning signs
- Plan for crisis behavior

13 Progress Monitoring — How will you gauge if the BIP is working?
- Daily checklist
- Point sheet
- Communication log

Sources: KDE Behavior Intervention Plan (BIP)

www.kyspin.com   800-525-7746   spininc@kyspin.com

Functional Behavior Assessment (FBA) & Behavior Intervention Plan (BIP) Infographic and worksheets
Functional Behavior Assessment (FBA) Video
Behavior Intervention Plan (BIP) Video
Behavior Intervention or Crisis Plans (PACER)

SCHOOL SYSTEMS' LEGAL OBLIGATION TO THEIR STUDENTS

Whitney Hayse, Kentucky Protection and Advocacy

SCHOOLS SYSTEMS' LEGAL REQUIREMENTS

- **Americans with Disabilities Act (ADA)**

- **The Individuals with Disabilities Education Act (IDEA) and**

- **Section 504 of the Rehabilitation Act**

INDIVIDUALS WITH DISABILITIES EDUCATION ACT (IDEA)

Every school district must:

- **Provide a Free Appropriate Public Education (FAPE) to each child with a disability under IDEA.**

  - **34 CFR § 300.1(a)**

    https://sites.ed.gov/idea/regs/b/a/300.1/a

  - **707 KAR 1:290 (1)**

    https://apps.legislature.ky.gov/law/kar/707/001/290.pdf

Special Education Referrals

- Concern with the student being able to progress academically, developmentally, emotionally, or socially

- Could include children who are gifted in one subject area, but who need extra help in another area (known as twice exceptional children.)

Special Education Referrals

- **Made by school district personnel or parent**

- **Suggestions:**
  - **Written Referral**
 - **To the District's Director of Special Education**

Determining Eligibility

- **Initial Evaluation: 60 School Calendar Days**

- **After the initial evaluation, the ARC meets again to determine if the child qualifies for an Individualized Education Program (IEP).**

Eligibility Categories

- **Mental Disability (MMD, FMD)**
- **Hearing impairments including deafness**
- **Speech or language impairments**
- **Visual impairments including blindness**
- **Emotional-behavioral Disability**
- **Multiple Disabilities (MD)**
- **Orthopedic Impairments**
- **Autism**
- **Traumatic Brain Injury**
- **Other Health Impairments**
- **Deaf/Blindness**
- **Specific Learning Disability (examples: dyslexia, dysgraphia)**
- **Developmental delay ages 3-8**

Admission Release Committees

- **After the determination of eligibility, a group of individuals come together to develop, review or revise a student's IEP.**

- **This team is called the IEP Team. In Kentucky, IEP Teams are called Admission Release Committees (ARCs).**
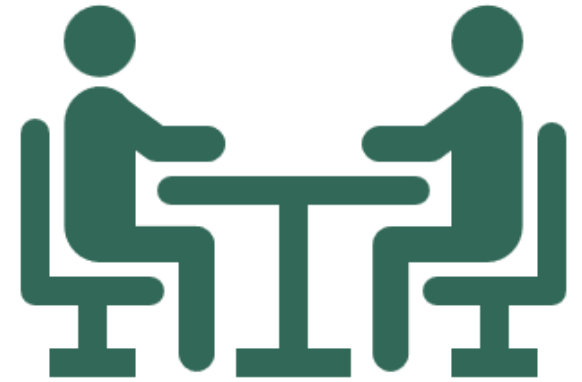
- In Kentucky, the IEP teams are called Admission Release Committees (ARCs). 707 KAR 1:002 (1): https://apps.legislature.ky.gov/law/kar/707/001/002.pdf
- The ARC is 34 CFR 300.23: https://sites.ed.gov/idea/regs/b/a/300.23

ARC Composition

- **The Child (if in the 8th grade, 14 or older, or if appropriate)**
- **The Parent**
- **A Special education teacher**
- **A Regular education teacher**
- **An Administrator who can make decisions about the district's funding and special education services**
- **Parental invitation of others (family members, CDW, service providers)**

OSEP GUIDANCE: ARC MEETINGS

- ARCs should:
  - Identify how the school will provide the special education and related services included in a child's IEP
  - Consider a variety of instructional methods and settings (virtual, in person, hybrid).
    - https://www2.ed.gov/policy/speced/guid/idea/memosdcltrs/qa-provision-of-services-idea-part-b-09-28-2020.pdf

Ways to Have an ARC

- An ARC usually occurs in person.
- Can occur through alternative means (such as video or phone conferencing) if the public agency and the parent of the student with a disability agree to the way that the meeting occurs.
  - [34 CFR § 300.328](#)
  - [707 KAR 1:320](#)

IEP Sections

- **Present Levels of Academic Achievement and Functional Performance**
- **Consideration of Special Factors**
- **Annual Measurable Goals**
- **Supplementary Aids and Services**
- **Accommodation Determination**
- **Least Restrictive Environment**
- **Related Services**
- **Additional Forms-Behavior Intervention Plan**

Present Levels of Academic Achievement and Functional Performance (PLEPS)

- Summary of information and data about what the child currently knows and can do
- Looks at how the child's disability affects their achievement and involvement in the curriculum
- Should be rich in information with supporting data that will be used to make decisions
- By knowing what a child can and cannot do, the ARC has a starting place to write goals, provide services, and plan

Information found in PLEPS

- **Communication – receptive, expressive, non-verbal, articulation, and fluency**
- **Academic Performance – Basic reading and comprehension, math calculation and reasoning, oral and written expression, listening, and learning styles**
- **Health, vision, hearing, motor abilities – relevant health and physical needs**
- **Social and emotional – functional performance information about social and interpersonal <u>behavior and skills</u>, sensory self-regulation, <u>emotional behavior,</u> organization and executive skills, environmental access/mobility skills, and independent living skills.**

Next Steps in the IEP Process
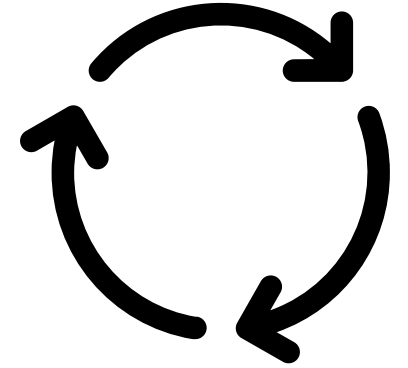
- **From the PLEPS, The ARC:**
- **Considers special factors**
- **Sets goals**
- **Determines what aids, services & supports need to be provided**
- **Determines what program support and modifications the school staff needs**
- **Determines where the services should be received (Least Restrictive Environment)**

Least Restrictive Environment (LRE)

- **Special education is not a place!!!!**
- **It is a service.**
- **The student is entitled to attend the school that they would attend if they did not have a disability**
- **Exception: when the school cannot provide a listed service on the IEP**

Behaviors: Manifestation of a Disability

- A student can be suspended up to ten days before the school has an ARC.

- ARC's Purpose: Determine if the student's behavior is a manifestation of their disability (called a Manifestation Determination Hearing)

What if the Student does not qualify for an IEP?

- **Ask for a 504 meeting**

- **Purpose: determine whether the student qualifies for a 504 Plan.**

Section 504 of the Rehabilitation Act : Who is protected?

A student who:

- **has a record of a disability**

  or

- **is regarded as having a disability**

504 Plans

- **A student must be evaluated to be determined eligible for a 504 Plan.**

- **The evaluation for the IEP could be considered to determine eligibility for a 504 Plan.**

- **Provides accommodations that the student should receive in the classroom**

504 Qualifications

- A student's disability "substantially limits" one or more of his major life activities.34 CFR S. 104.3 (j)

- Examples of major life activities:
    - Learning
    - Thinking
    - Concentrating
    - Emotional or Mental Learning Disability

Accommodation Examples

- **Extra time on tests**
- **Homework & classwork**
- **Special seating**

QUESTIONS FOR WHITNEY (KY P&A)?

Helpful Resources

- What is an ARC? ([KDE Parent and Family Resources webpage](#))
- [KY-SPIN's Diagnosis vs Educational Eligibility](#)
- [Individualized Education Program (IEP) Video & IEP Infographic (KY-SPIN & Aetna)](#)
- [KY-SPIN's How to Get an Evaluation for Your Child Through School (ages 3-21)](#)
- [Communicating with your child's school through letter writing](#) (CPIR)
- [Evaluation: What Does It Mean for Your Child?](#) (PACER)
- [Just for Parents: Learning about Special Education Evaluation](#) (PACER)
- [Right to Obtain an Independent Educational Evaluation (IEE)](#) (CPIR)
- [Guidance Document for Individualized Education Program (IEP) Development](#) (Kentucky Department of Education — KDE)
- [Kentucky Parent Guide for Special Education](#) (HDI)
- [FAQ: Kentucky Specific Regulations as related to IDEA 2004 Part B (ages 3-21) Chart](#) (KY-SPIN, Inc.)
- [From Needs to Services: Parent Homework Sheet](#) (PACER)

Helpful Resources

- [Kentucky Department of Education's District and School Directory](#)
- [KDE Special Education Forms - Eligibility Determination](#)
- [KDE Dispute Resolution Process & Forms](#)
- [How to Negotiate in ARC Meetings (KY P&A)](#)
- [504 Plans Infographic](#) or [Video](#)
- [Section 504 Procedures for Student Services](#)
- [Comparison of IEP, 504, IHP and EAP School Plans](#)
- [504 Plan for Public School](#) (KY P&A)
- [Sample 504 plan template](#) (Understood)
- [School Accommodation Ideas for Students who Receive Section 504 or Special Education Services (PACER)](#)
- [Students with Disabilities and Section 504 of the Rehabilitation Act of 1973 (PACER)](#)
- [Partners In Advocacy-A Guide to Special Education Planning (KY P&A)](#)
- [Part B Procedural Safeguards Notice (KDE)](#)
- [Right to Receive a Complete Explanation of IDEA's Procedural Safeguards (CPIR)](#)
- [KY-SPIN's Individual Health Plan (IHP) Infographic](#) or [Video](#)

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http://www.kypa.net/
Intake Form:
http://www.kypa.net/intake-form.html

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KY-SPIN Resources **(Infographics, short videos & more)**
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