

Recommendations and Resources for Preparing Educators in the Endrew Era

Webinar Transcript

Tessie Bailey: Welcome everyone to today’s webinar, Recommendations and Resources for Preparing Educators in the Endrew F. Era. We are very excited to have several nationally recognized presenters with us today. My name is Dr. Tessie Bailey and I will be today’s moderator. Before we begin, I would like to orient you to the participation features for this webinar platform. Participants will be muted throughout the webinar but are encouraged to ask questions at any time using the questions feature on the right side. To submit a question, locate the menu, and type your question in. For technical issues and questions, the webinar team member will try to assist you as soon as possible. For content related questions for any of today’s presenters, we plan to leave time at the end of the presentation to respond to questions. If we’re unable to do so, we will provide written responses to those questions and post them on the webinar website page. If you’re looking for a copy of the PowerPoint slides and handouts shown today, please check out the handouts menu on the right side your screen. Today’s webinar is hosted by the National Center on Intensive Intervention, an Office of Special Education Programs funded technical assistance center. Our mission is to build the capacity of state and local education agencies, universities, practitioners, and other stakeholders to support implementation of intensive intervention in reading, math, and behavior, for students with severe and persistent learning and behavioral needs. Please visit our website to find free resources, including training materials, data team resources, fidelity tools, resources for intensification, tools, charts, and voices from the field. Throughout the session today, I will post links to resources that are discussed. I would like to introduce you to our presenters for today. Dr. Mitchell Yell is a Fred and Francis Lester Palmetto Chair in teacher education and professor in special education at the University of South Carolina. He earned his PhD in special education from the University of Minnesota. His professional interest includes special education law, progress monitoring, behavioral support, IEP development, and parent involvement in special education. Dr. Yell has published 124 journal articles, five textbooks, 26 book chapters, and has conducted numerous workshops on various aspects of special education law, classroom management, and progress monitoring. His textbook, *The Law and Special Education*, is now in its fifth edition. He is also the lead author of a textbook, *Evidence-Based Intervention for Educating Students with Emotional and Behavioral Disorders*. He serves as a state-level due process review officer in South Carolina and prior to working in higher education, with a special education teacher in Minnesota for 16 years. Dr. David Bateman is professor at Shippensburg University in the department of educational leadership and special education. He teaches courses on special education law, assessment and facilitating inclusion. He is a former due process hearing officer for Pennsylvania, with over 580 hearings. He uses his knowledge of litigation related to special education to assist school districts in providing appropriate supports with students with disabilities. His latest area of research has been the role of principal in special education. He has been a classroom teacher of students with disabilities, behavior disorders,

learning disabilities, intellectual disability and hearing impairment, and a building administrator for summer programs. Dr. Bateman earned his PhD in special education from the University of Kansas. And he recently coauthored, *A Principal's Guide to Special Education*, *A Teacher's Guide to Special Education*, *Charting the Course: Special Education in Charter Schools* and the forthcoming, *Current Trends and Legal Issues in Special Education*. As I mentioned, I'm Dr. Tessie Bailey. And I'm a Principal Technical Assistant Consultant for AIR. I service the National Center on Intensive Intervention task lead for product development, provide technical assistance to states and coordinate the taxonomy technical work group. I'm also a former special education teacher and higher education faculty member who taught special education law, assessment, and MTSS and RTI courses. And finally, Dr. Teri Marx is a Senior Researcher at AIR. For NCII, she provides training and support to institutions of higher education about how to embed intensive intervention into coursework and professional development. She previously served as the technical assistant liaison for Rhode Island, where she supported districts and schools and implementing intensive intervention. Dr. Marx also serves as the task leader for IDEA's Part D program analysis, communication, dissemination, and meeting multiple task order contract through the office of Special Education Programs. Today's webinar will begin with historical context, leading to the Endrew F. decision followed by a summary of key findings of the 2017 decision. The webinar will focus on six recommendations for preparing educators, and the tools and resources available to you to support implementation of those recommendations. We will close with time for questions and answers. Please welcome me in having Drs. Yell and Bateman begin.

Mitchell Yell: Thank you very much, Tessie. This is Mitch Yell. And today, David and I will be addressing the effects on the Supreme Court ruling in Endrew F. on special education. And we're going to focus specifically on recommendations. And then later on, we'll be talk—we won't, but Teri and Tessie will be talking about resources for preparing educators in the Endrew F. era. David and I are going to be taking turns talking about the slides today. But before we begin, we need to acknowledge that the primary requirements of the IDEA and the central obligation of school districts and folks preparing teachers, administrations for special ed. services, is that school district develop and implement a special education that confers a free appropriate public education or FAPE.

Now, in the next slide, we see the definition of FAPE and the idea. This definition has remained unchanged since the passage of the Education for All Handicapped Children Act in 1975. In effect, this is defined special education related services that are provided at public expense, meet standards of the State educational agency, include an appropriate preschool, elementary, or secondary school in the education and the state involved and are provided in conformity with the individual education program or IEP. Now, the reason we've highlighted the final point is because it's critical to understanding FAPE, that we see the creation and the implementation of the student's IEP for what it is, and that is the blueprint of student's FAPE. In fact, the Supreme Court has referred to the IEP as the moderous operandi and the primary vehicle of the special education law. Thus, the IEP is the center of most IDEA disputes as it was in Endrew F. Now, in 1975 when Congress originally defined FAPE, it didn't define what appropriate meant. Rather, it's established a baseline mechanism which is the IEP to reach and document agreement about what is appropriate for an individual child.

Now, in the next slide, you see that the U.S. Supreme Court has issued rulings defining FAPE in two seminal cases. And it's fitting that the first special ed. case heard by the Supreme Court in 1982, *Board of Education v. Rowley*, the Supreme Court interpreted what the FAPE mandate of the law really meant. The case involved Amy Rowley, a young girl, with a severe hearing impairment. Her parents contended that the school district had failed to provide their daughter with a FAPE because they refused to provide a sign language interpreter. That case went all the way to the Supreme Court. Now, although the lower courts, the district court and the U.S. Court of Appeals, for the second circuit ruled that the Hendrick Hudson school district had failed to provide Amy with a FAPE, because in the words of the judge of the district court, the education that the Hendrick Hudson school district provided to Amy didn't allow her to achieve to her full potential at a level commensurate with the opportunity provided to other children. Now, the high court ruled that the school district had provided. The high court overturned those decisions, essentially saying that the Hendrick Hudson school district had provided Amy with a FAPE because they believed the purpose of special education was more to open the doors to public education more than it was to provide any particular level of educational benefits. Now, in that case, the court developed a two-part test for courts and hearing officers to use in determining if a school district had provided a FAPE. And the two-part test consisted of a procedural and a substantive component. The first part was, had the school district complied with the procedures of the law? And the second part, is the substantive, was the IEP reasonably calculated to enable the child to receive educational benefits. And according to the *Rowley* court, if both requirements, procedural and substantive were met, a school district had complied with the FAPE mandate of the idea. Now, the court applied the two-part test to the *Rowley* case and held the following. First, that the district had in-fact complied with the procedures of the law. That's meeting the procedure part of the task. And second, That Amy had received an appropriate education because she as performing them better than most of the children in her class and was easily advancing from grade-to-grade. They met the substantive part of the test. The test created these two parts. The procedure and the substance. Now, the problem in this case, is that Amy was gifted. She had an IQ of between 120 and 140. And she's very academically able. The court really didn't need to address the second part of the question. And that created confusion in the courts. Between 1982 and 2017, when any court or when any hearing officer would have a FAPE case, they had to apply this to two-part test. But we started to see a real split in the courts or confusion in the courts about part two of the test, the educational benefits. Some courts use a very low standard of benefit to determine if a school district had complied with FAPE. Whereas other courts used a higher standard to determine compliance with FAPE. Whenever there's a split in the circuits, that makes it much more likely that the Supreme Court will step in to settle the differences. And that is what happens in a case out of the United States Courts of appeal for the 10th circuit *Andrew F. Douglas County school district* in 2017. And David will now talk about this case.

David Bateman: Thanks Mitch. I appreciate your coverage of the Amy Rowley case. Just—and I'm going to piggyback on what he very nicely stated. The *Rowley* case was in 1982, shortly after the passage of the Education for All Handicapped Act and it's implementing regulations. And it really was the first case that the Supreme Court heard relating to special education. That was in 1982. And we've had, since then, as Mitch articulated, disparities between how the various circuits across the United States have been implementing their level of what they felt was necessary for appropriateness, and how much benefit a child is expected to see. We needed a

case to help clarify what was meant. Because first, Amy had a high IQ, and was passing from grade-to-grade fairly well without much support, was doing OK. And the fact that the laws and the expectation and education had changed since 1982. And just as a side note, most of the teachers with whom we work with, were not even alive in 1982. It's interesting. It's an old case, but it had been steering what we have been doing for special education for years. This case, the Endrew case is a case that is different from the Rowley case. The Amy Rowley, an individual who is deaf. Drew, I'm going to refer to him now, Drew was an individual with autism and ADHD. Amy was making passing grades in her class, in her regular education class. Drew was basically in a special education class, and he was not making passing grades. And he was also have significant behavior problems. Amy also, she was making Bs and Cs and was tested with a higher IQ. Drew had a below average IQ. But the facts of this case are... Those are the basics of subtle differences, is that Drew was a resident of the school district. And he had attended kindergarten through fourth grade in the same district. When the parents presented an IEP in the beginning of 5th grade, they rejected the IEP because they felt like he needed to make more progress. There had been little aspects relating to progress monitoring, not enough reporting to the parents about this, how he was doing. And his behaviors were escalating. And it was posing significant problems for him. Some of the problems, he had problems with—if there was a fly in the classroom, he would have severe problems. If he got really frustrated, it was reported that he would urinate in the middle of the floor. He had significant behavior problems. And the IEP was fairly quiet on how to deal with his behavior problems. In the start of this case, it was basically a tuition reimbursement case, where the parents enrolled him in the Firefly Autism House and sent the tuition bill back to the district. They went in front of an administrative law judge in 2012. And the administrative law judge sided with the district. The parents then appealed to the U.S. District Court for the District of Colorado in 2014. And that court also sided with the district. And then the parents then continued on pressing their appeals, as is their right. They appealed to the U.S. Circuit Court of Appeals for the 10th Circuit in 2016, and they basically—wanting to figure out what was going on here. And again, the 10th Circuit, this is the court just below the Supreme Court, also sided with the district. Therefore, as someone who's worked in many due process hearings, if a district continues to prevail, there is no reason to think that there's necessary changes. But the parents continued to push this. And they pushed this and they appealed to the U.S. Supreme Court. And this is the question that they presented. And this is the essence of what we're seeking to try to define as a part of this. What is the level of educational benefits school districts must confer on children with disabilities to provide them with the free appropriate public education guaranteed by the IDEA? And that is the question that we're seeking. And that's what we're hoping to address as a part of this.

And change the slide. We move on to this. And the Supreme Court heard the oral arguments on January 11th, 2017. Here, Mitch and I are with our little tickets. You have to line up ridiculously early to get into the court. It's on a first come, first serve basis. And here we are with two individuals who work for CEC, at the time, Deb Ziegler [ph] and Katie Grady [ph]. And we're just excited, because it was warmer inside than where we had been standing. And my recommendation is, if you ever get the chance to see oral arguments. The Supreme Court is so very well prepped about how they do thing and what they work on. But it really was. And it was the only case that they were hearing that day. And we felt greatly honored that we could be there as a part of this. If you can get your hands on the oral transcript from this or the decision, which—I recommend it. The basis of special education really is laid bare for us to understand.

And really, it focused our interpretation of where we are with this. The Supreme Court issued a ruling about two months later. And the ruling basically said, and it's rare, unanimous decision. This tells you the weight of the decision, because there have not been a lot of—those of you who watch the Supreme Court, there have not been a lot of unanimous decisions of late. But think about this. And there's some parts of this phrase that you can see that we have highlighted here. And these are the phrases that we really want to emphasize. And I just want to put this in quick perspective here, so you have some sense of where we are with this, so you can pay attention to this. And I'm reading this too—not because you can't read it. I just feel better, everybody to understand this. “To meet its substantive obligation under the IDEA, a school must offer an IEP reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances.” The highlighted phrase here is different from what we saw from the Rowley case in 1982. And that case, we expected children to receive a benefit. Remember, that case, 1982 was the first case the Supreme Court had heard on special education. It was recently after the regulations had been fully implemented across the United States in 1978. We were still trying to figure out what special education was. Special education was basically in its infancy. But the difference here is that case in Rowley sought benefit. The Endrew case sought progress. That is now our burden, and that's what we need to focus on. And that's where we need to spend our time and our energy is making sure kids make progress. Mitch, your turn.

Mitchell Yell: Also, when the high court issued its ruling, Justice John Roberts wrote the opinion for unanimous decision. Now, there were eight members of the Supreme Court at that time, because Antonin Scalia had passed away and had not yet been replaced. And what the Supreme Court essentially did, they vacated and remanded of the previous rulings in the case. They said, this is no longer good law. We now have a new standard of educational benefits. Lower courts you need to relook at this case, using our new standard. What happened is, after the case was vacated and remanded, it went back to the U.S. Circuit Court of Appeals for the 10th Circuit. That was in 2017, the same year, they essentially kicked the can down the road, and sent it back to the U.S. District Court for the District of Colorado. And in 2018, Justice Louis Babcock overturned his previous ruling, because he found that the Douglas County School District had failed to provide FAPE because they failed to address Endrew's academic and behavioral needs. Especially interesting in that is he spent much time in his decision talking about how they did not address Endrew's behavior. Now, after seven years of litigation, the Douglas County School District had to reimburse the parents for tuition reimbursement and attorney's fees. And eventually paid \$1.3 million dollars from the district's general fund, to settle the case.

Now, in the next slide, what we're going to do next is move on to some major points of the case. And the first major point is that the Supreme Court rejected the “de minimis” or “trivial” educational benefit standard. Now remember, the lower courts have been split on this standard. And they rejected that low standard, in the strongest possible terms. According to Justice Roberts decision, “A student offered an educational program providing ‘merely more than de minimis’ progress from year to year can hardly be said to have been offered an education at all.” The Rowley terminology, the educational benefit, essentially allowed courts to interpret in a number of ways. Most courts interpret it as de minimis or trivial benefit was enough to prove that FAPE was delivered. But other courts said no, it has to be meaningful. The Supreme Court changed this. They essentially said, de minimis is out. No longer good law. That will never be used again,

which will probably change the lives of many school district attorneys in the circuits formerly or able to contend while we made a little benefit. We provided FAPE, that argument can no longer be made. Next slide, David?

David Bateman: The next point is that even though there's a difference, and we really want you to think about the difference between benefit versus progress, is the Endrew F decision did not really replace the Rowley decision. In fact, it's cited back to the Rowley decision as a part of the decision and the oral arguments questions did clarify what we were addressing as a part of this. It didn't, but it clarified what we mean by the FAPE standard. And this is an important point, and we appreciate. And this is, in part, why we, for lack of a better term, have a lifetime tenure for judges, because we want them to be consistent when they make their rulings. We don't want them to rule one way one day, one way a different day, a different way the third day, because it would be—they provide the consistency. They provide the focus that allows us to understand how to act. We pay attention to what they say. We follow what they say. We address what they say. And what they say has guidance for the United States and all its territories. I was recently in Guam, a place that is not easy to get to. But I really like working there and I love the people there. But it's not close. But they still follow the same procedures we have. It's the United States and its territory, so keep this in mind. As part of this point, we now have a two-part standard. And so, the two parts standard, and you can see this. Mitch talked about this previously, about the procedure and substantive issues under Rowley. And you think about this. First, the question you have to answer and part of this, and as a former hearing officer and Mitch is a state review officer understands, these are questions we have to ask, and we're obligated. And everyone across the nation and territories is being addressed by this. And the question are, in the development of the IEP, has the IEP Team complied with the procedures set forth in the IDEA? This is consistent with the Rowley standard. There's no change here. This is the good thing. We're still having to follow this. This is why we train individuals on timelines. We train individuals to make sure we have the right people in the room. We train staff to make sure, when they're crossing the T's and dotting the I's on the IEPs, and they're taking data and making decisions based on the individual needs of the child and not on administrative convenience. This is all part of the procedures that are set forth in the IDEA. And the second part, and we've highlighted here, the changes that are a result of Justice Roberts decision is, "Is the IEP reasonably calculated to enable the child to make progress that is appropriate in light of his or her circumstances?" This is the defining difference. Remember, under Rowley, you can say, it is now the Rowley under standard because it's consistent with what they said before. Under Rowley, a child was just merely expected to have benefit. The analogy I make is, suppose you come in, as a long-distance runner, come in from a very long run. I'm grossly dehydrated. Someone gives me a shot glass full of water. Will I benefit from it? Yes. But for some states, that was the low benefit that some of these kids were receiving, was that functional equivalent. I need much more than that. But there's some kids, that's all they were getting. Now kids are expected to make progress, and that's what we're expecting as a part of this, is that progress will be part of this. The Rowley Standard, the two-part test is still there. We just need to make sure that people are aware of this. Next slide.

Mitchell Yell: Our third point David just talked about, with a little bit more, is in addition to jettisoning the de minimus standard, the Supreme Court clearly favored the higher educational standard that David just addressed. In fact, the oral arguments at the court, in the court, both

Justices Ginsberg and Kagan referred to the importance of having a standard with a bite. And Justice Sotomayor asserted that our challenge is coming up with the right words to elevate the educational benefit standard. The right word that the court came up with was progress, which implies forward movement. The implications are quite clear that the IEP must be developed and implemented in ways that enable a student to make progress. Now the specific language from Justice Roberts decision was the IEP must enable the child to make progress. After all, the essential function of an IEP is to set out a plan for pursuing academic and functional advancement. It's important to understand the court was saying academic and functional advancement. Now, essentially, what this means is we have to be able to set up our IEPs to enable a child to make progress, and also to use progress monitoring in ways that are user friendly, and that we use sufficient data analytics and technology and keep a record of student progress across the year and making changes when necessary. Now, this has really important implications for developing IEPs and for monitoring student progress. David, next slide?

David Bateman: The other thing is, and we're going to get to the recommendations in a second. But just a quick summary of the Endrew point is building on what Mitch just nicely stated is—and the Supreme Court really did lay out some important points for guidance for administrators, educators and how to develop IEPs that meet the Endrew standard. We're going to highlight that in a few minutes. But really, the IEP was very nicely articulated in the decision, is the crux of what we do for a child. We need to pay attention to this. We're going to make some recommendations, but we need to really hone in good IEP development and make sure that we talk to people about this and we address this and monitor this and focus on this. There's been a raising of the bar across the nation of what we expect for good IEP development. And this is a very important point. And so, we need to make sure that as part of your in-service, this is a part of your trainings, it's a part of what you're doing. And those in higher ed, we're doing a better job on training people who will be working, not only implementing IEPs but reading and paying attention to what's going on with them. The hard part is we often don't train a lot of administrators on this. A lot of principles don't get a good training on IEP development or they can't distinguish what a good goal is versus a bad goal. We have to talk about this, but really realize, that there's been a raising of the bar as a part of this.

The next slide emphasizes this a little more, is the focus on the particular child, is it all got to be specially designed? Pay attention to these parts. There's some parts on here that you can see part of the—just think, there's basic good IEP development, but it's something we need to address with all individuals who are working on this. Specially designed to meet the child's unique needs through the IEP. This is a direct quote from their decision. But only after careful consideration of the child's present levels of academic achievement disability and potential for growth. We have to think about this and make sure that we emphasize this. And the Supreme Court and Justice Roberts was really good as a part of his oral arguments. He was clearly very well-prepped and really understood what was going on. And it was enjoyable being part of the Supreme Court hearing where they're talking the language that we speak. But as a part of this, he was addressed—for individuals who are not like Amy Rowley. An individual who's a significantly above average intellectually, what level of progress are we expecting them to address? We have to talk about this and pay attention to this, because this is something that we're going to be emphasizing. As a result of this, and because of the decision and because of the clarity that we need to bring to, not only teacher education and all, we've come up with some

recommendations. And so, we have a piece that was highlighted in the first part of this slide. Go back, if you can, as a part of this slide deck, we recommend that you download this. It's available to you as a part of this. And you can see that as part of your go to web meeting slide there. You can see there's slides that are available for you under the handout section. But we have some recommendations that we want to put forward. And we want to emphasize the recommendations, because we think this will guide good practice across the nation and will help individuals as a part of what they're doing, and really emphasize where we are with this. For the first recommendation, I'm going to have Mitch go through that one.

Mitchell Yell: I'm sure we're all aware, there's the fact that there's really nowhere in education that is subject to more legislative changes, more frequent developments in litigation, and even the issuance of new policy directives as in special education. Because of the key role in implementing the requirements for the IDEA, it's extraordinarily important that teacher educators prepare special ed. teachers and special ed. administrators who are legally literate. When teachers and administrators don't understand the law, it's more likely that they may unknowingly violate their student's right. And David and I, as hearing officers, have seen many times in which once the toothpaste is out of the tube, it doesn't go back. Once the rights are violated, that's pretty much the end of the litigation. It's important, therefore, that pre-service teachers, we see the real thorough grounding in special ed. law and coursework, and a working knowledge of how to access current information on developments in special ed. law. Teachers and administrators need to be legally literate. One thing we can do is encourage staff to join professional organizations, such as CEC, Council for Exceptional Children and Council of Administrators of Special Ed who are really good at keeping members up to date on legal developments. That's our first recommendation. We need to ensure legal literacy. The second recommendation, David?

David Bateman: Annual report to Congress each year is very clear of late, that most kids with disabilities are spending most of their time in the general education classroom. What we need to do is ensure that general education teachers understand the responsibilities under the IDEA. And I was involved in a meeting with the special education administrator this morning and her big complaint about her general education teachers is they do not—they're not aware of their obligations, what they're expected to do as part of this. We're going to do some trainings to help them with this. But we need to make sure that general education teachers understand what their rights and responsibilities are educating students with disabilities. When they come to IEP meetings, they understand, they're not just in attendance, that there's actually a role that they play, not only in just implementing the IEPs, but also reporting the child's progress on the general education activities that exist. But also, make sure the general education teachers possess the knowledge, understand what is meant by differentiating instruction. And that they can understand when there's accommodations and modifications that need to be implemented, they understand what their role is in this. First, we need to make sure that we provide them training on this. But also, as educators in general, once these general education teachers become teachers, we provide them guidance about where to look for in IEPs, what their responsibilities are. But also, then hold them accountable for what they're supposed to be doing. These kids are often having severe difficulty in their general education classrooms, when the classes are large, and the teachers are not differentiating. Or they're holding them accountable for things that the kid does not have the ability to do. That's how we often then see, is we often see behavior issues as a

result of this. It poses a problem, but we need to make sure we not only train as Mitch articulated, special education teachers, but general education teachers to understand what the responsibilities are. It is a big part of what we do, and we need to emphasize that they understand what they need to do and who to go to when there are questions. Next recommendation.

Mitchell Yell: We must prepare educators who understand the importance of avoiding procedures which, in and of themselves, may constitute a denial of a FAPE. In the most basic procedural requirement of the IDEA, is that a student's parents must be full and equal partners with school district personnel in the development of their child's special education program, and few, if any, procedural rights have been more vigorously defended by the courts. Parent's rights are bridged or denied, a denial of FAPE will likely be found. Therefore, our third recommendation is, we need to ensure that special ed. teachers are equipped with strategies and procedures to involve student's parents in the special education process, in a meaningful way. And this is important for general ed. teachers, special education teachers, and administrators. Next slide, please.

David Bateman: Recommendation four. Ensure that special education teachers can administer, understand, and interpret assessments that are relevant and meaningful in academic and/or functional areas. Just to remind you, Drew, the Endrew case that we're talking about here, has laid the foundation for the discussion, was an individual with some significant behavior issues. As teachers, we get a lot of data on kids academically. We need to make sure that we get data on kids functionally, about how they're doing and behaviorally. We need to understand the baseline of student performance and how to continually conduct formative assessments on progress though out the academic year. This may also involve training paraprofessionals on how to take data, by making sure that we use this. It's not just academics. We get a lot of academic data, but we need to focus on behavioral and other functional skills as well. It's often the functional skills, the behavioral issues, or social skill problems that prevent them from being integrated, often successfully into general education classes. It's why principals crave supports for some of these students. Why the assistant principals often have to deal with behavior issues. These kids are spending their time, like the school I was in this morning. These kids are spending time in the principal's office, not because they're doing poorly on spelling tests, you're doing poorly because they're raising issues functionality that are causing problems. But we need to understand the assessment, so we have some sense of how these kids are doing. And then we can make changes appropriate. As you can see, there are some tools and resources that can help, and we're going to have those highlighted in a few minutes. But we need to address this. We need to train people to understand that it's just getting good baseline data and making sure that we talk about it in terms that we can all understand and represent, often with graphs, so we can clarify this. Next recommendation.

Mitchell Yell: Recommendation five is that we must ensure that special ed. teachers and administrators understand and can develop ambitious and measurable annual goals. First off, goals should be challenging and appropriately ambitious which are both terms that we're using in the Supreme Court decision. That language implies that hearing officers in courts are much more likely to determine that unambitious goals will result in the denial much more likely than they would be to determine that overly ambitious goals do. There was a judge here in South Carolina in a case called Carter v. Florence that went to the Supreme Court where the entire issue that

caused the judge to determine that Florence County had not offered a FAPE where Shannon Carter's low goals. In fact, he wrote the low goals written in Shannon Carter's IEP rendered it inadequate from inception. Therefore, challenging an appropriately ambitious goals are important. Second major component is our goals must be measurable. And as we know, the IEP, not only requires that goals be measurable, but that the IEP include a description of how its students' progress toward meeting his or her goals will be measured and how we will report the student's progress to the student's parents. Clear implication, is that the goals must be measurable. And goals that are not measurable and not measured, will also likely result in the denial of a FAPE. David's next going to address the importance of progress monitoring.

David Bateman: And Mitch knows that I'm passionate about this one, so I appreciate the opportunity to do this. Because this is what's tripping up districts. I was involved in 85 due process hearings last year, and one of the big problems that districts were having is that they were not systematically collecting progress monitoring data. And even if they were systematically collecting progress monitoring data, they were not doing anything with it. They were finding out that the kid at the end of the first marking period was not making progress. And then they did not make a change. Finally, the kid was still not making progress at the end of the second marking period, and not making a change. And the kid at the end of the third marking period, not making a change, because it's too close to the end of the school year. We have kids who are not making progress and we did nothing in the situation. Mitch has heard me say this before, but who's the slow learner in this situation? We need to react to progress monitoring data. Many of the lawsuits that I was involved in last year, this was the big issue, is not responding. We have to think about this, is provide opportunities for not only preservice and in-service learners to understand and master good progress monitoring skills. But then, when you find out that the child is not making progress, we do something. We change the grouping, we change the instruction, we change the level of supports. We change where the kid is being provided services. We change the curriculum. We change something. We don't let the kid continue to flounder and not make progress. This is one of the more important things that we need to focus on as a part of this, but make sure we have good reliable tools that we can use to frequently monitor the child's progress and IEP goals. This is of vital importance. And this is something we need to make sure, as educators, we focus on—and I just finished an IEP writing course, thank god I finished. We just finished an IEP writing course, but one of the things we need to focus on is, they write the IEP, now the IEP is just a starter. What do you do when you're implementing the IEP and the kid's not making progress? We need to spend more time on these things, so make sure that educators understand and interpret this. This is vital, and this is so very important, and we need the emphasize this as much as possible. I'll let Mitch conclude with the next point.

Mitchell Yell: In the next slide is actually a quotation from the Department of Education frequently asked questions document on the Endrew case. In accordance with the Department of Education, "If a child is not making expected progress toward his or her annual goals, the IEP team must revise, as appropriate, the IEP to address the lack of progress." Now the test of appropriateness requires that IEP teams look to the future to craft an IEP that the team members believe will enable a student to make progress. And then write measurable goals, which allows them to monitor student progress. And when the data collection shows that a student is not progressing, we need to make changes. And a quick warning, avoid the ubiquitous teacher

observation as a means to measure progress. A number of courts have said that is—teacher observation is not sufficient data collection to monitor progress. My old friend and mentor, Stan Deno, always said, like a physician monitors a patient’s physical health, so much we monitor our student’s educational health. On to the next slide.

Tessie Bailey: Thank you, Dr. Yell and Bateman for providing such a great overview of Endrew and presenting these six recommendations for preparing educators in the Endrew Era. In our question box, we actually had several questions about the resources available to support LEAs and SEAs in implementing those recommendations. In this final portion of the webinar, Dr. Marx will share several National Center on Intensive Intervention, and IRIS tools and resources that are available to support you all in your efforts in improving educator’s capacity to develop and implement high quality IEPs. Dr. Marx?

Teri Marx: Thank you, Tessie. I’m going to start off just by talking through some of the various resources that the National Center on Intention Intervention has available, as well as some of our partners. And as you’ve heard throughout this webinar, the key is that we’re making sure to address the preparation piece. Making sure that educators, from administrations, special education teachers, general educators, anybody that’s working with a student with a disability, including our related service providers, really need these skills to develop quality IEPs. And that professional has to also then take place throughout the course of that individual’s career. We have a suite of special education and products related to the data-based individualization or DBI process, that the National Center on Intensive Intervention articulates throughout its various resources. There’s a number of guidance documents and tools, including a teaming resources which was developed in collaboration with the PBIS Center. And that allows us to look at some key questions, what types of data should we be using? And the relevance for the data-based individualization process, within a tiered model of support. And as we think about supporting our students with disabilities, DBI is a mechanism to help us ensure that we are getting to those most intensive supports for the students with the most intensive needs. We also have some resources available for helping educators to set ambitious academic and behavioral IEP goals. As doctors Yell and Bateman were talking, it’s not just about showing academic progress, it’s also about showing functional and behavioral progress. And so, our goals really help to dictate where we need to measure that progress toward. In this month, Guilford Press is releasing a book on intensive intervention called Essentials of Intensive Intervention. That was coauthored by many individuals that are experts on the National Center on Intensive Intervention, as well as many of our senior and technical advisors.

Go ahead to the next slide. We also have some professional development resources that can be accessed from our website as well as, again, from the materials posted on the webinar page for this particular webinar. And those include an IRIS module, so there’s two parts to it. The first one introduces that data-based individualization process. The second part is around collecting and analyzing data within that DBI or data-based individualization process. That was a joint resource that we developed with the IRIS Center. And then there’s additional NCII data-based individualization professional learning series modules that we have available. Two are highlighted here and that’s really talking about the progress monitoring component that we were sharing earlier in the presentation as being so critical for us as we’re thinking about the IEP process.

Next slide. In addition, IRIS has recently released a module that's focused on developing high quality individualized education programs. We encourage you to look at that. There's a handout that's actually in the webinar resources, as well, that gives a feature of that particular module. And you can link there. You can see all the various overviews of that particular module, here, written on the slide, that we encourage you to check out that module as well. I know that Dr. Yell had a lot of input on that module. Thanks to him and thanks to our partners. Next. One of the things that we talked about was IEP goal setting. And so, there's a couple of different things that we want to highlight as far as our resources. We were focusing a bit on that conversation around functional performance and behavior. And one of the areas, having been a school social worker myself in supporting students with emotional disturbance and students with disabilities, in the educational setting, that I often heard, and I still hear educators grappling with is, how do we really get valid and reliable data on our students with disabilities, within that behavioral realm? One of the tools that we talk about in the DBI professional learning series is the direct behavior rating, which was developed by Chafouleas, and Riley-Tillman, and Christ. And so, this tool has been around for a long time. It goes beyond that direct observation piece that Yell was talking about and saying that we need to go beyond teacher observation. What this does is really help educators have a feasible way for recording—or talking about student behavior. And the second image here, that's up there, is a standard form that you can fill out for a single item. This would be for a behavior that you are identifying for a student that they're presenting with. The standard forms actually have categories of academically engaged behavior, respectful behaviors, as well as disruptive behaviors, so you can take some of their anchored definitions, examples, and non-examples of those and really provide a rating from a teacher's perspective. The DBR is an evidence based and feasible method for data collection. It can be conducted with a teacher. And even as we mentioned earlier, maybe using somebody else that's supporting in the classroom to support with that data collection, such as a paraprofessional. Whoever is rating on that student's behavior, it should be the same person rating over time. And we should be rating on that behavior at a consistent time period. If the student's behavior is really coming to play during math class, let's say, we want to make sure that we're rating everyday after math class. It's different from a rating scale, in the sense that, those are multiple questions or multiple prompts. This is just getting the proxy of the student's behavior in the classroom. But what it really allows us to do is be able to operationalize a little bit or systematize our data collection processes. And you can actually go and visit our website as well as the DBR's website for a graphing tool. If you want to click for the academic sites. The other thing that we have, our resources around academic goal setting. When we're thinking about goal setting and academics, there's a number of different strategies that we can use. Many of us are familiar with the way that maybe a graphing system or a tool that we're using presents those data. They might say that this is the end of your benchmark. There's other ways to calculate goals for students, especially if they're far below their grade level. Thinking about things, and the national norms for rate of improvement, as well as something called the intra-individual framework, which really allows us to look at a student's individual growth rate based on their past performance. There's various methods in our tools and resources, including some of our DBI professional learning series, actually go in-depth into these different goal setting strategies within academics, as well as the behavioral side. I think there's one more—and so we also have some materials available. This is just the compiled oral reading fluency norms, so you can use the information that's available from various vendors to help you identify where those norms are for calculating the various ways to set goals.

Go ahead and next slide. The IEP implementation resources. Off to the left there, you see an image of an Excel tool that is available on the website. You can put in various data, so you can actually have this up to five students for a different variety of measures. If you're rating across different academics' measures, whether it's a short-term skill or an end of the year skill that you're trying to target, you can look across. Looking at that one, you can see things like the maze, so looking at reading comprehension as well as computation and word identification, fluency, on the same chart. And then what this doesn't show is there's another tab in this tool that is available to help you identify which of those three goal setting methods that I just discussed very quickly, the benchmarking, the rate of improvement, as well as the intraindividual framework. You can look at what would be the goal for that individual student using a specific method to help you and your IEP team or your school team to really think about which goal is appropriate for the student that we are working with currently. The image off to the right is of the taxonomy of intervention intensity. And many of you have probably already looked at the article that was published in *Teaching Exceptional Children* in 2017 by Fuchs, Fuchs, and Malone. And that really articulated this taxonomy. Thinking about various dimensions of intervention that we should be considering when we're both, one designing an intervention platform for a student, as well as them thinking about how to systematize our subsequent adaptations for students with intensive needs who are not demonstrating progress. This material here actually goes through what those dimensions are, on the website as well, for NCII's website. We have various archived webinars that have information about an overview of what the taxonomy is, as well as how it's applied to reading and math and behavior. Thinking about that taxonomy as integral to that data-based individualization process, the definitions within the taxonomy and those dimensions really help us to systematize our process and really help us to think through critically, how to do we individualize and make those adaptations that are needed. And so, that's really a way to help us frame the process and get to some of that critical piece that both doctors Yell and Bateman were talking about earlier. I think there's one more resource on this particular slide. Yes, this is a recent resource that's released that talks about strategies for scheduling. In our technical assistance work through the Center, we often hear—we can't really add more time to the day, and that's typically where we hear educators gravitating towards first, when they're thinking about making an adaptation to a current intervention. If we just give it to them at a higher dose, that's one way to do intensifying our intervention. And then often times educators struggle to really think about, how else can we provide more intervention or more intensive intervention if we can't add more time to the day. And so, this resource really digs through some strategies that align really well with the taxonomy that I just discussed. Thinking about dispersed practice of skills to give those opportunities for feedback and response for students and making sure that we are embedding those throughout the day. Just that as one example. There's other examples of strategies for scheduling that are in that resource, but that's a new resource that we wanted to highlight. Next. And we definitely can't talk about our IEP process, and not just our progress monitoring tools and goal setting tools, without talking about really thinking about implementation fidelity. And so, as we're talking about designing intervention plans and individualized education programs for students, we really need to be thinking too about the services that we are providing. Are they actually being delivered? One, that's the question we have to be thinking about. If we specify a number of minutes for special education services in a particular area for a student, we should be monitoring on a regular basis whether or not that student is actually receiving the services for that allocated amount of time. We also need to be

thinking about the quality of that time. Was the student engaged during our intervention? And so, the student level DBI implementation log that's up on the left has a place for you to think about those other factors beyond just student attendance, but factors including, was there an interruption during the intervention time period. Was the student engaged or not during instructions, so we can really think about adjusting our instruction and perhaps adding a behavioral or motivational support during that intervention time period to increase the student's engagement and likelihood to then respond to that intervention. As you're thinking about your IEP teaming process, there are checklists available there as well for those data team meetings. And then there's the tools charts that are up here. These are the ones that focus on progress monitoring. There's an academic intervention Tools Charts as well as—actually, the first one is the intervention tools chart and the other one that's up on this screen is a progress monitoring tools chart. In both areas of academics and behavior, there are charts available for screening, progress monitoring, and intervention materials. And so, what they are is essentially a consumer report. You can see off to the left, you'll see some of those orange bubbles. And like we tend to do, we see something full and we say that's the one for me. But you really have to be clicking through the various tabs. Each of the charts has tabs up at the top. The intervention chart has the study quality, the results, the intensity, and any additional research that's available. And so, it's important to click through and make sure that you're selecting either a screener, a progress monitoring tool, or an intervention that really matches your need and your need for your students. We're wanting to make sure that we're really aligning both the assessments that we're using as well as the interventions that we're using to our student population.

Tessie Bailey: Thank you, Dr. Marx. I'm going to close up today's webinar. I'd like to thank our presenters for a very informative presentation. The questions we received are about how to access the resources that have been shared today. In the chat box, we've included the website link that goes to where the recorded webinar from today will be, as well as the PowerPoint presentation, the handout about the IRIS modules, as well as all of the resources that were discussed by Dr. Marx. I want to thank you all for joining us as well. And as is with most webinars, you probably have a lot more questions. Many resources were shared today to support you in implementing some of the recommendations. NCII will link to those resources, as I mentioned. We did have a question about the overview of goal setting strategies. Those will be out soon. And what we'd like to do is recommend that you sign up for the newsletter in order to access those as soon as they are released. If you would like to also stay connected, you can check out our website and also follow us on Twitter and YouTube. Thank you very much. And have a wonderful day.