



# PUBLIC SCHOOLS OF NORTH CAROLINA

DEPARTMENT OF PUBLIC INSTRUCTION | Catherine Truitt, *Superintendent of Public Instruction*

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## THE ROLE OF METHODOLOGIES AND EVIDENCE-BASED PRACTICES IN SPECIAL EDUCATION FOR STUDENTS WITH AUTISM SPECTRUM DISORDER

This guidance is provided in response to current discussions from Local Education Agencies (LEAs) in regards to implementation of methodologies and strategies addressing the special education needs of students with Autism Spectrum Disorder (ASD). Many of these discussions are in regard to ABA therapy in the schools, but the principles for consideration and decision making are not specific to any single methodology and should be applied in guidance to all. Guidance is intended to provide information for LEAs to consider in order to support educationally sound Individualized Education Program (IEP) team decisions for the implementation of services and effective instruction for students with ASD. ***This guidance is not a statement or interpretation of legal precedent.***

### Background

#### Context

IDEA guarantees every child with a disability the right to a free appropriate public education (FAPE) that is provided at public expense in conformity with an IEP. (NC 1501-1.1) The special education provided therein is defined as "Specially Designed Instruction (SDI), at no cost to the parents, to meet the unique needs of a child with a disability." (34 CFR 300.39) (NC 1500-2.32) Additionally, the federal register defines SDI as "adapting, as appropriate to the needs of an eligible child under this part, the content, methodology, or delivery of instruction... to address the unique needs of the child that result from the child's disability." (34 CFR 300.39) (NC 1500-2.32)

Specific components that must be in place for compliance to the federal regulations and *NC Policies Governing Students with Disabilities* are:

1. SDI as defined above
2. Using research-based methods and programs to the extent practicable
3. Designed to address the unique needs of the individual child
4. At no cost to the families

#### Methodologies and Evidence-Based Practices

Within IDEA an IEP must include "a statement of the special education, related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the child." (34 CFR 300.320 (a)(4)) (NC1503-4.1) Within North Carolina policy, the term "research-based" is used to address services based on peer-reviewed research. Additional terms are also used in the field of education. For the purpose of this document and consistent with how research-based practices are termed in the field of autism, the term "evidence-based practice" is used. Current literature uses a variety of terminology when attempting to address the array of instructional practices, such as strategy, intervention, therapy, methodology, comprehensive treatment models, and focused intervention practices which can all cause confusion. For the purpose of this document the focus will be on two terms related to instructional practices: Methodology and Evidence-Based Practice (EBP).

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The Cambridge Dictionary defines methodology as a “set of methods used in a particular area of study or activity” (Cambridge Dictionary, 2020). The National Clearinghouse on Autism Evidence & Practice (NCAEP) uses the term Comprehensive Treatment Models to reference similar systems (Steinbrenner, et al, 2020, p. 11). Some methodologies are comprised of EBPs that may be packaged and implemented in a formalized manner.

Examples of methodologies are:

- Early Start Denver Model
- Applied Behavior Analysis (ABA)
- Structured TEACCHing
- LEAP (Learning Experiences and Alternate Program for Preschoolers and their Parents) Model

In contrast, Evidence-Based Practice is defined as “an instructional/intervention procedure or set of procedures for which researchers have provided an acceptable level of research that shows the practice produces positive outcomes for children, youth, and/or adults with ASD” by the National Professional Development Center on Autism Spectrum Disorder (NPDC) (NPDC, 2014). The NCAEP concludes that focused intervention practices that meet certain criteria are considered evidence-based practices. (Steinbrenner, et al, 2020, p. 11).

Examples of EBPs are:

- Discrete Trial Training
- Visual Supports
- Video Modeling
- Reinforcement
- Prompting
- Functional Communication Training

The National Clearinghouse on Autism Evidence and Practice (NCAEP), National Professional Development Center on Autism Spectrum Disorder, and the National Autism Center (NAC) have conducted systematic reviews to determine which practices are effective in improving positive outcomes for students with ASD.

Full reviews of the EBPs can be accessed at the links below:

- National Clearinghouse on Autism Evidence & Practice (NCAEP) <https://ncaep.fpg.unc.edu/>
- National Autism Center at May Institute’s National Standards Project (NAC) <https://www.nationalautismcenter.org/national-standards-project/phase-2/>

### **Addressing Effective Programming for Students with Autism Spectrum Disorder**

Due to the complexity and the varying strengths and needs of students with ASD it is imperative that a comprehensive program is developed and implemented for each individual student. In order to effectively design a comprehensive program, the following components should be considered:

1. IEPs are written to address the unique needs of the individual child, which may include use of methodologies and/or EBPs, and are based on data.
  - a. IDEA does not require an IEP to specify instructional methodologies or EBPs (71 Fed. Reg. 46,665 (2006) and 34 CFR 300.320(d)(1)).
  - b. LEAs have flexibility in selecting the methodologies and/or EBPs for a student as long as it provides FAPE.
  - c. If based on data, the IEP team determines that a particular methodology or EBP is the only way to provide FAPE, it can be included in the IEP and the school district would be required to implement that methodology with fidelity (71 Fed. Reg. 46,665 (2006) (NC 1503-4.1). IEP teams should take into consideration that “a comprehensive program should be able to accommodate various instructional

strategies and methodologies.” (Gallegos & Shallenberger, 2011) and ensure that specifying a methodology will not limit the ability to do so. In 2015, the Office of Special Education Programs (OSEP) issued a Dear Colleague letter that stated ABA therapy “is just one methodology” that may be appropriate for a child on the autism spectrum and that Part C and Part B of the IDEA require IEP teams to determine a child's services based on the child's unique needs.” (Musgrove, "Dear Colleague Letter", 2015).

2. Personnel who instruct and support students with ASD are trained in this disability and are qualified.
3. Personnel are knowledgeable regarding current research in the education of students with ASD.
4. Personnel are trained in and apply an array of research based methodologies and/or EBPs that address the unique needs of the individual student. Resources to support increased knowledge and skills in this area include, but are not limited to:
  - a. Autism Focused Intervention Resources & Modules (AFIRM): <https://afirm.fpg.unc.edu/afirm-modules>
  - b. Autism Internet Modules (AIM): <https://autisminternetmodules.org/>
5. Methodologies and/or EBPs are implemented with fidelity.
6. The IEP team can articulate the rationale behind the selection and use of methodologies and/or EBPs. This ensures that personnel have a clear understanding of the comprehensive program and how it will effectively support individual needs of the student with ASD.

### **Private Clinical Therapies in the Educational Environment**

There are times when questions arise regarding allowing private therapists to deliver clinical services in the educational setting. Allowing private clinical services to be delivered in schools is a local decision within the purview of the LEA. In the school setting, implementation of services indicated within an IEP follows an educational model even when similar service types exist outside of the school environment, such as occupational, physical and speech therapies. Eligibility criteria and targeted outcomes within a clinical model differ, with the educational model focused on those services needed in order for the student with a disability to receive FAPE. This topic has been addressed relative to guidance regarding physical therapy, occupational therapy, and speech language pathology, with the guidance put forth applicable to other private therapies, such as ABA therapy. Specific considerations for private therapies within the schools can be found here:

<https://www.med.unc.edu/ahs/physical/schoolbasedpt/additional-resources/ec-director-information/pvttherapy-school-final-4/>

### **Applicable Case Law**

While case law does not serve as an authoritative source due to the impact of specific details of individual cases on legal decisions, it does provide context for interpretation of federal special education law. There is a history of due process cases involving a range of disabilities regarding FAPE and disagreement between parents and school systems over methodologies being used in special education. Two notable cases, Board of Education versus Rowley (1982) and Andrew F. versus Douglas County School District (2017), provide support for a two prong test applied to special education litigation:

1. Has the state (and LEA) complied with the procedures set forth in IDEA?
2. Is the IEP developed through those procedures reasonably calculated to enable the child to receive educational benefits?

When those two criteria are met, the courts support that questions of methodology are within the realm of responsibility of the State Education Agency (SEA) and LEA in cooperation with parents and guardians. (Gallegas and Shallenberger, p.7). In conclusion of the Board of Education versus Rowley case, it was stated that “individualized programming includes evidence-based practices along with methodologies.” (BOE v Rowley, 1982) Therefore, based on data and the unique needs of the individual student, it should be determined if the most appropriate intervention is a methodology, an EBP, or a combination of both.

Additional court cases that provide insight and may be of interest to the reader:

- Renee v. Houston Independent School District (2019)
- K.G. v. Cinnaminson Township Board of Education (2018)
- Board of Education of the Albuquerque Public Schools v. Rolanda Maez, Richard Mondragon, on behalf of M. M. (2017).
- T.C. and A.C. ex rel. A.C. v. New York City Department of Education (2016)
- A.S. by Mr. and Mrs. S. v. New York City Department of Education (2014)
- S.M. and G.M. v. State of Hawaii, Department of Education (2011)
- BOARD OF EDUCATION OF THE COUNTY OF MARSHALL, Plaintiff, v. J.A., a minor, MARK A. and FRAN A., parents of J.A., Defendants (2011)
- Carlson v. San Diego Unified School District (2010)
- Shakopee Independent School District (2009)
- Fairfax County Sch. Dist. v. Knight (2008)
- SSGT RG USAF AG v. Fort Bragg Dependent Schools (2003)
- J.P. v. West Clark Community Schools (2002)
- M. M. v. School District of Greenville County (2002)
- Jaynes ex rel. Jaynes v. Newport News (2001)

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