

**CONSTRUCTING YOUR CHILD'S
INDIVIDUALIZED EDUCATION PROGRAM:
UNDERSTANDING YOUR RIGHTS AND HOW
TO OBTAIN SERVICES AND PREPARE
FOR IEP MEETINGS**

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ACRONYM QUIZ!

- ADA -
- IDEA -
- 504 -
- IEP -
- FAPE -
- LRE -
- CSE -
- BIP -
- FBA -



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**WHAT ARE THE LAWS RELATING
TO PARTICULAR DISABILITIES?**

1. Section 504 of the Rehabilitation Act of 1973
2. Title II of the Americans with Disabilities Act
3. Individuals with Disabilities Education Improvement Act



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IEP v. SECTION 504 PLANS

SECTION 504 ELIGIBILITY IS BASED ON A THREE-PRONGED EVALUATION:

1. Does the student have a mental or physical impairment?
2. Is the student substantially limited?
3. Is the student substantially limited in one or more major life activities (this includes learning)?



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IEP v. SECTION 504 PLANS

GENERALLY:

Section 504 prohibits discrimination on the basis of disability from all school programs and activities in both public and private schools receiving direct or indirect federal funding

PURPOSE:

To provide equal access and fairness in general education to students with disabilities

PLANS:

Section 504 Plans are much less formal than IEPs

SERVICES:

Generally, direct services are not provided under Section 504 Plans, just modifications/accommodations (related services can be provided)



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THE ADA

1. To be protected, one must have a disability
2. "Disability" is defined as:
 - A. A physical or mental impairment that substantially limits one or more major life activities
 - B. A *record* of such impairment, or
 - C. Being regarded as having such impairment
3. Guarantees that people with disabilities have the same opportunities to participate in mainstream American life, including public education



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THE IDEA

1. Disability Identified
2. Adverse impact to student's educational performance
3. Student requires special education and related services to address educational needs

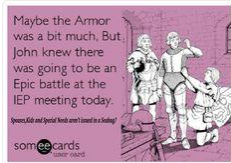


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THE IDEA

(Individuals with Disabilities Education Improvement Act)

- The IDEA provides a broad range of educational services (as opposed to accommodations) to students with disabilities.
- Children eligible under the IDEA, receive an IEP, or Individualized Education Program.
- Educational progress is monitored through annual goals and objectives.
- Specialized instruction is provided by certified special education trained staff.
- Educational placements are made based on the child's educational needs and can include day schools outside of the public school or residential placements.



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“EDUCATION”

- **F**REE
- **A**PPROPRIATE
- **P**UBLIC
- **E**DUICATION



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EDUCATION



THE ROWLEY CASE – ESTABLISHING EDUCATIONAL BENEFIT

- Standard for Special Education Services – “Some educational benefit”
 - Not the MAXIMUM, not the bare minimum
 - Not a “Cadillac,” just a serviceable “Chevy.”
- Two-Prong Legal Analysis
 1. PROCEDURAL: Has the school district complied with the procedural requirements of the IDEA?
 2. SUBSTANTIVE: Is the IEP “Reasonably Calculated” to confer educational benefit?



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EDUCATION



- Disability (eligibility) category should NEVER drive services
- IEP must be *individualized* – Districts must NEVER state that they provide “set” services or that they “don’t provide” a requested service
- “Consider” all requests



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FAPE

- A free and appropriate public education (“FAPE”) must be available to all children residing in the State between the ages of 3 and 21, inclusive, including children with disabilities who have been suspended or expelled from school



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PRACTICAL APPLICATION OF SPECIAL EDUCATION LAW



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HOW TO OBTAIN SPECIAL EDUCATION SERVICES

- Child Find responsibilities – affirmative duty
- Referral for initial Case Study Evaluation (“CSE”)
 - May be made by a parent or a public agency (i.e. employee of school district, a State agency, another State agency, or a community service agency)
 - For any child suspected of having a disability
 - RTI does not delay District’s need to respond to a parent request for CSE
 - NOTE – typically, referrals are made by school district, parents, or professionals with knowledge of the child



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HOW TO OBTAIN SPECIAL EDUCATION SERVICES

- District has **14 school days** to respond to parents requesting case study evaluation
- Can use screening data and conduct preliminary procedures to assist in making determination
- If decline to do a CSE – must provide notice **in writing with an explanation**



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HOW TO OBTAIN SPECIAL EDUCATION SERVICES

- Parents can request a due process hearing to contest District's refusal to conduct CSE
- If District agrees to CSE, parent must sign consent for evaluation (@ domain meeting)
- Date parents sign starts the 60 school day timeline for District to complete CSE



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BIRTH-THREE PROGRAMS – TRANSITION TO SCHOOL

- The IFSP must comply with the content requirements of [20 U.S.C. 1436\(d\)](#) in Part C of the Act. An IFSP must be in writing.
- Under the IDEA, IEP teams must consider individualized family services plans for children with disabilities who are ages 3 through 5.
- The IFSP may serve as a child's IEP if it meets the content requirements of Part C and is developed in accordance with IEP procedural requirements, and must be consistent with State policy and agreed upon by the school district and the child's parents.
- Implementation: For a child with IFSP, the district must ensure that either an IEP or the child's IFSP is in effect on his or her third birthday. A representative of the school district shall participate in the transition meeting scheduled by the early intervention team.



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BIRTH-THREE PROGRAMS – TRANSITION TO SCHOOL

- Implementation for a child without an IFSP: each child who is referred to a school district at least 60 school days prior to his or her third birthday and determined eligible, the district shall ensure that either an IEP or an IFSP is in effect on his or her third birthday.
- For each child who is referred with fewer than 60 school days remaining before his or her third birthday, or after that date: The district shall comply with the requirements of Section 226.110(c)-(j) of this Part. (which means the District has 60 school days from the date of referral). (Check your own state's requirements)
- If a child's third birthday occurs during the summer, the IEP Team for that child shall determine when the district's services to the child will begin.



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HOW TO OBTAIN SPECIAL EDUCATION SERVICES

DOMAIN MEETING –

- IEP team determines relevant domains for CSE
- All meetings must be scheduled at a mutually convenient time for parents and school
- 8 domain categories (health, vision, hearing, social emotional status, general intelligence, academic performance, communication status, motor abilities)

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HOW TO OBTAIN SPECIAL EDUCATION SERVICES

- Parental revocation of consent can be done in writing or verbally
- If parents verbally revoke consent, District must confirm revocation in writing within 5 days

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IS A DENIAL OF A CSE JUSTIFIED?

- Grades
- Behavior
- Peer relationships
- Emotional well being
- Attendance
- Home Issues
- Court Involvement
- Drug and Alcohol Issues
- Hospitalizations

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HOW TO OBTAIN SPECIAL EDUCATION SERVICES

- Conference is then held to determine eligibility
- If eligible, an IEP is written for the child within 30 days of eligibility determination (can be immediately following)
- Initial placement decision made
- School must wait 10 days before placement and services are made (parents can waive this waiting period)



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ELIGIBILITY CATEGORIES – 34 C.F.R. 300.8

- Disability: IDEA identifies 12 disabilities as the basis for students' eligibility for special education and related services. These disabilities include mental retardation, a hearing impairment (including deafness), a speech or language impairment, a visual impairment (including blindness), a serious emotional disturbance, an orthopedic impairment, autism, traumatic brain injury, an other health impairment, a specific learning disability, deaf-blindness, or multiple disabilities.



"MY FATHER SAYS, THESE INTELLIGENCE TESTS ARE BIASED TOWARD THE INTELLIGENT."



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HOW TO OBTAIN SPECIAL EDUCATION SERVICES

- Eligibility is based on federal and state definitions of a disability
- The decision is made by a majority of the IEP team
- The existence of a DSM diagnosis does not necessarily mean a child will be eligible for services



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HOW TO OBTAIN SPECIAL EDUCATION SERVICES

The IDEA requires that specific individuals be present at the IEP meeting including:

- a parent
- a regular education teacher
- a special education teacher
- an individual from the district capable of making decisions and committing District resources (LEA representative)



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IEP: INDIVIDUALIZED & PERSONALIZED

- The “I” in IEP stands for individualized. This means that the document must be individually and personally tailored to meet the identified needs of the student with a disability. In order to grasp and translate the full meaning of the term individualized into the IEP document, the document’s author(s) must have a full and complete understanding of the comprehensive case study evaluation.



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THE IEP IS FOUR THINGS

1. It is a management document that sets forth what resources the school district will make available to the student;
2. It is a communication document, which clarifies what the student is entitled to based on the exceptional needs identified in the case study evaluation;
3. It is an accountability document, which specifies the individualized goals, benchmarks or short-term objectives, objective measures of progress toward goal attainment, and the schedule for measuring and reporting goal attainment progress; and
4. It is a record of a meeting.



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ANATOMY OF AN INSTRUCTIONAL OBJECTIVE

- Who?
- Will do?
- What?
- How well?
- Under What Conditions?



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IEP GOALS: SMART CRITERIA

- A quality IEP should meet the SMART criteria:
 - Specific goals and benchmarks or short-term objectives.
 - Measurable goals and benchmarks or short-term objectives.
 - Attainable goals and benchmarks or short-term objectives.
 - Relevant goals and benchmarks or short-term objectives.
 - Trackable goals and benchmarks or short-term objectives.



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COMPONENTS OF AN IEP

- Eligibility
- Sign in sheet
- Student's strengths and weaknesses
- Parental concerns
- Present levels of performance (academic and functional)
- Goals/Objectives
- Accommodations/modifications
- Special Education and related service minutes
- Placement
- Notes of meeting



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IEP – NOW WHAT?

- Annual review of IEP
- Three year re-evaluation (triennial)
- Transfer Students (must provide comparable services until the district adopts prior IEP or develops, adopts and implements a new IEP)



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IEP – NOW WHAT?

- Based on measureable goals
- 10 day parental notification required for all IEP meetings (or a record of reasonable attempts to notify parent)
- A parent may request an IEP meeting at anytime (within reason), District has 10 days after receipt of request to agree (or not) to convene meeting



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LEAST RESTRICTIVE ENVIRONMENT

- What is LRE?
- What is the range of educational placements?
- Mainstreaming? Inclusion? Is it required? When?



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7th CIRCUIT TEST – BETH B.

- “The Act itself provides enough of a framework for our discussion; if Beth's education at Lake Bluff Middle School was satisfactory, the school district would be in violation of the Act by removing her. If not, if its recommended placement will mainstream her to the maximum appropriate extent, no violation occurs.”



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SATISFACTORY?

- Time in class
- Progress toward goals
- Where is learning occurring
- Behaviors
- Accessing curriculum/mainstream environment



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TDS vs. HOME SCHOOL

- Can the student's needs be met in the mainstream (home school) setting, *i.e.* will he/she get a satisfactory education?
 - What benefit will the child receive from access to non-disabled peers
 - Can the child access that benefit
 - What level of related services does the student need



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TDS vs. HOME SCHOOL

- Does the District have the appropriate educational services to meet the student's needs (life skills, multisensory classes, Autism services)
- If already in special education, has the student met his/her goals and objectives
- Private evaluations? Recommendations?
- Discipline, attendance (school refusal anxiety)
- 

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HOW DO YOU DEFINE PROGRESS?

- Start with the Case Study Evaluation
- Goals must be measurable
- Progress updates
- Annual reviews
- Reevaluations
- Drafts of reports/goals
- School Observation


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ARTICULATION MEETING

- Purpose –
IEP meeting to discuss transition from elementary to middle school or middle school to high school
- Who attends –
Elementary/middle school team or middle/high school team *even if different school districts*


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ARTICULATION MEETING

TYPES OF SERVICES

- Review IEP currently in place
- Can it be implemented in new educational setting
- If not, need to modify IEP to fit new setting *while still ensuring it is individualized and provides a FAPE*



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WHEN DO I NEED TO BRING IN AN ATTORNEY?

ATTORNEY INVOLVEMENT CAN TAKE MANY DIFFERENT FORMS:

- Ensure appropriateness of services
- Dispute about placement on the LRE
- To review documents
- To work with you "behind the scenes"
- Because of a disciplinary infraction and what will happen next
- Various other reasons



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HOW TO PREVENT AND RESOLVE DISPUTES

Do not allow anger to cloud better judgment – IT USUALLY ISN'T PERSONAL!!

Creative ideas to reduce tension –
Change contact people

Neutral third party evaluator ("IEE")

Mediation



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FUNCTIONAL BEHAVIOR ASSESSMENT (“FBA”)?

- Process of gathering information
- About factors that reliably predict problem behavior
- For the purpose of developing an effective BIP (behavior intervention plan)



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IN OTHER WORDS, YOU ARE LOOKING FOR . . .

- Behavior and its antecedents
- That represent the child’s unsuccessful attempt to respond to the environment, such as
- “Yelling and screaming is one way to get attention”
- You are not looking for “invisible forces” within the student



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DUE PROCESS

- Parents are entitled to request a due process hearing whenever they have a complaint regarding the evaluation, identification, placement or the provision of a FAPE regarding their child
- 2 year statute of limitations to filing a due process request
- Third Circuit case (Pennsylvania) may have an impact . . .



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ONE FINAL THOUGHT



"How do you know I have a learning disability?
— Maybe you have a *teaching* disability!"



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TOP 5 TIPS FOR PARENTS

- **Do Your Homework**
- **Stay Organized**
- **Stay Focused, Brief, And Realistic**
- **Use Reputable Experts**
- **Do Not Be Intimidated**
- **And a bonus – document, document, document!**



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QUESTIONS?



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THANK YOU!!



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