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Special Education: What Parents Absolutely Need to Know



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IDEA

Students with special education needs must be provided a Free Appropriate Public Education (FAPE) pursuant to the Individuals with Disabilities Education Act (IDEA).



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FAPE

Free Appropriate Public Education

A program which is reasonably calculated to afford meaningful educational progress in all domains (academic, social, emotional, behavioral, physical) through a proper Individualized Education Program (IEP).



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Eligibility – IDEA 2004

- Autism
- Deaf-blindness
- Deafness
- Emotional disturbance
- Hearing impairment
- Intellectual Disability
- Multiple disabilities
- Orthopedic impairment
- Other health impairment



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Eligibility – IDEA 2004

- Specific learning disability
- Speech or language impairment
- Traumatic brain injury
- Visual impairment
- Developmental Delay



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FAPE

Students must be placed in the Least Restrictive Environment (LRE) consistent with their needs.

This means that special education students must be educated with typically-developing peers to the maximum extent appropriate.



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Least Restrictive Environment

Special classes, separate schooling, or other removal of special education students from the regular education environment occurs **only if** the nature and severity of the disability is such that education in regular classes **with the use of supplementary aids and services** cannot be achieved satisfactorily.



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Least Restrictive Environment

The Third Circuit Court of Appeals specified that school districts must consider the **full range of supplementary aids and services** that can be provided in the regular education setting, and must also **make efforts to modify the regular education program to accommodate a special education student**. *Oberti v. Board of Education*, 995 F.2d 1204 (3d Cir. 1993).



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Least Restrictive Environment

The IDEA specifically provides that special education students should not be removed from education in age-appropriate regular classrooms solely because of needed modifications in the general education curriculum.



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Least Restrictive Environment

Students with Specific Learning Disabilities often require Learning Support placement for classes in which the student possesses a Learning Disability, but may be educated in the Regular Education environment for all other classes.



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Least Restrictive Environment

Students with Intellectual Disability often require a Life Skills placement for academic classes, but may be educated in the Regular Education environment for non-academic classes, such as specials, and field trips.



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Least Restrictive Environment

Students with Autism may require an Autistic Support placement for academic classes, but may be educated in the Regular Education environment for non-academic classes, such as specials, and field trips.



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Least Restrictive Environment

Students with Emotional Disturbance are frequently moved into a more restrictive placement before the full range of supplementary aids and services are provided in a less restrictive placement.



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Least Restrictive Environment

Thus, referring a student with Emotional Disturbance to a more restrictive placement, such as a full-time Emotional Support classroom or a Partial Hospitalization program should be considered only after the full range of appropriate supplementary aides and services have been provided and have not been effective in promoting meaningful educational progress.



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Least Restrictive Environment

Accommodations and supports must be provided as necessary to make meaningful educational progress, to allow maximum integration with non-disabled peers, and to participate in extracurricular/ nonacademic activities.



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Child Find

The State must have in effect policies and procedures to ensure that all children with disabilities residing in the State, including children with disabilities who are homeless children or children with disabilities attending private schools, regardless of the severity of their disability, and who are in need of special education and related services, are identified, located, and evaluated.



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Child Find

Child find also must include

- Children who are suspected of being a child with a disability and in need of special education, even though they are advancing from grade to grade; and
- Highly mobile children, including migrant children.



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Evaluations

Scope of evaluation and reevaluation:

In evaluating each child with a disability, the evaluation must be sufficiently comprehensive to identify all of the student's special education and related services needs, whether or not commonly linked to the disability category in which the child has been classified.



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Evaluations

Initial evaluation is required when there is reason to suspect that the child has a disability and needs special education.



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Evaluations

A new evaluation procedure is being strongly encouraged for students suspected of having a Specific Learning Disability -- A “Response to Intervention Model” is now preferred to the former “Ability-Achievement Model” which relied upon a severe discrepancy between ability and achievement and was a “wait-to-fail” process which cheated needy children.



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Evaluations

Parents have a right to obtain an Independent Educational Evaluation, often at public expense.



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IEP: Individualized Education Plan

An Individualized Education Program or IEP means a written statement for each child with a disability that is developed, reviewed, and revised in a meeting with parents and relevant professionals.



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IEP Components

- A statement of the child's present levels of academic achievement and functional performance
- A statement of measurable annual goals, including academic and functional goals



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IEP Components

A description of—

- How the child's progress toward meeting the annual goals will be measured; and
- When periodic reports will be provided.



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IEP Components

A statement of the special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, and a statement of the program modifications and supports for school personnel.



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IEP Components

An explanation of the extent, if any, to which the student will not participate with non-disabled students in the regular class and in other school activities.



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IEP Components

A statement of any individual appropriate accommodations that are necessary to measure the academic achievement and functional performance of the child on State and district-wide assessments.



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IEP Components - Supplementary Aids

Some examples of supplementary aids or Specially Designed Instruction are:

- Direct instruction in a small group setting
- A one-on-one aid
- Scheduled and unscheduled breaks
- Access to guidance counselor
- Extra time for assignments, tests, and/or homework



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IEP Components - Supplementary Aids

- Assignments reduced
- Visual, verbal or non verbal prompting to remain on and complete tasks and to refocus
- Student should be provided with choices wherever possible
- reinforce positive choices made – consistently catch good behaviors
- Positive Behavior Support Plan



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IEP Components - Related Services

- Audiology
- Counseling services
- Early identification and assessment
- Interpreting services
- Diagnostic Medical services
- Occupational therapy
- Orientation and mobility services
- Parent counseling and training
- Physical therapy
- Social Skills



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IEP Components - Related Services

- Psychological services
- Recreation
- Rehabilitation counseling services
- Social work services
- School health services and school nurse services
- Speech-language pathology
- Transportation



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IEP Components – Transition Plan

Transition services from at least age 14

must be based upon appropriate transition assessments which are specifically designed to improve the child's academic and functional achievement. Services must be designed to facilitate the child's movement to post-school activities.



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Positive Behavior Support

- **Research-based**
- **Based on a comprehensive Functional Behavior Assessment (FBA)**
- **Based on positive reinforcement**
- **Interventions must be the least intrusive necessary**



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Positive Behavior Support

- **Restraints only where clear and present danger**
- **Written notice of restraint**
- **IEP meeting within 10 days of restraint**
- **Restraints must be used in conjunction with teaching socially acceptably alternative skills**
- **Trained staff**



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Positive Behavior Support

- Plan to eliminate use of restraints through positive behavior support
- No prone restraints
- No punishment for manifestation of disability
- No locked room or room where exit is prevented
- Suspension for more than 10 consecutive school days or 15 cumulative school days is change of placement



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Truancy

School Districts are frequently faced with the dilemma of programming for a special education student that is refusing to come to school, whereby, the student is violating compulsory attendance requirements.



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Truancy

- Filing truancy charges against a student can lead to significant punitive consequences to the family,
- This often does not effect the actual truant behavior.
- Before a school district files truancy charges, it is necessary for alternative approaches to be utilized first.
- This is particularly important for students that have been identified with special education needs.



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Truancy

- The Pennsylvania Department of Education encourages school districts to understand the reasons behind a student's truancy and try to address the issues.
- School districts are further advised to make an effort to eliminate the truant behavior and reduce referrals to the courts.



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Truancy Elimination Plan

The Pennsylvania Department of Education recommends the development of a Truancy Elimination Plan, which should include a review of:

- The appropriateness of the student's education placement;
- The student's current academic difficulties;
- The student's physical or behavioral health issues; and
- The family or environment concerns.



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Truancy and the IDEA

- If a student with special education needs is truant, the school district must conduct social/emotional assessments and a Functional Behavioral Assessment in order to determine the reason behind the truant behavior.
- Results of these assessments should be utilized to develop an appropriate Positive Behavior Support Plan to address the truant behavior.



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Eligibility - 504

- Section 504 provides a broader definition of an “individual with a disability”: [A]ny person who (i) has a physical or mental impairment which substantially limits one or more of such person’s major life activities; (ii) has a record of such an impairment; or (iii) is regarded as having such an impairment.
- Learning is a major life activity



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“Service Plan”

Section 504 and Pennsylvania’s Chapter 15 require a “Service Plan” with special education services and related services



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Remedies under IDEA

- Compensatory Education
- Appropriate program and placement
- Reimbursement for tuition and related costs for private placement
- Reimbursement for out of pocket costs associated with providing educational services (i.e. Tutoring, OT, Speech and Language Therapy)
- Attorney fees