

# Special Education Law

The Six Pillars of IDEA

# The Interplay of Laws

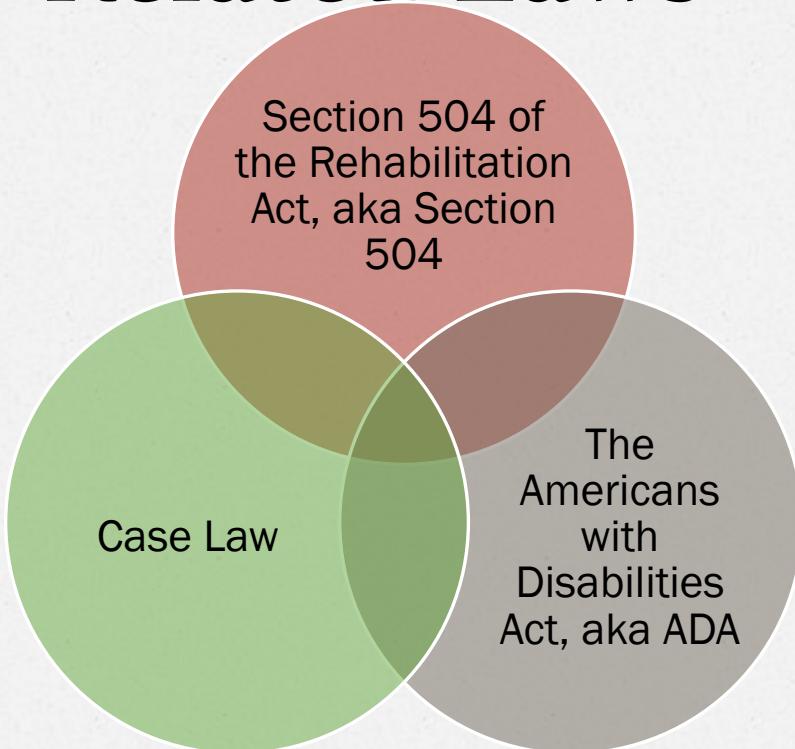
Gets us to our daily Interpretation and Practice

# Special Education Laws

The Individuals with  
Disabilities Education  
Act—IDEA

ECEA—Exceptional  
Children's education Act,  
Colorado State Rules for  
serving students in  
special Education

# Related Laws



# The Six Pillars of IDEA

Areas of Priority and Attention

# The Six Pillars of IDEA

## FAPE

Free and Appropriate  
Public Education

## Parent and Student Participation

Referral, Evaluation,  
Eligibility, IEP, Placement,  
and Discipline

## IEP

Individualized Education Program  
is a document uniquely designed  
for one specific student, with the  
intention of improving educational  
results for that child.

## Full and Comprehensive Evaluation

Student is evaluated in all  
areas of suspected disability  
at any time.

## LRE

A continuum of specially designed  
instructional services based on  
the current needs of students.  
Emphasis on general education  
peers and curriculum.

## Procedural Safeguards

Written Notice  
Consent/Refuse  
“Stay Put”  
Resolution processes  
Timelines  
Confidential Records

# Full and Comprehensive Evaluation

Need to Evaluate All Disability Areas Suspected

# 13 Types of Disabilities

 Other Health Impairment	 Hearing Impairment
 Developmental Delay	 Vision Impairment
 Intellectual Disability	 Specific Learning Disability
 Autism	 Multiple Disability
 Serious Emotional Disability	 Orthopedic Impairment
 Speech Language	 Traumatic Brain Injury

# Child Find Initiates FAPE

Parent, or other adults involved with the student can make a referral for an evaluation

A referral can be made at any time

A district may not refuse a referral in order to try other supportive services.

*\*\*Just because one person suspects a disability, that does not trigger Child Find, but the IEP team's review of current performance compared to similar peers can.*

# Triggers for Child Find Obligation

Private tutoring or outside therapy

Failing Grades

Not socializing or withdrawn

Hospitalization for medical or mental health issues

Self-harming Behaviors

Being restrained or secluded in school

Involved in disciplinary system

Not advancing grade to grade

History of special education

Truancy

Schools Cannot be Passive

Delay  Disability

*\*\*Just because one person suspects a disability, that does not automatically trigger Child Find. It is in the IEP team's review of current performance compared to similar peers that triggers the evaluation process.*

*Does the DATA indicate a suspicion of a disability?*

# Characteristics of a Disability

## 1. Permanent (Long-term Impact)

- a. Historical, background information

## 2. Pervasive

- a. Observed in multiple environments
- b. Impact of disability is universal
  - a. Not person dependent
  - b. Not location dependent

# Possible Reasons for Delays

1. Delay of development
2. Difference
3. Disadvantage
  - a) Access to instruction
  - b) Learning English
  - c) Trauma
  - d) Environmental and Economic Impacts
4. Disability

# Is it a Delay?

- Review the growth rate data of a student after implementing targeted instructional interventions.
- Compare growth rate to peer group in the same intervention.
- Student may have a gap compared to peers, but if the student demonstrates growth over a period of time, the delay is attributed to the lack of instruction or experiences.

# Is it Caused by a Disadvantage?

- Compare performance data to their peers with a similar disadvantage.
  - Example: Multi-lingual Learners, socio-economic status, environmental Impacts

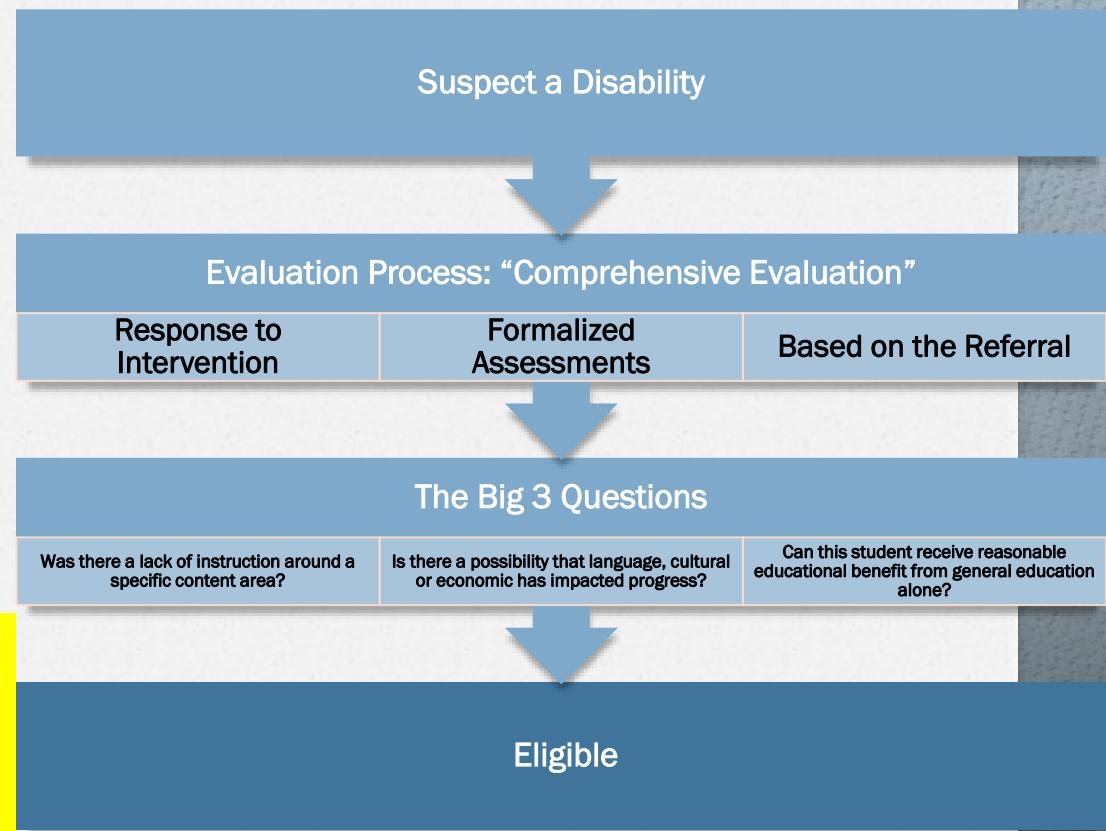
# Performance Comparisons





## Eligibility

Determined through an IEP team. There must be a body of evidence (DATA) providing documentation to meet the eligibility determination qualification as defined by CDE.



## THREE PART ELIGIBILITY DETERMINATION

<ul style="list-style-type: none"><li>• Does the student's performance data meet the criteria for 1 of the 13 disability categories under the ECEA?</li><li>• Yes or No</li></ul>	<ul style="list-style-type: none"><li>• Is there a significant, adverse educational impact resulting from the identified disability?</li></ul> <p>Yes or No</p>	<ul style="list-style-type: none"><li>• Does the student require Specially Designed Instruction?</li><li>• Yes or No</li></ul>
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## Order of Operations

Remember PEMDAS  
**Order of Operations**

P	( )	PARENTHESES
E	$x^2$	EXPONENTS
M	$\times$	MULTIPLY
D	$\div$	DIVIDE
A	+	ADD
S	-	SUBTRACT

• **(Adverse Educational Impact + Meets Disability Criteria) + SDI = IEP Eligible**

# Specially Designed Instruction

Adapting as Appropriate

Content What?	Methodology How?	Delivery Who? Where? When?
<p>The core standards, learning objectives, and individual student goals</p> <ul style="list-style-type: none"><li>Move the learner beyond the basics and encourage higher level thinking</li><li>Engage students to apply what they learn</li><li>Content and context are consistent with the theme</li></ul>	<p>The process through which academic instruction, social instruction, and behavioral instruction and interventions are developed</p> <ul style="list-style-type: none"><li>Instructional design model</li><li>Content sequencing and evidence-based practices</li><li>Instructional strategies and learning activities</li><li><b>Reflective practice</b></li></ul>	<p>The repertoire of resources, supports, and technologies used to communicate and interact with students related to individualized academic and behavior content to support student learning and engagement</p> <ul style="list-style-type: none"><li>Resources (i.e., personnel, materials, technologies, manipulatives, etc.)</li><li>Supports (i.e., additional time, group size, multiple representations, etc.)</li><li>Delivery technologies, assistive technologies, and accommodations</li><li><b>Reflective practice</b></li></ul>

[Kemp-Design Model](http://educationaltechnology.net/kemp-design-model/)  
(<http://educationaltechnology.net/kemp-design-model/>)



# Barnes vs G.M. 2024

- The ALJ conducted a six-day hearing, considering evidence from both sides.
- G.M.'s parents presented private evaluations indicating deficiencies in reading and writing, while HCPS provided assessments showing average performance.
- The ALJ found HCPS's evidence more persuasive, concluding that G.M. did not exhibit a pattern of strengths and weaknesses necessary to qualify as having a specific learning disability (SLD) under the IDEA.
- The ALJ also determined that although G.M. had an other health impairment (OHI) due to ADHD, he did not need special education because he was performing adequately relative to grade-level standards.

Average is NOT a Disability

# FAPE

Determining a Free and Appropriate Public Education

# Free Appropriate Public Education

Free

- Education of each child with a disability must be provided at public expense; no cost to parents

Appropriate

- Services sufficient to enable the student to appropriately progress in education and advance toward achieving the IEP goals; determined by the student's needs

Public

- A right to attend the public schools as non-disabled peers

Education

- Preschool, elementary, and secondary education, including extra-curricular and non-academic school activities

# BOARD OF EDUCATION OF THE HENDRICK HUDSON CENTRAL SCHOOL DISTRICT, v. AMY ROWLEY (1982)

## The Rowley Case—The Standard for “Appropriate” Education

- Providing a “basic floor of opportunity”
- “Adequate” educational services
- Educational Benefit
  - Some
  - Not Maximized Potential
- Academic Progress
- Personal Independence

# Implications—Two Part Test

- Has the school complied with the procedures of IDEA?

Procedural due process rights:

- Is the IEP reasonably calculated to bring educational benefit?

Substantive due process rights:

# Endrew F. vs Douglas County

- March 2017—Informs schools efforts to improve academic outcomes for students with disabilities
- Rejected the “merely more than de minimis” standard from Tenth Circuit Court
  - Substantive Due Process Clarified—offer an IEP reasonably calculated to enable a child to make progress appropriate in light of the child’s circumstances
    - Challenging goals and objectives
    - Corresponding services to meet the goals
    - Responding to student progress

• **Is the IEP reasonably calculated to bring educational benefit?**

**Substantive due process rights:**



An IEP must be  
appropriately  
ambitious in light of  
the student's  
circumstances

Authorities  
(*educators*) need to  
be able to offer a  
cogent and  
responsive  
explanation for their  
decisions.\*\*

# Compare/Contrast

## Rowley

- General Ed classes*
- High performer*

- Substantive Standard
- FAPE
- Goals
- Educational Benefit
- Reasonably Calculated
- Instruction
- Curriculum
- Regular Ed. Classroom
- Progress Monitoring
- Placement
- Special Education Services

## Endrew F.

- Not at grade level*
- Not mainstreamed*

IEP must be appropriately ambitious in light of the student's circumstances  
(Meet challenging objectives)

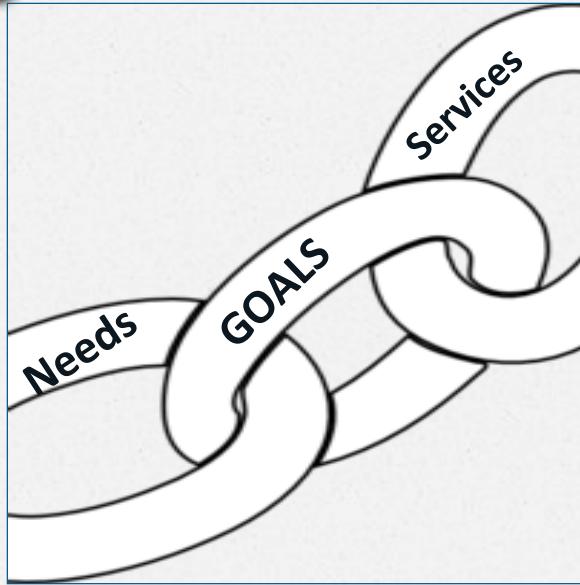
Authorities need to be able to offer a cogent and responsive explanation for their decisions.

# The IEP

Individualized Educational Program

# Components of the IEP

- Disability
- Current Performance
- Impact of the Disability/Need
- Goals
- Accommodations/Modifications
  - Assessments
- Services—Specially Designed Instruction and Related Services
  - Special Factors
  - ESY
- Least Restrictive Environment



## Services

- A service will be provided for each goal written.
- Service time will be based on completion of the goal in one years time.
- IDEA indicates the need for all students to move towards full inclusion.

# Specially Designed Instruction

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# Roles and Responsibilities

## ○ Special Education

- Deep familiarity with student needs
- Knowledge of IEP process and how it supports progress
- Provide expertise in specially-designed instruction
- Develop goals, accommodations, and modifications
- Provide input on academic programming on what works and doesn't work
- Report on progress toward IEP goals

## ○ General Education

- Provide knowledge of content areas and typical development
- Clarify the academic expectations for the student
- Help establish goals aligned with content standards
- Speak to progress and participation in gen ed
- Provide input on grades, ability, goals, & accommodations

# Student and Class Mismatch Worksheet

Facts About the Student:	Facts About the Class/Lesson:	Mismatches Between Student Facts and Class Facts:	Brainstormed Potential Solutions to Mismatches between Facts
<i>Strengths:</i>  <i>Interests:</i>  <i>Learning Style</i>  <i>Multiple Intelligences:</i>  <i>Important Relationships:</i>  <i>Goals/Concerns:</i>  <i>Other:</i>	<i>Content Demands:</i>  <i>Product Demands:</i> <i>(including how students are graded)</i>  <i>Process Demands:</i>		

# A Word on Accommodations

- Only Three Accommodations Allowed in Higher Education
  - 1. Notes able to be recorded on personal device
  - 2. Extended time
  - 3. Tests Taken in an Alternative Location
- We must *backward chain* our accommodations to prepare our students for the next chapters of their lives which does not include many accommodation.
- “Snowplow parenting.”
  - We want to protect against snowplow TEACHING as students must be prepared to access additional education or participate in the workforce, and care for their needs independently without adult intervention.

# LRE

Least Restrictive Environment

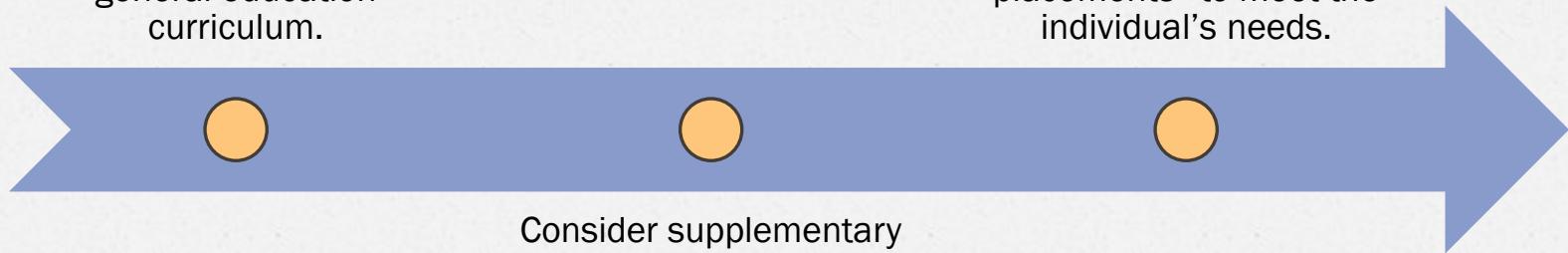
# Least Restrictive Environment

To the maximum extent appropriate, students with disabilities have the right to an education in the general education environment and the classroom they would have attended if they did not have disabilities.

# Least Restrictive Environment

Strong preference in the general education classroom with access to general education curriculum.

If inappropriate, the team considers a “continuum of alternative placements” to meet the individual’s needs.



Consider supplementary aids and services needed to support the student in the general education classroom.

# LRE

The removal from the general education program occurs ONLY if the nature or severity of the disability is such that education in general education classes with the use of supplementary aids and services cannot be satisfactorily achieved.

Curricular LRE—access to general education curriculum

Number One Way to  
Improve Student  
Achievement Results...

# Inclusion

“significantly larger growth for...students in **math** and **reading**” (Choi, Meisenheimer, McCart, & Sailor, 2017)

“strong positive relationship between the number of hours students spent in general education and **achievement** in mathematics and reading” (Cosier, Causton, & Theoharis, 2013)

“including children with **Intellectual Disabilities** in primary general education classrooms with support does not have a negative impact on the progress of pupils without disability” (Sermier Dessemonetet & Bless, 2013)

# Evidence-based support for Inclusion

Study of 11,000 students found

- Students with disabilities who spent more time in gen ed
  - Were absent less
  - Performed closer to grade level than peers in non-inclusive settings
  - Higher achievement and standardized test scores
  - Enhanced self-esteem
    - (Blackorby, Wagner, Camero, Davies...et al, 2005)

# Procedural Safeguards

AKA: Parent's Rights

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# Procedural Safeguards

Rights of children with disabilities and parents are protected

All information needed to make decisions regarding FAPE are provided to the parents

Procedures are in place to resolve disagreements between parties

# Procedural Safeguards

Right to written notice

Right to consent/refuse

Right to “stay put”

Mediation and Due Process

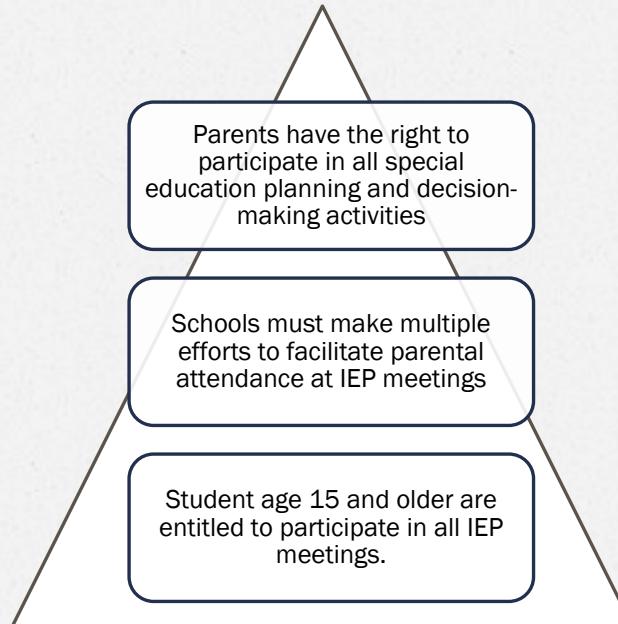
Timelines

Confidential records

# Participation Rights

Parent and Student

# Specific Participation Rights



# Areas of Guaranteed Participation

Referral

Evaluation

Eligibility Determination

IEP Development

Placement Decisions

Disciplinary Actions

# Meaningful Parent Participation

- <https://sites.ed.gov/idea/regs/b/d/300.322>
- 1. Present for the Meeting
  - Provide timely notification
  - Schedule at mutually agreed time and place
- 2. Information is provided to parents
  - Notice includes purpose, time, location, and participants
- 3. Use Methods to Ensure Parent Participation
  - Phone call, remote, visits to home or place of employment
- 4. Use of Interpreters
- 5. Provide copy of IEP at no cost to the parent

# Manifestation Determinations

Discipline in Special Education

# Conducting a MDR

Required prior to  
disciplinary  
changes in  
placement

- Long-term removals (>10 consecutive school days), and
- Accumulations of short-term removals more than 10 total days in a school year, and meeting multiple factor criteria for change of placement—See 34 CFR 300.536

The PRIMARY safeguard in the IDEA against discriminatory disciplinary removals under local rules or state law.

# The Standard

Was behavior caused by, or directly and substantially related to, the disability?

Was the behavior the direct result of a failure to implement the IEP?

# MDR

If behavior is found to be a manifestation of the disability, long-term removal cannot take place.

*Exception—Special offenses (drugs, weapons, serious bodily injury—45-school-day removal is possible even if a manifestation is found).*

- If no manifestation is found, relevant disciplinary procedures applicable to non-disabled students may be applied to the student in the same manner and for the same duration; however, the student must continue to receive FAPE.

# Exit Survey

- Share a new learning or an “ah-ha” based on today’s training with your shoulder partner.
- How will you take this new learning with you into your practice?