



Special Education Law

The Six Pillars of IDEA

The Interplay of Laws

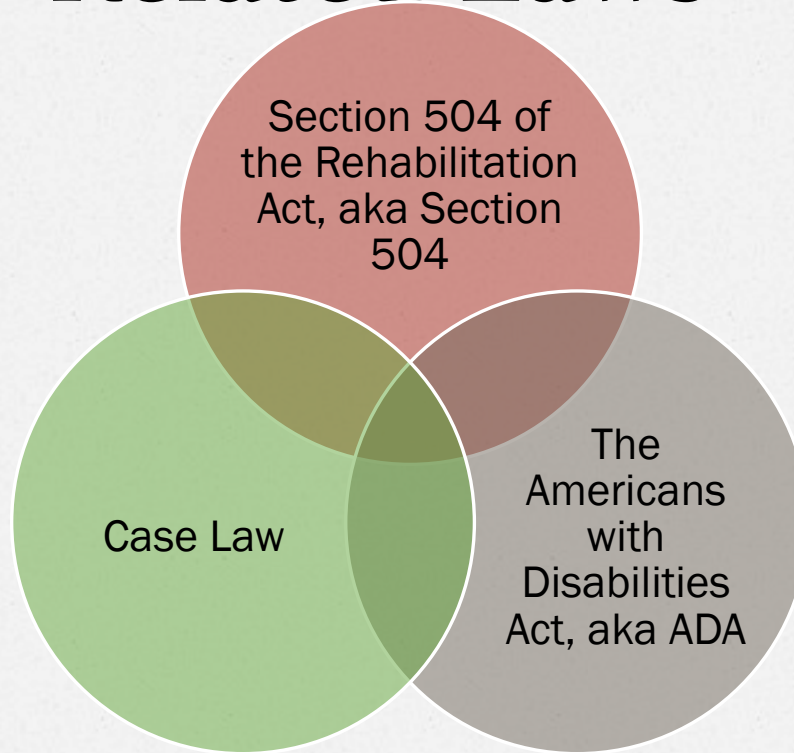
Gets us to our daily Interpretation and Practice

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

Developmental Delay

Intellectual Disability

Autism

Serious Emotional Disability

Speech Language

Hearing Impairment

Vision Impairment

Specific Learning Disability

Multiple Disability

Orthopedic Impairment

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Not socializing or withdrawn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 \neq 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

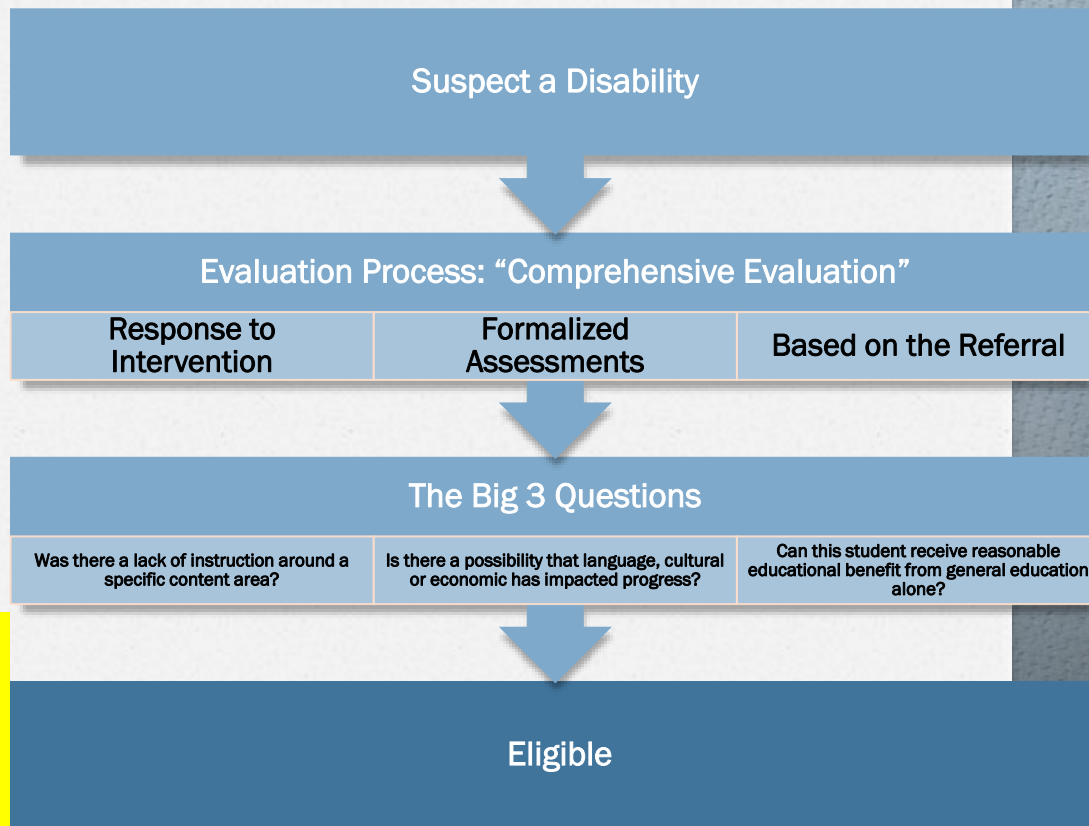
Performance Comparisons





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

- Does the student's performance data meet the criteria for 1 of the 13 disability categories under the ECEA?

- Yes or No

- Is there a significant, adverse educational impact resulting from the identified disability?

Yes or No

- Does the student require Specially Designed Instruction?

- Yes or No

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">• Move the learner beyond the basics and encourage higher level thinking• Engage students to apply what they learn• Content and context are consistent with the theme <p><u>Kemp-Design Model</u> (http://educationaltechnology.net/kemp-design-model/)</p>	<p>The process through which academic instruction, social instruction, and behavioral instruction and interventions are developed</p> <ul style="list-style-type: none">• Instructional design model• Content sequencing and evidence-based practices• Instructional strategies and learning activities• Reflective practice	<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">• Resources (i.e., personnel, materials, technologies, manipulatives, etc.)• Supports (i.e., additional time, group size, multiple representations, etc.)• Delivery technologies, assistive technologies, and accommodations• Reflective practice

Methodology and Delivery are Often Intertwined

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 students 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:

Andrew 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)

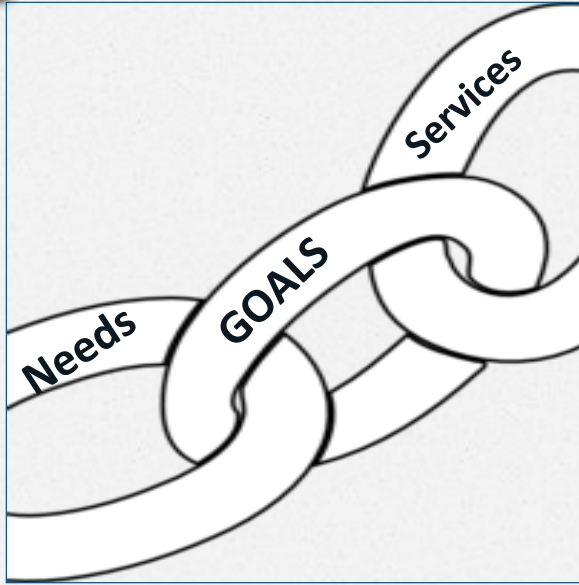
Authorities need to be able to offer a cogent and responsive explanation for their decisions.

The IEP

Individualized Educational Program

Components of the IEP

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

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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

- o 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
- o We must *backward chain* our accommodations to prepare our students for the next chapters of their lives which does not include many accommodation.
- o “Snowplow parenting.”
 - o 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

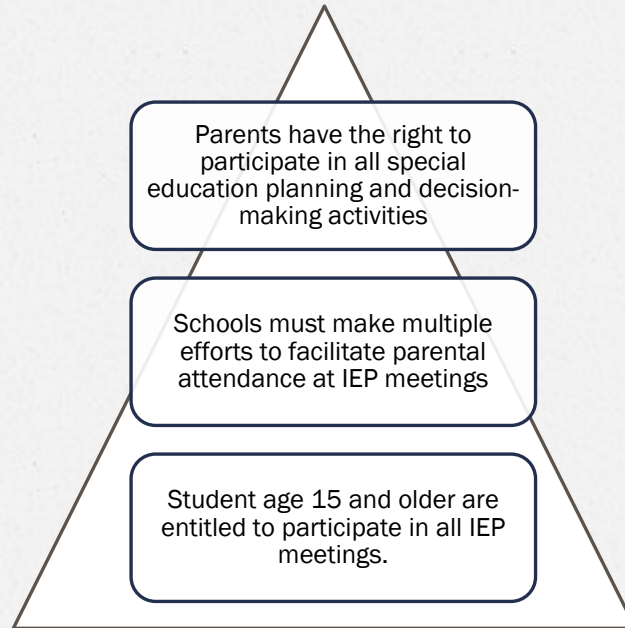
Timelines

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

o <https://sites.ed.gov/idea/regs/b/d/300.322>

1. Present for the Meeting

- o Provide timely notification
- o Schedule at mutually agreed time and place

2. Information is provided to parents

- o Notice includes purpose, time, location, and participants

3. Use Methods to Ensure Parent Participation

- o 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?