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# Introduction

## Understanding Special Education Jargon

### What Is Special Education?

Under the federal law that protects students in special education and their parents and guardians, the Individuals with Disabilities Education Act (IDEA), special education is defined as *“specially designed instruction, at no cost to the parent/guardians, to meet the unique needs of a student with a disability”* (20 U.S.C.1401(29)).

### In the Definition of Special Education, What Does “Specially Designed Instruction” Mean?

Specially designed instruction means adapting, as appropriate to the needs of a student eligible under the act, the content, methodology, or delivery of instruction

- To address the unique needs of the student that result from the student’s disability
- To ensure access of the student to the general curriculum, so that he or she can meet the educational standards within the jurisdiction of the public agency that apply to all students.

### In the Definition of Special Education, What Does “At No Cost to Parents/Guardians” Mean?

At no cost means that all specially designed instruction is provided without charge but does not preclude incidental fees that are

normally charged to nondisabled students or their parents or guardians as a part of the general education program.

## In the Definition of Special Education, What Does a “Student With a Disability” Mean?

A student with a disability means a student evaluated as having mental retardation, a hearing impairment (including deafness), a speech or language impairment, a visual impairment (including blindness), a serious emotional disturbance (referred to in this part as emotional disturbance), an orthopedic impairment, autism, traumatic brain injury, another health impairment, a specific learning disability, deaf-blindness, or multiple disabilities, and who, by reason thereof, needs special education and related services.

For students ages 3 through 9, a “student with a disability” may include, at the discretion of the state and the local educational agency (LEA), a student who is experiencing *developmental delays*, as defined by the state and as measured by appropriate **diagnostic** instruments and procedures, in one or more of the following areas:

- Physical development
- Cognitive development
- Communication development
- Social or emotional development, *or*
- Adaptive development, *and*
- Who needs, for that reason, special education and **related services**

From birth through age 2, students may be eligible for services through the Infants and Toddlers with Disabilities Program (Part C) of the IDEA.

## Where Is Special Education Instruction Provided?

Special education instruction can be provided in a number of settings, such as in the classroom, in the home, in hospitals and institutions, and in other settings. Public agencies must ensure that a continuum of alternative placements is available to meet the needs

of students with disabilities. This continuum must include the placements just mentioned (instruction in general education classes, special classes, special schools, home instruction, and instruction in hospitals and institutions) and make provision for supplementary services (such as **resource room** or **itinerant** instruction) in conjunction with regular class placement. Unless a student's **individualized education program (IEP)** requires some other arrangement, the student must be educated in the school he or she would attend without a disability.

Special education instruction must be provided to students with disabilities in what is known as the **least restrictive environment, or LRE**. Both IDEA and its regulations have provisions to ensure that students with disabilities are educated with nondisabled students to the maximum extent appropriate. IDEA's LRE requirements apply to students in public or private institutions or other care facilities. Each state must further ensure that special classes, separate schooling, or other removal of students with disabilities from the general educational environment occur only if the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

## **How Many Students Currently Receive Special Education Services?**

According to the U.S. Department of Education (2004), approximately six million school-aged children (ages 6–21) receive special education. The number of students has increased every year since the inception of our original federal special education law, PL 94-142 (today it is known as the Individuals with Disabilities Education Act, PL 108-446). Since 1975, the number of students being provided special education has increased approximately 75 percent.

## **What Federal Laws Protect Students With Disabilities?**

### **Education for All Handicapped Students Act (EHA)**

The passage of Public Law 94-142, Education for All Handicapped Students Act (EHA) by Congress in November 1975 was the end result of many years of litigation and state legislation to protect and promote the civil rights of all students with disabilities. This federal law required states to provide "a free, appropriate public education for every student between the ages of 3 and 21 (unless state law does not

provide free, public education to students 3 to 5 or 18 to 21 years of age) regardless of how, or how seriously, he may be handicapped.” PL 94-142 was the first law to clearly define the rights of disabled students to free appropriate public education. PL 94-142

- Was the first law to clearly define the rights of disabled students to **free appropriate public education (FAPE)**
- Required the school systems to include the parents and guardians when meeting about the student or making decisions about his or her education
- Mandated an individualized education program (IEP) for every student with a disability (The IEP must include short- and long-term goals for the student, as well as ensure that the necessary services and products are available to the student.)
- Required that students be placed in the least restrictive environment (LRE; LRE means placing the student in the most normal setting that is possible.)
- Ensured that students with disabilities be given nondiscriminatory tests (tests that take into consideration the **native language** of the student and the effects of the disability)
- Required **due process** procedures to be in place (to protect families and students)

## Education of the Handicapped Act Amendments

In 1986, EHA was amended by PL 99-457, the Education of the Handicapped Act Amendments. These amendments, which are also known as the Early Intervention Amendments to PL 94-142, extended FAPE to all students ages 3 to 5 by October 1991 (Section 619, Part B) in all states that wanted to participate (all 50 wanted to and did, even states that do not have public schooling for students at those ages). In Section 619, Part H, a new program was created for infants, toddlers, and their families, which required the development of an individualized family service plan (IFSP) for each student in each family served.

Provisions were also included to help states develop early **intervention** programs for infants and toddlers with disabilities; this part of the legislation became known as the Part H Program. In 1997, the amendments to IDEA were amended and the section of the law that applies to infants and toddlers changed to Part C.

## Individuals with Disabilities Education Act

The EHA was amended again in 1990 by PL 101-476, which, among other things, changed the name of the legislation to the Individuals with Disabilities Education Act, or IDEA. More important,

PL 101-476 replaced the word *handicapped* with the word *disabled* and thereby expanded the services for the affected students. IDEA reaffirms PL 94-142's requirements of a free appropriate public education through an individualized education program with related services and due process procedures. This act also supports the amendments to PL 94-142 that expanded the entitlement in all states to ages 3 to 21, designated assistive technology as a related service in IEPs, strengthened the law's commitment to greater **inclusion** in community schools (least restrictive placement), provided funding for infant and toddler early intervention programs, and required that by age 16 every student have explicitly written in the IEP a plan for transition to employment or postsecondary education.

### **Individuals with Disabilities Education Act Amendments of 1997**

The IDEA was first amended in 1992 by PL 102-119. The newest amendments to this law were the Individuals with Disabilities Education Act Amendments of 1997 (PL 105-17). These amendments restructured IDEA into four parts: Part A addressed general provisions; Part B covered assistance for education of all students with disabilities; Part C covered infants and toddlers with disabilities; and Part D addressed national activities to improve the education of students with disabilities.

### **Individuals with Disabilities Education Improvement Act of 2004**

On December 3, 2004, the Individuals with Disabilities Education Improvement Act of 2004 was enacted into law as Public Law 108-446. The statute, as passed by Congress and signed by President George W. Bush, reauthorized and made significant changes to the Individuals with Disabilities Education Act.

The Individuals with Disabilities Education Act, as amended by the Individuals with Disabilities Education Improvement Act of 2004, is intended to help students with disabilities to achieve high standards—by promoting accountability for results, enhancing parent and guardian involvement, and using proven practices and materials—and also by providing more flexibility and reducing paperwork burdens for teachers, states, and local school districts.

Enactment of the new law provides an opportunity to consider improvements in the current regulations that would strengthen the federal effort to ensure that every student with a disability have available a free appropriate public education that (1) is of high quality and (2) is designed to achieve the high standards reflected in the

Elementary and Secondary Education Act of 1965, as amended by the No Child Left Behind Act of 2001 (NCLB) and its implementing regulations.

### **Section 504 of the Rehabilitation Act of 1973**

A student with a disability who does not need special education but who needs a related service may be eligible for that service under a federal law, **Section 504** of the Rehabilitation Act of 1973.

Section 504 covers qualified students with disabilities who attend schools receiving federal financial assistance. To be protected under Section 504, a student must be determined to (1) have a physical or mental impairment that substantially limits one or more major life activities, (2) have a record of such an impairment, or (3) be regarded as having such an impairment. Section 504 requires that school districts provide a free and appropriate public education to qualified students in their jurisdictions who have a physical or mental impairment that substantially limits one or more major life activities.

To determine whether a student is protected by Section 504, an evaluation would need to be conducted to determine whether he or she is a person with disabilities within the meaning of Section 504. Public elementary and secondary school districts receiving federal financial assistance are required by Section 504 to provide a free appropriate public education to students with disabilities in their jurisdiction.

Decisions about what educational and related services are appropriate for a student under Section 504 must be made by a placement group including persons knowledgeable about the student, the meaning of evaluation data, and placement options. The placement group decides whether the student needs regular or special education and related aids and services. Section 504 also applies to recipients of federal financial assistance that operate private elementary and secondary education programs. These recipients may not, on the basis of handicap, exclude a qualified handicapped person from such programs if the person can, with minor adjustments, be provided an appropriate education within the recipient's program.

The determination of whether a student has a physical or mental impairment that substantially limits a major life activity must be made on the basis of an individual inquiry. Section 504 regulation defines a physical or mental impairment as *any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive;*

*digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.* The regulation does not set forth an exhaustive list of specific diseases and conditions that may constitute physical or mental impairments because of the difficulty of ensuring the comprehensiveness of such a list.

Major life activities include functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working. This list is not exhaustive. Other functions can be major life activities for the purposes of Section 504.

## **What Is the Purpose of the Individuals with Disabilities Education Act (IDEA)?**

IDEA states four specific purposes of the act:

1. To ensure that all students with disabilities have available to them a free appropriate public education that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment, and independent living
2. To ensure that the rights of students with disabilities and their parents or guardians are protected
3. To assist states, localities, educational service agencies, and federal agencies to provide for the education of all students with disabilities
4. To assess and ensure the effectiveness of efforts to educate students with disabilities

## **What Is a Free Appropriate Public Education?**

Under IDEA, a free appropriate public education (FAPE) means special education and related services that

- Are provided to students and youth with disabilities at public expense, under public supervision and direction, and without charge

- Meet the standards of the state education agency (SEA), including the requirements of the IDEA
- Include preschool, elementary school, or secondary school education in the state
- Are provided in keeping with an individualized education program (IEP) that meets the requirements of law

## Who Is Considered a Parent or Guardian Under IDEA?

A parent or guardian of a student with a disability can include

- A natural or adoptive parent or guardian of a student
- A foster parent or guardian, unless state law, regulations, or contractual obligations with a state or local entity prohibit a foster parent or guardian from acting as a parent or guardian
- A guardian (but not the state if the student is a ward of the state)
- An individual acting in the place of a natural or adoptive parent or guardian (including a grandparent-guardian, stepparent-guardian, or other relative) with whom the student lives, or an individual who is legally responsible for the student's welfare
- A **surrogate parent** or guardian who has been appointed in accordance with IDEA regulations, sometimes referred to as an educational surrogate parent (ESP; an ESP is a trained volunteer who is appointed as an **advocate** for a student who is in state custody, such as foster care, and whose parent or guardians are unable or unwilling to advocate for that student)

Also note that if a judicial decree or order identifies a specific person or persons to act as the parent or guardian of a student or to make educational decisions on behalf of a student, then such person or persons is considered to be the parent or guardian for the purposes of §20 U.S.C. 1401(23).

## What Disabilities Are Covered Under IDEA?

Under IDEA, "a student with a disability" is a student who may have one or more of the following disabling conditions according to §20 U.S.C. 1401(3) and 1401(30):

## Autism

Autism means a developmental disability significantly affecting verbal and nonverbal communication and social interaction, generally evident before age 3, that adversely affects a student's educational performance. Other characteristics often associated with autism are engagement in repetitive activities and stereotyped movements, resistance to environmental change or change in daily routines, and unusual responses to sensory experiences. Autism does not apply to a student whose educational performance is adversely affected primarily because the student has an emotional disturbance.

## Deaf-Blindness

Deaf-blindness means concomitant hearing and visual impairments, the combination of which causes such severe communication and other developmental and educational needs that the affected person cannot be accommodated in special education programs for students solely with deafness or solely with blindness.

## Deafness

Deafness means a hearing impairment that is so severe that the student is impaired in processing linguistic information through hearing, with or without **amplification**, and that adversely affects a student's educational performance.

## Developmental Delay

A student with a developmental delay is one who, in physical development, cognitive development, communication development, social or emotional development, adaptive development, or any combination thereof

- Is so defined by the state and as measured by appropriate diagnostic instruments and procedures, and
- By reason thereof, needs special education and related services

## Emotional Disturbance

Emotional disturbance means a condition exhibiting one or more of the following characteristics over a long period of time and to a marked degree that adversely affects a student's educational performance:

- An inability to learn that cannot be explained by intellectual, sensory, or health factors
- An inability to build or maintain satisfactory interpersonal relationships with peers and teachers
- Inappropriate behavior or feelings under normal circumstances
- A general pervasive mood of unhappiness or depression
- A tendency to develop physical symptoms or fears associated with personal or school problems

Emotional disturbance includes schizophrenia. The term does not apply to students who are socially maladjusted.

### **Hearing Impairment**

Hearing impairment means a level of sensitivity in hearing, whether permanent or fluctuating, that adversely affects a student's educational performance but that does not meet the definition of deafness.

### **Mental Retardation**

Mental retardation means significantly subaverage general intellectual functioning, existing concurrently with **deficits in adaptive behavior** and manifested during the developmental period, that adversely affects a student's educational performance.

### **Multiple Disabilities**

Multiple disabilities means concomitant impairments (such as mental retardation and blindness or mental retardation and orthopedic impairment), the combination of which causes such severe educational needs that they cannot be accommodated in special education programs solely for one of the impairments. Multiple disabilities does not include deaf-blindness.

### **Orthopedic Impairment**

Orthopedic impairment means a severe physical condition that adversely affects a student's educational performance. The term includes impairments caused by a congenital anomaly, impairments caused by disease (e.g., poliomyelitis, bone tuberculosis), and impairments from other causes (e.g., cerebral palsy, amputations, and fractures or burns that cause contractures).

## Other Health Impairment

Other health impairment means having limited strength, vitality or alertness, including a heightened alertness to environmental stimuli, that results in limited alertness with respect to the educational environment, and that

- Is due to chronic or acute health problems such as asthma, attention deficit disorder or **attention deficit/hyperactivity disorder**, diabetes, epilepsy, a heart condition, hemophilia, lead poisoning, leukemia, nephritis, rheumatic fever, and sickle cell anemia
- Adversely affects a student's educational performance

## Specific Learning Disability

Specific **learning disability** means a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, that may manifest itself in the imperfect ability to listen, think, speak, read, write, spell, or to do mathematical calculations, including conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, **dyslexia**, and developmental **aphasia**.

Specific learning disability does not include learning problems that are primarily the result of visual, hearing, or motor disabilities, of mental retardation, of emotional disturbance, or of environmental, cultural, or economic disadvantage.

## Speech or Language Impairment

Speech or language impairment means a communication disorder, such as stuttering, impaired **articulation**, a language impairment, or a voice impairment, that adversely affects a student's educational performance.

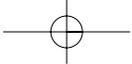
## Traumatic Brain Injury

Traumatic brain injury means an acquired injury to the brain caused by an external physical force, resulting in total or partial functional disability or psychosocial impairment, or both, that adversely affects a student's educational performance. Traumatic brain injury applies to open or closed head injuries resulting in impairments in one or more areas, such as **cognition**, language, memory, attention, reasoning, abstract thinking, judgment, problem-solving, psychosocial

behavior, physical functions, information processing, speech, and sensory, perceptual, and motor abilities. Traumatic brain injury does not apply to brain injuries that are congenital or degenerative or to brain injuries induced by birth trauma.

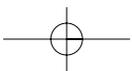
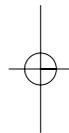
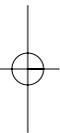
### **Visual Impairment**

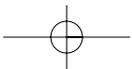
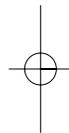
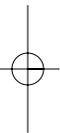
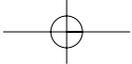
Visual impairment means a level of acuity in vision that, even with correction, adversely affects a student's educational performance. The term includes both partial sight and blindness.



# **Steps in the Special Education Process**

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# 1

## Step I

### The Prereferral Process

The prereferral process involves the identification, evaluation, and disposition of cases involving students who are **at-risk** students by a local school committee known as the Child Study Team. Further, some of these students identified as being at risk may be suspected of having an educational disabilities that would necessitate further interventions.

#### What Are Child Study Teams?

A Child Study Team (CST) is a local school committee that uses a more global approach to the identification of at-risk students. In some schools, the Child Study Team is referred to by other names (for example, School Based Support Team, **Pupil Personnel Team**).

#### What Is the Purpose of Child Study Teams?

The members of the Child Study Team work together in determining the possible **etiology** (cause), contributing factors, educational status, prognosis (outcome), and recommendations for the referred student. The reason for using a team approach is that it draws on many experts covering many fields and disciplines to review a student's

case rather than rely on a single individual to determine all the factors. The overall purpose of the CST is to find the best educational resolution for each student's profile.

## Who Are the Members of the Child Study Team?

This Child Study Team is usually made up of the following individuals:

- *Administrator:* The administrator is usually the principal or assistant principal. He or she may bring to the meeting any prior experience with the student, a sibling, or family members.
- *Psychologist:* The psychologist may be able to contribute prior test results, outside professional reports that have been released to the school, conversations (with parent or guardian permission) with a therapist, psychiatrists, and so on who have had experience with the student, and observations of the student and any prior interactions or interviews with the student or family.
- *Nurse:* The nurse will be able to inform the CST of any medical information that may have a bearing on the case. The nurse should be able to provide measures of vision and hearing acuity tests, reports and results from the student's pediatrician or other health professionals, medications the student is taking if any, and any other medical information available.
- *Classroom teacher:* The classroom teacher will bring samples of work, informal test results, portfolio assessments (if applicable), **anecdotal records**, personal observations, summary of meetings with parents or guardians, observations of peer interaction, and so on.
- *Social worker:* If a social worker is on the CST, he or she may have had interactions with the family or other family members, results of a home visit, or experiences with the student if the student was in a group with the social worker.
- *Special education teacher:* The special education teacher may have information on prior educational testing, personal observations of the student, or **screening** results for the student.
- *Guidance counselor on the secondary level:* The guidance counselor will be able to provide report card grades dating back to kindergarten, achievement test scores as far back as possible, classroom teacher reports, aptitude test results, and impressions from personal involvement with the student and his or her family.

- *Reading teacher:* The reading teacher will provide any reading evaluations that may have been done on the student, experiences from remedial reading interventions (if applicable), screening results, and observations from any personal involvement with the student, siblings, or family members.
- *Speech and language pathologist:* The speech and language pathologist may bring screening test results, observations, and any interactions with the student, siblings, or parents or guardians.

## **What Is a Referral to the Child Study Team?**

Usually the first time a psychologist, special education teacher, or Child Study Team becomes aware that the student may have a problem is when the classroom teacher fills out a referral form. The major purpose of such a form is to alert other school professionals that the student is exhibiting difficulties in the classroom that may require further attention.

## **Who Normally Makes a Referral to the Child Study Team?**

The sources of referrals to the Child Study Team can originate from many sources, including but not limited to

- Parents and guardians
- Teachers
- School staff such as principal, speech therapist, school psychologist
- Private therapists
- Doctors
- The student himself or herself

## **What Is Discussed at the Child Study Team Meetings?**

In order to determine the best direction and options for a student, the team must first address many issues in order to zero in on the possible causes and type of problems being exhibited. The questions that are often asked may include but are not limited to

- What are the comments from past teachers?
- What is going on at home?
- What are the achievement test scores and what patterns do they reflect?
- What does the developmental history look like?
- When was the last time vision and hearing were checked?
- What symptoms are being exhibited by the student that are of concern at this time?
- What has the teacher tried that has worked?
- What has the teacher tried that does not seem to alleviate the symptoms?
- What are the student's present academic levels of functioning?
- What is the student's social behavior like?
- Have the parents or guardians been contacted?

## What Are the Options of the Child Study Team?

The options open to the Child Study Team depend on the case. Sometimes the CST may need further information not available at the time of the initial meeting. This may include

- *Educational screening*: This recommendation is chosen by the CST when a student's academic skill levels (reading, math, writing, and spelling) are unknown or inconsistent. A screening is not a formal evaluation but a series of short, brief measures that give the CST some basic academic knowledge on which to make other decisions (Pierangelo, 2004).
  - *Parent/guardian intake*: This may be used to gather further information not available in school records.
  - *Classroom management suggestions*: This option may involve collaboration between the classroom teacher and various Child Study Team members, such as the school psychologist, to try to help alleviate the problems the teacher faces.
  - *Consolidation of program*: Sometimes, especially on the secondary level, consolidating a student's program so that the student has less time in school may alleviate a problem.
- *Disciplinary action*: There may be times when the team will suggest some type of disciplinary action to remediate or temporarily contain the problem.

According to the law—Sec. 300.302 of IDEA 2004—screening for instructional purposes is not evaluation. Further, the screening of a student by a teacher or specialist to determine appropriate instructional strategies for curriculum implementation shall not be considered to be an evaluation for eligibility for special education and related services.

- *Referral to student protective agencies for possible neglect or abuse:* If the case before the CST is one in which abuse or neglect is suspected, then it is the legal responsibility to have the case investigated. Everyone on the CST is a mandated reporter and must report a case of suspected neglect and abuse to the proper agency.
- *Vision and hearing screening:* If the team feels that the student's vision or hearing needs to be screened to rule it out as a possible contributing factor, the team will either ask the nurse to do the screening or ask for a more comprehensive evaluation from an outside professional. How screening is handled varies from state to state and from district to district.
- *Referral for a special education comprehensive assessment:* In the case where the CST has tried every possible intervention available at the local school level and the student is still having serious issues, a formal referral for a comprehensive assessment can be made by the team.

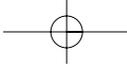
## What Is a Prereferral Strategy Plan?

Before making a formal referral for special education assessment, the Child Study Team must suggest prereferral strategies. Prereferral strategies are attempts to alleviate any problems in case a referral for further special education intervention is not necessary.

## How Is the Determination of a Suspected Disability Made by the Child Study Team?

After the CST has exhausted all possible means of resolution and intervention, it may consider the following criteria (among others) as a basis for a suspected disability and a referral for a special education comprehensive assessment:

- A long-standing history of the problem
- A severe discrepancy between ability and **achievement** as indicated on standardized tests
- A severe discrepancy between ability and performance as indicated by informal assessments
- Lack of successful response to the prereferral strategy plan
- Behavioral manifestations suggesting a potential disability, such as processing problems
- An increase in the intensity, duration, and frequency of symptoms such as aggressive behavior, **distractibility**, or failing grades



## **What Happens After the Child Study Team Determines That a Student May Have a Disability?**

At this point, the CST team will make a formal referral to the multi-disciplinary team or the IEP Committee requesting a comprehensive special education assessment. Members of the CST will first meet with the parent or guardian to go over the reasons for such a recommendation and provide the documentation for such a referral, such as test scores, grades, observation information, or prereferral strategy plan.

