

# INTRODUCTION TO IEP'S



***The Arc.***  
*of New Jersey*



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*Representing people with disabilities and their families since 1974*

# IDEA'S GUARANTEE

All students will receive a **Free  
Appropriate Public Education  
(FAPE)** in the **Least Restrictive  
Environment (LRE)**



# IDEA'S GOAL

Prepare students for success after graduation in:

- Employment
- Further Education
- Independent Living



# BROAD SCOPE OF SPECIAL EDUCATION

A student's IEP must appropriately address *all areas of need* that result from student's disabilities that might interfere with student's ability to succeed after graduation in employment, further education, or independent living

There are only *two exceptions* to this:

- Medical services (meaning provided by M.D.)
- Religious services

# COMMON AREAS OF EDUCATIONAL NEED

- Academics
- Behavior
- Social Skills
- Emotional Functioning
- Self Care Skills
- Physical Skills (fine and gross motor)
- Sensory Skills

# What is a Free Appropriate Public Education

- A free appropriate public education is special education and related services which are:
  - 1. Provided at no cost
  - 2. Delivered pursuant to an Individualized Education Program (IEP), and
  - 3. Designed to meet the unique needs of a student

# WHAT IS APPROPRIATE?

“APPROPRIATE” MEANS:

- IEP is designed to confer **SIGNIFICANT** and **MEANINGFUL BENEFIT** in **ALL AREAS** impacted by the student’s disabilities
- Goal is to allow student to **PROGRESS** in significant and meaningful ways to overcome limitations of disabilities
- Must take into account student’s **POTENTIAL**



# Who is Eligible under the IDEA?

- In order for a student to be eligible under the IDEA, a student must meet 2 tests:
  - 1. The student's condition must fit within at least 1 of 13 disability categories provided in the law, and
  - 2. The student must require special education and related services as a result of his or her disability



# IDEA's Thirteen (13) Eligibility Categories

- 1. Cognitive Impairment
- 2. Deafness
- 3. Hearing Impairment
- 4. Speech or Language Impairment
- 5. Visual Impairment
- 6. Serious Emotional Disturbance
- 7. Orthopedic Impairment
- 8. Autism
- 9. Traumatic Brain Injury
- 10. Specific Learning Disability
- 11. Deaf-Blindness
- 12. Multiple Disabilities
- 13. Other Health Impaired (catchall)

# SIX STEPS OF THE SPECIAL EDUCATION PROCESS

- Identification
- Evaluation
- Classification
- Development of IEP
- Development of Placement
- Repeat
- *Each step builds on the previous steps*
- ***Parental Participation is Required at Each Step***

# Identification

- Someone (can be anyone) notifies school officials that a student may have a disability
  - If you, as the parents or guardians, believe the child has a disability, you should make a written request for the child to be evaluated

# Evaluation

- Information about the student's condition is gathered and analyzed in a systematic fashion (includes medical evaluations when needed for classification or to determine a student's needs)
- School needs the parents or guardian's consent in order to evaluate the child
- Child must be re-evaluated at least every 3 years

# Evaluation - continued

- Evaluations should answer 3 questions about the student:
  - 1. Does the student have a disability which requires the provision of special education and related services?
  - 2. What are the student's specific educational needs?
  - 3. What special education and related services, then, are appropriate for addressing those needs?

# Disagreement with Evaluation

- If the parent or guardian disagrees with the results of an evaluation, you can request an Independent Evaluation
  - You need to make this request in writing to the school
  - Don't just say you disagree with the results, but provide your reasoning behind this
    - For example, the evaluation does not accurately reflect my child's behaviors, but they do in fact exist because I see them every day at home
- The School may comply with the parent's request for an Independent Evaluation, or they may file a Due Process Petition against the parents to demonstrate why the Independent Evaluation is unwarranted (more on Due Process later)

# Classification

- A determination is made whether the child is a “Student with a Disability” using the IDEA’s 13 categories of eligibility
- If a student is classified and determined eligible to receive special education and related services, the School must convene an IEP Meeting
- If a parent or guardian disagrees with the School that the child is not eligible for special education and related services, the parents can challenge this by filing a Due Process Petition

# Development of an IEP

- The Child Study Team (CST) will develop an IEP for the student
- The parents or guardian have to be given advanced notice of this meeting and the opportunity to participate
- IEP Components – At a minimum:
  - Present Levels of Academic Achievement and Functional Performance
  - Goals and Objectives
  - Statement of Special Education Services
  - Related Services
  - Modifications
  - Accommodations



# Development of Placement

- More on this momentarily, but Placement means the specific setting in which the student will be educated
  - Under the IDEA, Placement must be in the Least Restrictive Environment

# THE IEP TEAM

- The IEP Team is comprised of:
- the **parents** of the child;
- not less than one **regular education teacher** of the child (if the child is, or may be, participating in the regular education environment);
- not less than one **special education teacher** of the child, or where appropriate, not less than one special education provider of the child;
- a **representative of the school** who is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children with disabilities; is knowledgeable about the general education curriculum; and is knowledgeable about the availability of resources of the public agency;
- an individual who can **interpret the evaluation results**;
- other individuals who have **knowledge or special expertise regarding the child**, including related services personnel as appropriate (invited at the discretion of the parent or the agency); and
- the **child** with a disability (when appropriate).

# Advocacy Tip:

## Building an Effective IEP Team

- Parents may involve others in the IEP process
- Professionals who are not affiliated with the school district can be invaluable:
  - Private therapists (speech, OT, PT, counseling)
  - Medical professionals (neurologist, developmental pediatrician)
  - Staff of outside agencies such as Performcare
- How they can help:
  - At a minimum, write letters
  - Preferably attend IEP meetings – this makes them part of the IEP team
  - Observations, functional assessments, and other structured “get to know you” activities can be critical

# The Sovereignty of the IEP Team

- Under the IDEA, *all* decisions concerning the educational program, placement, or provision of FAPE to a student with disabilities must be made by the IEP team at a legally-convened, fully attended IEP meeting
- The IEP team must include all necessary district personnel to make binding decisions about student's IEP
- Parent can waive IEP meeting and agree to modifications without meeting, but waiver must be in writing signed by the parent
- *IT IS IMPERMISSIBLE FOR DISTRICTS TO MAKE DECISIONS OUTSIDE OF IEP PROCESS:*
  - *District absolutely cannot predetermine IEP issues, but they can meet and discuss options prior to meeting*
  - *District cannot suspend or withhold decision in order to check with administrators or others not at meeting*
  - *District cannot state that it will consider the issues and get back to the parent*
  - *District cannot dodge responsibility to answer the parent on the merits at the IEP table (unless issue is medical or religious)*

# Parents as Members of the IEP Team

- Parents are integral, equal members of the IEP team
- Congress determined that it was necessary to allow parents to participate in all decisions regarding their children with disabilities to ensure that decisions are based solely on the student's needs
- Courts have repeatedly held that decisions that are made without parental involvement participation may be reversed if:
  - The parent was denied meaningful opportunities to participate in the development of the child's IEP
  - The student suffered a loss of educational opportunity

# Advocacy Tip: Parental Participation

- If a parent learns that a decision was made outside of the IEP process (for example, teacher tells parent at parent-teacher conference that student will be placed in a self-contained MD class next year), it is *essential* that the parent ensure that this is documented in writing
- Does not need to be formal letter
- Email, note in communication book, etc., may be enough

# Advocacy Tip:

## IEP Meetings Rights & Strategies

- Meeting must be scheduled at *mutually convenient* time and date
  - One free rescheduling, others as needed
- Parents may prepare written statement prior to IEP meeting laying out their concerns
- If relying upon letters from private professionals or other documentation not in possession of school district, it is preferable (but not required) to provide these to school district at least three days before meeting
- School district cannot arbitrarily limit length of IEP meeting; must reconvene if time runs out
- Burden is on school district to justify denial of any parentally-requested changes to the IEP
- Parents have right to record meetings (school district should be notified in advance)

# PROGRAM THEN PLACEMENT

The IDEA *requires* that the contents of a student's IEP – the package of special education and related services that will be provided – be decided *before* a decision is made about where he/she will be placed.

This ensures that services are decided upon without consideration of:

- Cost
- Availability of qualified staff
- Space limitations
- Administrative convenience





# PLACEMENT

A student's EDUCATIONAL PLACEMENT is the setting in which the special education and related services described in the IEP will be delivered.

Examples of placement options:

- Regular education
- Resource room
- Self contained
- Approved private school
- Residential placement
- Instruction at home or in hospitals



# IDEA'S LRE REQUIREMENT

1. To the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are nondisabled; and
2. Special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs 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.



# FACTORS REQUIRING PLACEMENT OUTSIDE OF REGULAR EDUCATION CLASSROOM

- Requires **more intensive or specialized** instruction than is available in regular education
- Requires **smaller or more highly-controlled environment** than regular classroom
- **Will not receive a sufficient educational benefit** in a regular classroom, even with the provision of supplementary aids and services
- **Requires too much of the teacher's time and attention** that it would substantially interfere with the learning of others in the classroom
- **Threatens the safety** of other students or poses a danger to himself
- Engages in **significantly disruptive behavior** which interferes with the education of classmates
- Will **require so much modification** in the curriculum that the regular program has to be altered beyond recognition



# What are Supplementary Aids and Services?

- When we talk about supplementary aids and services, this means aids, services, and other supports provided in regular education classes, other education-related settings, and in extracurricular and nonacademic settings to enable students with disabilities to be educated with nondisabled children
- Some examples:
  - 1:1 aide
  - Specialized equipment (wheelchair, computer, AAC device, etc.)
  - Pacing of instruction (breaks, additional time, home set of materials, etc.)
  - Assignment modifications (shorter assignments, instructions broken down into steps, etc.)
  - Testing adaptations (read test to child, modify format, extend time, etc.)

# Transition Services

- “Transition” services are a coordinated set of activities for a student, designed within a results-oriented process, that promotes movement from school to post-school activities, including post-secondary education, vocational education, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation
  - a. Starting at age 14 – Transition Planning needs becomes part of the IEP
  - b. Starting at age 16 – IEP must contain specific and appropriate transition services

# Dispute Resolution under IDEA

1. If you are at an impasse with the School District after attempting to resolve your issues, you may be left with no choice other than to file a Due Process Petition. Once a Due Process Petition is filed, a number of dispute resolutions may occur:
  - a. Resolution Sessions – Similar to an IEP meeting, participation is not required though and often parents decline if the parties are too far apart and a compromise does not seem likely (can be a waste of time)
  - b. Mediation – Once a DPP is filed, Mediation will be scheduled. A Mediator employed by the State of NJ will be an impartial neutral party who hears both sides and tries to bring the parties together to see if they can settle the matter. If the matter can be settled, the parties will enter into a settlement agreement and the matter will be resolved.
  - c. Settlement Conferences – If Mediation process to be unsuccessful, the Due Process Petition will be transmitted to the Office of Administrative Law and an Administrative Law Judge will hold at least 1 settlement conference
    - i. Very similar to Mediation except the mediator is now a Judge – the Judge won't be the same Judge who will hear the case if it ends up at a hearing, but the Judge hears these types of cases and can encourage settlement (most cases do in fact settle)
  - d. Due Process Hearings – If mediation and settlement conferences fail, the matter will ultimately end up in front of an ALJ for a hearing
    - i. Similar to Superior Court and hearings shown on TV – there will be discovery, witnesses, evidence and testimony, but the rules are a bit more relaxed in this type of court venue

HOW TO GET THE BEST OUTCOMES  
WITH THE FEWEST HEADACHES

- Be Respectful – Don't Make It Personal
- Make a Clear Paper Trail
- Hire An Expert Or Consultant
- Give Credit Where Credit's Due
- Keep an Open Mind, Explore All Options

# Thank you!

Questions?

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