

Individuals with Disabilities Education Improvement Act (IDEA-2004)

➤ Entitlement Legislation

- eligible students between the ages of three (3) and twenty-one (21) are entitled to/guaranteed a free appropriate public education and procedural safeguards/protections
- federal money is provided to fund a portion (as determined/budgeted by Congress) of the “excess costs” related to educating student with disabilities

➤ Free Appropriate Public Education (FAPE)

- “means special education and related services that are provided at public expense under public supervision and direction, and without charge...and are provided in conformity with an Individualized Education Program” (IEP)
- according to the U.S. Department of Education, “...services provided to an eligible child must - A. address all of the child’s special education and related services needs, and B. be based on the identified needs of the child, and not the child’s disability category.”
- **special education** “means specially designed instruction, at no cost to the parents, to meet the unique needs of a child with a disability, including...instruction conducted in the classroom, in the home, in hospitals and institutions, and in other settings”
- **specially designed instruction** “means adapting, as appropriate, to the needs of an eligible child, the content, methodology, or delivery of instruction to address the unique needs of the child that result from the child’s disability, and to ensure access of the child 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 children”
- **related services** are required when necessary to assist a student with a disability to benefit from special education - - these include: speech-language pathology and audiology services; psychological services; occupational and physical therapy; recreation, including therapeutic recreation; social work services; orientation and mobility services; transportation; medical services for diagnostic or evaluation purposes only; counseling, including rehabilitation counseling
- case law has defined FAPE as a program that is “reasonably calculated to enable the child to receive educational benefits” and that access to education for and benefit be “meaningful”

➤ Least Restrictive Environment (LRE)

- the law mandates that services and programming for students with disabilities be in the “**least restrictive environment**” (LRE) - - to the “maximum extent appropriate, children with disabilities...are educated with children who are not disabled and special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only when the nature or severity of the disability of a child is such that education in regular classes with the use of **supplementary aids and services** cannot be achieved satisfactorily” (emphasis added)

➤ Eligibility

- in order to qualify for special education and related services under the IDEA, there must be an **adverse effect on the “child’s educational performance”** AND the student must:
 - **meet the criteria** for at least one of 13 specific disability categories AND
 - **need special education and related services** to access and benefit from his/her education

➤ Referral/Evaluation

- if there are significant concerns about a student’s educational performance (in most cases after appropriate problem solving, intervention, and data collection/analysis) AND there is any question about a disability, the documentation regarding the student is to be considered through a “**joint review**” process that involves both Parkway and the Special School District of St. Louis County
- **parents/guardians may initiate the “child identification” process** and trigger certain procedural requirements by referring a child for a special education evaluation
- if a decision is made to refer a student the “review of existing data” (RED) process is used to determine the areas needing to be evaluated and develop an evaluation plan
- specific compliance procedures and time lines apply

➤ Individualized Education Program (IEP)

- “means a written statement for each child with a disability that is developed, reviewed, and revised in accordance with...” specific compliance requirements and defines FAPE
- the **IEP is to include** a statement:
 - “...of the child’s present levels of academic achievement and functional performance”
 - “of measurable annual goals, including academic and functional goals”
 - describing “...how the child’s progress toward meeting the annual goals...will be measured and when periodic reports on the progress...will be provided”
 - of “...the special education and related services and supplementary aids and services...to be provided...and a statement of the program modifications or supports for school personnel...”
 - explaining “...the extent, if any, to which the child will not participate with nondisabled children in the regular class..” and in “extracurricular and other nonacademic activities”
 - “...of any individual appropriate accommodations that are necessary to measure the academic achievement and functional performance of the child on State and districtwide assessments”
 - of “...the projected date for the beginning of the services and modifications...and the anticipated frequency, location, and duration of those services and modifications”
 - of “appropriate measurable postsecondary goals based upon age appropriate transition assessments related to training, education, employment, and where appropriate, independent living skills” and “the transition services (including courses of study) needed to assist the child in reaching those goals” in the “first IEP to be in effect when the child is 16, and updated annually thereafter”
- the **IEP Team** means a group of individuals composed of:
 - the parent(s)/guardian(s) and “whenever appropriate, the child with a disability”
 - not less than 1 regular education teacher of such child (if the child is, or may be, participating in the regular education environment)” and “not less than 1 special education teacher”
 - representatives of the districts who are “qualified to provide or supervise the provision of” special education, “is knowledgeable about the general education curriculum,” and “is knowledgeable about the availability” of (and can commit) the districts’ resources
 - “an individual who can interpret the instructional implications of the evaluation results”
 - “at the discretion of the parent or the agency, other individuals who have knowledge or special expertise regarding the child...”
- the IDEA-2004 has new provisions related to excusing IEP team members, alternative means of participation and providing input, and amending IEPs

➤ Procedural Safeguards

- parents/guardians are to be provided with a copy (in their native language) of their procedural safeguards once a year, except that a copy shall also be provided upon initial referral or parental request for evaluation, when the parent has filed a complaint, and upon request by the parent
- procedural safeguards include the **right to**:
 - **examine all records** of the child and to participate in meetings with respect to the identification, evaluation, and educational placement of a child
 - review, request amendment of, and file complaints concerning the child’s personally identifiable information and to submit relevant information to supplement the record of the child
 - **written prior notice** whenever the districts proposes or refuses to initiate or change the identification, evaluation, educational placement, or provision of FAPE to the child and to file complaints or appeals regarding the above
 - maintain the “then-current” educational placement of the child (“stay put”) until complaints or appeals have been resolved, UNLESS the student has been suspended and the parent is appealing the manifestation determination or the disciplinary placement decision
 - **request an initial evaluation or reevaluation** and obtain an independent evaluation
 - **consent to or refuse to consent** to evaluation and/or initial special education placement
 - a free appropriate public education (FAPE) until graduation or age twenty-two (22), even if suspended or expelled
 - mediation, impartial dues process hearing, or other means to **resolve appeals or complaints**
 - to be accompanied and advised by legal counsel and individuals with special knowledge or training with respect to children with disabilities