

# Educational Policies and Services for Children with Special Needs



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# Objectives



- Understand federal legislation that supports school programs for children with disabilities
- Know how to access state and community resources that support these programs
- Develop competence in identifying and managing children who may be at risk for lower academic achievement

# Special Education IDEIA (Part B) 2009-2010



Location	3-21 years	Percent of public school enrollment
United States	6,480,540	13.1
D.C.	11,371	16.4
Maryland	103,018	12.1
Virginia	164,771	13.2

# Early Intervention Services 2010

## IDEIA Part C



Location	Number Served	Birth – 3 years Percent of Population
D.C.	399	1.94
Maryland	217,560	3.54
Virginia	303,439	2.43

# Special Education 2009: percent of total school enrollment, ages 3-21



<b>All Disabilities</b>	<b>13.1</b>
Specific Learning Disabilities	4.9
Speech or Language Impairments	2.9
Emotional Disturbance	0.8
Other Health Impairments	1.4
Autism	0.8
Developmental Delay	0.7
Hearing Impairments, TBI, Orthopedic impairments, multiple disabilities, deaf/blindness, visual impairments	< 0.4% each

# What are the rights of students with disabilities?



- (1) Students with certain disabilities have the **right to affirmative educational services to meet their unique needs** under the Individuals with Disabilities Education Improvement Act
- (2) Students with disabilities have the right **not to be discriminated against**, as well as the right to receive accommodations and services under Section 504 of the Rehabilitation Act of 1973

# The Individuals with Disabilities Education Improvement Act of 2004 (IDEIA)



- Students with qualifying disabilities that impact *educational performance* are eligible for special education services under the IDEIA
- Purpose of the IDEIA is to ensure all children with disabilities have available to them a free and appropriate public education designed to meet their unique needs and prepare them for further education, employment, and independent living

# What is Special Education?



- *Specially designed instruction, at no cost to the parents, to meet the unique needs of a child with a disability*
- **Includes classroom instruction and any related services or supportive services the child needs to benefit from their education:**
  - Various Therapies (speech, occupational therapy, physical therapy, etc.)
  - Transportation
  - Counseling
  - Adaptive Physical Education
  - Special Seating
  - Assistive Technology

# Important Terms to Remember



- **Free and Appropriate Public Education (FAPE)**
- **Child Find**
- **Individualized Education Program (IEP)**
- **Least Restrictive Environment (LRE)**

# Free and Appropriate Public Education



- Children with disabilities are entitled to have their public school system pay for the special education and related services that they require to learn
- **General Criteria for FAPE:**
  - Access to the general education curriculum
  - Progress must be meaningful
  - Services cannot depend on the sophistication or vigilance of the parent

## Legal Concept:

- School districts must ensure that all resident children with disabilities who are in need of special education and related services, are *identified, located, and evaluated*
- School districts must create a comprehensive evaluation system to identify children needing assistance
  - The program can include:
    - outline the process for referrals
    - Include community outreach to referral sources
    - Contain procedures for the referrals as well as timelines for the evaluations
    - Program names vary by state
- Applies regardless of the severity of the child's disability

# Who does Child Find extend to?



- **The obligation applies to any child eligible for services under the IDEIA**
  - Early Intervention Services through Part C (0-3)
  - Special Education Services 3-22
- **A state's obligation to identify eligible children includes children who are:**
  - Not attending school;
  - Homeless;
  - Wards of the state; and
  - Attending Private and Public Charter Schools.

# Part C/Early Intervention Services for Infants and Toddlers:



- **Early Intervention Services:**
  - Developmental services provided to families (generally at no cost), designed to meet the developmental needs of an infant/toddler with a disability, and the needs of the family to assist in the child's development
- **Eligibility: Infants/toddlers under age 3 who:**
  - (1) is experiencing a developmental delay in 1 or more areas of development, including: **cognitive, physical, communication, social/emotional, adaptive**
  - (2) Has a diagnosed physical or mental condition with a high probability of resulting in developmental delay, including certain diagnoses
  - (3) At risk infants/toddlers (risk of developing substantial developmental delay if services not provided); discretionary

# Qualifying Conditions with High Probability of developmental delay



- Chromosomal abnormalities
- Genetic or congenital disorders
- Severe sensory impairment (hearing, vision)
- Inborn errors of metabolism
- Disturbance of development of nervous system
- Congenital infections
- Severe attachment disorders
- Disorders secondary to exposure to toxic substances (including fetal alcohol syndrome)

# Eligibility for “At-Risk Infants/Toddlers”



- **The state may choose to make services available to infants/toddlers who are at risk of experiencing a substantial developmental delay due to biological or environmental factors, including:**
  - low birth weight
  - respiratory distress as newborn
  - brain hemorrhage
  - infection
  - history of abuse or neglect
- **States that do not serve “at risk” children may use IDEA funds to track (e.g. identify, evaluate, refer, conduct periodic follow up) those ‘at risk’**
  - MD does this, DC and VA do not

# Part C: State Obligations



- **Each state creates a definition of “developmental delay” consistent with Part C**
  - The state determines the level of developmental delay that a child must exhibit in order to qualify for services
- **Each state determines the criteria that will be used to determine the existence of those conditions with high probability of resulting in developmental delay**
- **The state must develop a comprehensive child find system to identify, locate, and evaluate infants and toddlers in need of Early Intervention Services**
  - Hospitals and physicians are among primary referral resources

# Individual Family Service Plan



- **Programmatic document that governs what services a child should be receiving through Early Intervention**
  - Statement of infant or toddler's present function
  - Statement of the family's resources and concerns
  - Measureable results and outcomes
  - Intervention services (frequency, intensity, method of delivery)
  - Where services are delivered (to the maximum extent in "natural environments" (home, daycare)
  - Projected duration of services
  - Identification of service coordinator who is responsible for implementing program and transitioning to public school
  - Steps for transition from Early Intervention to pre-school, or special education services if eligible

# Part B: Special Education Services for children 3-22



- **Local Education Agencies (generally an individual school district) are responsible for fulfilling child find obligations under the IDEIA**
- **They must identify, locate, and evaluate students needing special education services**
- **Each LEA must then develop an Individualized Education Program for each student**

# Individualized Education Program



- The programmatic document that governs what a child in special education should be receiving as part of his/her education
- It is developed, reviewed, and revised in accordance with the IDEIA

# Least Restrictive Environment



- Children with disabilities must be educated with their non-disabled peers in a regular education classroom as much as possible; and
- Children with disabilities should attend their neighborhood school unless the neighborhood school does not have the kind of program that can meet the special needs of the child

# Steps to Secure Special Education



- 1) Referral for Evaluations
- 2) Evaluation for Special Education
- 3) Eligibility Determination
- 4) IEP Development
- 5) Placement Determination

# Step 1: Referral for Evaluations



- To be evaluated for special education services, a child with a suspected disability must first be referred for evaluations
- A child can be referred by many people, including:
  - Parent
  - Employee of a School (e.g. teacher, principal)
- After the referral, the school must hold a multidisciplinary (MDT)/IEP meeting before conducting evaluations.
- MDT Team members include:
  - Parent(s),
  - Teachers (Regular Education Teacher of child, Special Education Teacher)
  - Evaluators
  - The child if appropriate,
  - School District Representative who is:
    - Knowledgeable about the general curriculum
    - Knowledgeable about the availability of resources within the school district
    - Qualified to provide or supervise the provision of special education

# Step 2: The Evaluation(s)



- **At the initial MDT meeting, the team**
  - Reviews the current information, data and observations about the child and any pre-referral interventions
  - Develops a Student Evaluation Plan detailing the reasons for the referral and the evaluations that will be conducted
  - Obtains *informed consent* from the child's parent before conducting the evaluation
- **The LEA is responsible for conducting comprehensive and individualized evaluations *in all areas of suspected disability* to determine:**
  - Whether the child is a child with a disability, as defined by law, and
  - The child's educational needs
- **Federal law provides that an LEA has 60 days to complete evaluations, unless the LEA determines a different time frame**
  - DC law allows LEAs (DCPS and Independent Charter Schools) 120 days to complete the evaluations.

# Step 3: Eligibility Determination



- After evaluations are complete, the school must convene another MDT/IEP Meeting
- The MDT/IEP Team must review the evaluations and other relevant information to decide whether:
  - The child has a “qualifying disability,” and
  - The disability *impacts the child’s ability to access his/her education.*
- Parents who disagree with the evaluation can request an independent evaluation paid for by the school district or, file for a due process hearing

## Qualifying Disabilities:

- Learning Disability
- Emotional Disturbance
- Mental Retardation
- Speech and/or Language Impairment
- Other Health Impairment (i.e., ADHD, epilepsy)
- Autism
- Deaf-Blindness
- Deafness
- Developmental Delay
- Hearing Impairment
- Multiple Disabilities
- Orthopedic Impairment
- Visual Impairment (Including Blindness)
- Traumatic Brain Injury

# Step 4: Development of an IEP



- The IEP is the written plan for the child's educational program, services, accommodations and modifications.
- Developed by the IEP team, including the parent
- IEP must include information about:
  - Child's present performance and abilities
  - Hours of specialized instruction and type of classroom needed
  - Measurable goals and objectives for each academic area impacted by the child's disability
  - Level and type of related services
  - Accommodations and Modifications as needed

# Related Services and Accommodations on an IEP



## Related Services can include:

- Speech and Language Therapy
- Occupational Therapy
- Physical Therapy
- Counseling Services
- Transportation Services
- Parent Counseling and Training
- Social Worker Services
- Nursing Services

- Accommodations/Modifications can include:
- Dedicated Aide
- Use of a Computer
- Use of special software
- Special Seating
- Adaptive Furniture
- Audio Books
- Meal Accommodations
- Additional Time for Tests
- Special Testing Conditions
- Special form for Directions (e.g. repeated, written, oral)
- Use of a Calculator

# Step 5: Placement



- After developing the IEP, the team then discusses what placement is appropriate for the child.
- Parents have the right to be part of the decision-making process
- Placement choices are derived from the *continuum of alternative placements*
  - Instruction in Regular Classes
  - Instruction in Special Classes
  - Special Schools
  - Home Instruction
  - Instruction in Hospitals and Institutions

# IEP Review and Revision



- IEPs must be reviewed annually, though a parent may request an IEP meeting at any time
- An LEA must review the student's IEP as necessary to meet the student's needs
- An LEA must conduct a reevaluation of each child at least every 3 years unless both the parent and LEA agree that a reevaluation is not necessary

# Section 504 of the Rehabilitation Act of 1973



- Section 504 of the Rehabilitation Act of 1973 is an anti-discrimination statute protecting students enrolled in schools receiving federal financial assistance from *discrimination* on account of disability
- Section 504 protects qualified students with disabilities who:
  - *have a physical or mental impairment that substantially limits one or more major life activities*

# What Is a “Major Life Activity” under Section 504?



**A Major Life Activity can include:**

- (1) Caring for oneself
  - (2) Performing manual tasks
  - (3) Walking, seeing, hearing, speaking, breathing
  - (4) Learning
  - (5) Working
- (Schools are not allowed to consider “mitigating measures” (e.g. medication, hearing aids, etc.) when considering whether a child is eligible.
  - *A student is eligible even if the disability does not impact academic performance*

# What does Section 504 require?



- School districts must provide a *free appropriate public education* (FAPE) to qualified students in their jurisdictions:
  - *“The provision of regular or special education and related aids and services that are designed to meet individual educational needs of students with disabilities as adequately as the needs of students without disabilities are met”*
- *Schools must eliminate barriers* that would prevent a student with a disability from participating fully in the programs and services being offered to peers.
- *Schools must provide reasonable accommodations and supports* to allow the child to participate in the general curriculum and program

# How does a school determine what a student requires under Section 504?



**Schools must take steps to identify and plan for educating students with disabilities.**

**(1) A school must first conduct evaluations to determine eligibility and understand how the disability impacts the student**

*- A medical diagnosis can be used as evidence of a disability*

**(2) Once eligible, a school must develop a plan for the student**

**(3) Schools must also provide eligible students with certain protections**

(e.g. disciplinary protections for removal from placement for more than 10 days)

# What does a 504 Plan look like?



- **The 504 plan should include accommodations and services needed to eliminate barriers to the child accessing his education:**
  - (1) Medical interventions/services (e.g. nursing services)
  - (2) Behavior interventions
  - (3) Accommodations and modifications to classwork
  - (4) Equipment
  - (5) Transportation
  - (6) Services: OT, PT, Speech
- **Generally implemented by general education teachers, social workers, counselors**

# Key Points to Remember about 504



- **504 plans are *not special education services***
  - *not* designed to remediate academic deficits
- **Parental consent is required for initial evaluation**
  - School districts may initiate a due process hearing if a parent withholds consent
- **Parents are not required members of a 504 Team but must be notified of evaluations, placement decisions, and legal rights**
- **Regulations create affirmative obligations for schools that accept public funding for students with disabilities of mandatory school age**
  - Does not protect students in head start or pre-K

# Section 504

# Special Education



- Eligibility—based on substantial impairment of *major life activity*
- Prevent discrimination—*eliminating barriers and providing reasonable supports and accommodations*
- Revision—504 Plan must be revised “*periodically*”
- Re-evaluation—re-evaluations must be conducted periodically and before any significant change of placement
- Parent Participation—must consent to initial services and must be notified of changes

- Eligibility based on *qualifying* IDEIA disability, *and* adverse affect on educational performance
- Affirmative obligation—must provide *special education services*
- Revision– IEPs must be reviewed at least annually to address student’s needs
- Re-evaluation—must be conducted every 3 years
- Parent Participation—parents are a required member of all meetings

# Disciplinary Protections for Students with Disabilities



- **Disciplinary protections apply to students with disabilities under the IDEIA and Section 504**
- **Excluding a child with a disability from class for more than 10 school days (sequential or not) is a change in placement.**
- **Therefore, the school must hold a meeting to determine whether the behavior is a manifestation of the student's disability.**
- **If it's a manifestation and/or is a result of the schools failure to implement the IEP, then the suspension/exclusion cannot take place.**
  - If it's not a "manifestation," the child can be disciplined like any other child.
- **Children whose disabilities have not yet been identified by a school may still be protected:**
  - If the school knew, or should have known that the child is a child with a disability.

# Special Consideration for Children with Chronic Illness



- **Children with disabilities at risk for frequent absence from school may need educational services provided outside of school**
  - School districts may have specific programs to provide services outside of school (e.g. Home and Hospital Instruction program through DCPS)
- **A student's extended absence from school may constitute a "change in placement" and require revision to a child's IEP**
- **Students likely to miss school on a frequent basis (e.g. students with Sickle Cell Anemia, HIV infection) may need home or hospital instruction included as an accommodation in their IEP or 504 plan**

# Referral Resources for Parents:



## District of Columbia:

### **Children's Law Center**

616 H Street, NW,  
Suite 300,  
Washington, DC  
20001

(202) 467-4900,  
Option 3

### **Advocates for Justice and Education**

4201 Georgia Avenue,  
Washington D.C.  
20011

(202) 265-9102

## Maryland:

### **Maryland Disability Law Center**

1500 Union Avenue,  
Suite 2000, Baltimore,  
MD 21211

(410) 727-6352

VA

### **Maryland State Parent Information Resource Center**

5272 River Road,  
Suite 340, Bethesda,  
Maryland 20816

(301) 657-7742

## Virginia:

### **N. Virginia**

### **Legal Services**

6066 Leesburg  
Pike, Suite 500,  
Falls Church,

22041

(703) 778-6800

### **Virginia Department of Education Parent**

**Ombudsman**

(804) 371-7420

# Medical Role



**The American Academy of Pediatrics (AAP) encourages physicians to assume an active role in caring for children with developmental delay and disabilities:**

- **Identify children who may qualify for services under IDEIA : surveillance, screening**
- **Refer children to early intervention or special education for an evaluation**
- **Counsel and Advise families about the IFSP and IEP process**

<http://pediatrics.aappublications.org/content/104/1/124.full.html>

# Birth to 5 Years



- **Developmental Surveillance**
  - elicit parent concerns, document a developmental history, identify risk and protective factors, accurately observe the child, maintain an accurate record of the process
- **Developmental Screening**
  - 9, 18, 24 or 30 months
- **Autism Screening**
  - 18 and 25 months
- **Refer to Early Intervention (Part C services)**
- **Consider referral for diagnostic developmental evaluation**

<http://pediatrics.aappublications.org/content/118/1/405.full.html>

# School Age Child



- Continue developmental surveillance
- Identify risk factors for academic problems
- Understand the presentation of learning disabilities
- clarify reason for academic under performance
- Assess for co-morbid diagnoses
- Facilitate appropriate intervention (e.g. refer to Child Find Part B services)
- Consider referral for diagnostic developmental evaluation

# Risk factors for Learning Disability



- **Family history**
- **Chronic Medical Condition**
- **Speech/Language Delay**
  - about ½ of children delayed at 2 yrs. will catch up by 3 yrs.
- **Preterm birth; low birth weight**
  - 7-18% FT prevalence LD
  - 30-38% BW 750-1000 gm. prevalence LD
  - < 750 gm. 50%-63% prevalence LD

# Learning Disabilities – IDEIA

## Definition



- Disorder in one or more basic psychological processes involved in understanding or using language, spoken or written, that may manifest itself in an imperfect ability to listen, think, speak, read, write, spell or do mathematical calculations, including conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia and developmental aphasia
- Exclusionary criteria

# Subjects Affected by Learning Disabilities



- **Reading**
  - Word reading, reading fluency
  - Comprehension
- **Math**
  - Difficulty memorizing math facts
  - Computational errors
  - Poor number sense – difficulty comprehending numbers and the entities they represent
- **Writing**
  - handwriting
  - Written expression

# Cognitive Weaknesses Associated with Learning Disability



Symptom/difficulty	Possible learning problem
Language delay	Language, reading, writing
Rhyming	Reading, phonology
Understanding/recall reading	Receptive language, reading comprehension
Writing ideas, organizing thoughts	Expressive language, written expression
Memory	All academic areas
Visual spatial skills	Math
Symbol representation	Math

# Signs and Symptoms of Learning Disabilities



- **Poor academic performance**
  - Underachievement
  - Increased learning effort
  - Failing grades
  - Grade retention
- **Disengagement from school**
  - School is 'boring'
  - Poor motivation
- **Behavior Problems**

# Questions Regarding Academic Performance



- **Reading**

- What is the hardest thing about reading?
- Is it hard to sound out words?
- Do you understand what you read?

- **Math**

- Do you have trouble remembering things in math?
- When you have a word problem, can you figure out what operation to use (addition, subtraction, etc.)?
- Do you make a lot of careless mistakes in math?

# Learning Disabilities - Comorbidities



- Attention Deficit Hyperactivity Disorder
- Speech and Language Disorders
- Other learning problems
- Mental health problems

# Speech and Language Disorders



- May predict a child's risk of later reading problems
- **DSM V: listed under communication disorders**
- **Language Disorder**
  - Difficulty in the development of structural language, including syntax (grammar) and semantics (vocabulary)
  - May affect one's ability to understand language or express language
- **Speech/sound disorder**
  - difficulty with the accurate and intelligible production of sounds

# Academic Underperformance is Complex.....



- Learning disabilities occur along a continuum and vary in severity
- Not all learning disabilities are language based – may involve higher order cognitive abilities
- School failure has significant co-morbidity
- Problems with inattention, impulsivity, hyperactivity may not be ADHD

# References



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# Online Resources



- <http://www.ldonline.org/indepth/legal>
- [NICHCY Briefing Paper: Questions Often Asked by Parents About Special Education Services](#)
- [Section 504 and IDEA: Basic Similarities and Differences](#) (LD online)
- [Providing an Appropriate Education to Children with Attention Deficit Disorder](#) (ERIC - 504 vs IDEA)
- <http://nichcy.org/schoolage/placement/disciplineregs> (summarizes discipline under IDEA)
- <http://nichcy.org/schoolage/placement/disc-details/schoolauthority> (summarizes discipline under IDEA with case examples, question/answer format)
- <http://nichcy.org/disability/specific/adhd> (information for parents about ADHD, school services, spanish and english)
- <http://nichcy.org/schoolage/evaluation> (evaluating children for a disability under IDEA - for parents)
- <http://nichcy.org/publications/topics-az> (topics listed in alphabetical order that may pertain to children with disabilities)
- <http://dredf.org/advocacy/comparison.html> (comparison between ADA, IDEA, 504)
- <http://wordsmith.tripod.com/chaddofnorthernvirginia/id11.html> (comparison between ADA, IDEA, 504)
- [www.nclld.org](http://www.nclld.org) (good general site, Spanish and English)

# Appendix I

## I.D.E.I.A. History



- 1975; Education for All Handicapped Children: all school age children with disabilities entitled to a free and appropriate public education (FAPE) in the least restrictive environment (LRE)
- 1986; extended services to ages 3-5 years, established Early Intervention Program (EIP) ages 0-2 years, develop Individualized Family Service Plan (IFSP) for those children in EIP

# Appendix I

## I.D.E.I.A. History



- 1990; renamed I.D.E.A., replaced 'handicapped' with 'disability,' provide transition services (now starts at 14 yrs.), include children with autism and traumatic brain injury, define Assistive Technology Devices
- 1997; consider use of AT in other setting (e.g. home), include orientation and mobility services, ADHD added to list of eligible conditions under 'Other Health Impairments'
- 2004; no longer required discrepancy model to diagnose learning disability – Response to Intervention (RTI) implemented
- 2009; extended EI services through age 5 years