

Slide 1: Special Education Overview
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Slide 2: Discussion Points

Helpful Laws for Students with Disabilities
Section 504 of the Rehabilitation Act
Individuals with Disabilities Education Act (IDEA)
IDEA Entitlements
Assessments
Eligibility
Individualized Education Plan
What is an IEP
Team members
Parents Rights
Right to file a complaint
Laws for Students with Disabilities
Section 504, Rehabilitation Act of 1973
29 U.S.C. § 794; 34 C.F.R. Part 104

Slide 3: Laws for Students with Disabilities

Title II of the Americans with Disabilities Act
42 U.S.C. § 12131 et seq.; 28 C.F.R. Part 35
Individuals with Disabilities Education ACT (“IDEA”)
20 U.S.C. § 1400 et seq.; 34 C.F.R. Part 300
California State Education Laws
EC § 56000 et seq.; 5 CCR § 3000 et seq.

Slide 4: Section 504 – The 504 Plan

Prohibits disability discrimination by recipients of federal funds (i.e., school districts)

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; or
- (2) have a record of such an impairment; or
- (3) be regarded as having such an impairment.

Often for students whose disabilities do not adversely affect their educational performance, but still need accommodations to gain access to and benefit from the school's programs

In contrast to IEPs under IDEA, students and parents may receive fewer guarantees and procedural protections under Section 504. Nonetheless, it provides foundation for disability-based discrimination claims.

Slide 5: 504 Entitlements

Reasonable Accommodations to ensure equal access

Free from discrimination

Least Restrictive Environment

504 Plan

Right to file a Complaint with the Office for Civil Rights with the Department of Education

Slide 6: IDEA- Individualized Education Program

Special Education!

A program of services and supports available to qualifying students with disabilities that ensure the receipt of a FREE AND APPROPRIATE PUBLIC EDUCATION.

'Free and Appropriate Public Education' ("FAPE") is a statutory term whose meaning has been interpreted and clarified by the US Supreme Court.

Students must be found eligible for special education services under one of thirteen categories.

Slide 7: IDEA Entitlements

Free Appropriate Public Education (FAPE)

Least Restrictive Environment (LRE)

Assessments

Individualized Education Plan (IEP)

Right to File Complaint

Right to Due Process (Mediation, Informal Administrative Hearing).

Slide 8: The Landscape

Infographic of 3 circles inside one another. The largest circle says all students, the medium sized circle inside says Section 504, the 3rd and smallest circle says IDEA

Slide 9: The Special Education Process

Slide 10: Infograph

Slide 11: Referral

Parent's written request

In California, if parent requests initial special education assessments the District must give an assessment plan within 15 days.

School Personnel

Teacher

Principal

Counselors

School should provide parent an assessment plan within 15 days.

Slide 12: When to Refer

The District's child find obligation toward a specific child is triggered when there is a reason to suspect a disability and reason to suspect that special education services may be needed to address that disability. Dept. of Educ., State of Hawaii v. Carrie Rae S., 158 F. Supp.2d 1190, 1194 (D. Hawaii 2001).

Slide 13: When to Refer, Cont.

Districts ensure that an individual education program IEP has been developed and is being implemented by the time of the child's 3rd birthday. Cal. Ed. Code Sec. 56426.9(b); 34 Code of Federal Regulations (C.F.R.) Sec. 300.124(b).

Prior to transitioning from preschool program to kindergarten, school district must reassess to determine if the student is still in need of special education and services. Cal. Ed. Code Sec. 56445

Slide 14: Right to Assessments

In California, students have a right to be assessed in all areas of suspected disability.

Assessments are not just for eligibility, but should help District determine the type, frequency, and duration of needed services.

Assessments should be comprehensive and not just based on standardized tests. They should include interviews with people who work with the child, the parents/ guardians, and the child.

FREE to families

Slide 15: Assessments when Students have Social/ Emotional and Behavioral Needs

Assess comprehensively, consider whether the needs stem from other disabilities, including learning disabilities and/ or Autism.

Consider a Functional Behavior Assessment if the student may need a Behavior Intervention Plan.

Consider an evaluation for Educationally Related Mental Health Services (ERMHS).

Slide 16: Independent Education Evaluations

Parent who disagrees with District's assessment can request an Independent Educational Evaluation ("IEE") at public expense

District must either fund the IEE or file for due process.

If the District files, then it will have the burden to prove that their assessment was appropriate.

Slide 17: The Individual Education Program (IEP)

School district must convene an IEP meeting within 60 days of assessments and must hold an IEP meeting annually for eligible students.

If students are found eligible for special education, they have a right to an Individual Education Program or IEP.

As we have discussed, the IEP must be tailored to the student's individual needs and must provide student a free, appropriate, public education.

Slide 18: 13 Categories of IEP Eligibility

Autism

Other Health Impaired

Specific Learning Disability

Speech or Language Impairment

Traumatic Brain Injury

Visual Impairment

Blindness

Deafness

Emotional Disturbance

Hearing Impairment

Intellectual Disability

Multiple Disabilities

Slide 19: Right to a Free, Appropriate Public Education (FAPE)

FAPE = Specialized Academic Instruction (SAI) + Related Services that:

Are provided at public expense

Meet the standards of the State Educational Agency

Include appropriate preschool, elementary, or secondary education; and

Are provided in conformity with the individualized education program.

Board of Education of the Hendrick Hudson Central School District v. Rowley, 458 U.S. 176 (1982).

Appropriate ≠ Best

Endrew F. et al. v. Douglas County School District RE-1, 580 U.S. ____ (2017).

The IEP must be reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances.

More than de minimis!

Slide 20: Least Restrictive Environment (LRE)

Right to learn in their neighborhood school and interact with children who do not have disabilities to the maximum extent appropriate.

Schools must provide services and supports to ensure success in the regular education classroom.

Slide 21: What must be included in an IEP?

Eligibility

Present Levels of Performance

Goals and objectives

Related Services

Accommodations and Modifications

Behavioral Plans

Individualized Transition Plan (if age appropriate)

Classroom Placement

Team Notes(computerized system or handwritten)

If the district will not let you attach your own notes, request that refusal in writing so that you may file a compliance complaint.

Slide 22: Special Education Services

Specialized Academic Instruction

Occupational Therapy

Physical Therapy

Speech Therapy

Behavior Intervention Services

Adaptive Physical Education

Assistive Technology

Educationally Related Mental Health Services (ERMHS)

Aide Support

And more

Slide 23: Behavior Intervention Services

Behavior Intervention Services may be provided by a licensed Board Certified Behavior Analyst (BCBA) – may be consult or direct services.

If a child has behavior needs, consider conducting a Functional Behavior Assessment and developing a Behavior Intervention Plan.

Slide 24: Educationally Related Mental Health Services

What are Educationally Related Mental Health Services (ERMHS)?

Educationally Related Mental Health Services (ERMHS) are mental health services for students who qualify for special education. ERMHS support student's social-emotional needs. They can also help to improve the student's academics, behavior, and overall well-being. ERMHS are individually tailored to the student's needs and to their Individual Education Program ("IEP") goals. ERMHS may include counseling (individual, group) and/ or social work services (collaboration and case management).

Slide 25: Extended School Year (ESY) Services

ESY is special education and related services provided during the summer

In California, a student with an IEP is eligible for ESY services if:

The student's disabilities "are likely to continue indefinitely or for a prolonged period";

An interruption in the student's educational program may cause regression;

The student with a disability has limited ability to relearn skills, known as recoupment capacity; and

The above factors make it "impossible or unlikely" that the student with a disability will attain self-sufficiency and independence without ESY services.

Slide 26: Who are the IEP TEAM Members?

Parent/Guardian

The Student (when appropriate)

A Special Education Teacher

A General Education Teacher

School District Representative

Service Providers

Person who conducted assessments

A Parent Friend or Advocate

Slide 27: Parent Rights at the IEP Meeting

Parents have the right to meaningful participation at the IEP

Ask any and all questions, submit an agenda or concerns, or take time to think about the IEP before signing consent

Parents have the rights to an interpreter at the IEP free of charge, but this MUST be requested in advance

Parents may audio-record the IEP if they give 24 hours written notice

Parents must receive a full, FINAL copy of the IEP

Ask for a copy before you leave

If English is not their preferred language, they may request a copy of the IEP in your primary language

Slide 28: Parental Consent to the IEP

An IEP cannot be implemented without the parent's consent

Parents can:

Consent in part—meaning they agree with part of the IEP but not with all of it

Consent in full—meaning they agree with all parts of the IEP

Consent only to implementation—meaning they will allow the school district to implement the IEP, but do not agree it provides FAPE

Provide no consent—which means the school district cannot implement the IEP

Slide 29: Disagreements with the School Team...

IEP team meetings and decision making is not a democracy/ majority-rule!

If parents disagree with the IEP team, there are options.

Complaint to CDE / OCR

Right to Mediation/ Due Process

Slide 30: time to take questions

Slide 31: Resources

Special Education Rights and Responsibilities Manual

and

DRC Special Education Resources

<https://www.disabilityrightsca.org/resources/special-education>

<https://serr.disabilityrightsca.org/>

Slide 32: Thank you for your time.

Disability Rights California

Intake: 1-800-776-5746

<https://www.disabilityrightsca.org/>

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