



## Pennsylvania Special Education Funding Formula Commission of 2013

### **The Nuts and Bolts of Special Education: How It Works for Students and Schools**

#### **Individuals with Disabilities Education Act (IDEA)**

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- IDEA is federal law, first enacted in 1975 as the Education for All Handicapped Children Act. See 20 United States Code (U.S.C.) Sections 1400 through 1482.
- Federal regulations implementing IDEA and covering school-aged children are published at 34 Code of Federal Regulations (C.F.R.) Part 300.
- The Pennsylvania School Code contains statutory provisions for special education at 24 Purdon's Statutes (P.S.) Sections 13-1371 through 13-1377.
- Relevant Pennsylvania regulations are found at 22 Pa. Code Chapter 14 (special education), Chapter 4 (academic standards and testing for all children, including provisions designated for children with disabilities), Chapter 711 (charter schools and cyber charters).

#### **Free Appropriate Public Education**

- Federal and state law guarantee every eligible child with a disability the right to a free appropriate public education (FAPE).
- A free appropriate public education is a planned program of education, supports, and services that takes account of the child's individual needs. An appropriate program allows the child to make meaningful progress and prepare for education goals, employment, and independent living. Each child's program must be provided without cost to the family.

#### **Special Education**

- Special education is defined as "specially designed instruction" and the "related services" needed by the child to benefit from that instruction.
- "Specially designed instruction" means that teachers must adapt the content (what is taught), methodology (the process used to teach), or delivery of the curriculum to take account of the child's learning needs and to ensure the child has access to the general curriculum provided to children without disabilities.
- Children eligible for special education have the right to stay in school through the school term in which they turn 21 or until they graduate (whichever comes first).

#### **Local Education Agency (LEA) Responsibility**

- The school district where the parents live is responsible for making sure that each eligible child is identified, evaluated, and provided with a free appropriate public education.
- Children who live in foster care, group homes, residential treatment, or other facilities are entitled to receive their education from the school district in which the facility is located.
- Charter schools and cyber charter schools are also responsible for providing free and appropriate special education services to eligible students.

## Evaluations for Special Education

- An “initial evaluation” starts the process of determining whether a child needs special education. Children cannot get special education services until the evaluation is completed.
  - The initial evaluation determines (1) if the child has a disability and (2) needs special education as a result. The written evaluation report also makes recommendations about what special education and related services the child needs.
  - Either the school or a parent can initiate the evaluation process. Both must agree that the evaluation is needed before the evaluation takes place.
  - In most cases, a certified school psychologist must be included as a member of the evaluation team.
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- The school must use a variety of testing tools and strategies to gather information on the child’s developmental, academic, and functional levels.
  - In most cases, the child must be evaluated using the child’s native language (such as Spanish) or other way of communicating (such as sign language) in order to produce accurate information.
  - A child who is receiving special education must be reevaluated at least every three years, with some limited exceptions.

## Eligibility for Special Education

- The evaluation team first decides two things: (1) whether a child has a disability that makes it difficult to learn; and (2) if so, whether the child needs special education services and supports as a result of that disability. The child must meet both criteria to be eligible for special education.
- The law lists 13 different types of disabilities that qualify a child for special education services. To be eligible, the child must fit into at least one of the disability categories listed in special education law and the child must need special education (specially designed instruction) due to the disability.

Autism	Multiple disabilities	Specific learning disability
Deaf-blindness	Orthopedic impairment	Speech or language impairment
Deafness	Other health impairment	Traumatic brain injury
Emotional disturbance	affecting strength, vitality, alertness	Visual impairment
Hearing impairment		
Intellectual disability (mental retardation)		

## Service Options for Students with Disabilities Not Eligible for Special Education

- Support services such as tutoring, counseling, and other helpful interventions.
- Reasonable accommodations or other support services under a Service Agreement/ Accommodations Plan pursuant to Section 504 of the Rehabilitation Act of 1973 and PA Code Chapter 15. Section 504 rights and processes may apply for children who have a physical or mental disability that “substantially limits” a major life function such as learning, thinking, walking, breathing, seeing, or hearing.
- The Americans with Disabilities Act also requires schools to make reasonable accommodations for children with disabilities.

## Individualized Education Program (IEP)

- An IEP is a written plan that describes the unique needs of a child who is eligible for special education and explains the specific services and supports the child needs to make progress in school.
  - The IEP explains when the services will begin and the frequency and duration for providing each service. The IEP also describes measurable academic and functional goals, where the services are provided, what special training and equipment will be given to the school staff, and how much of the school day the child will spend with classmates without disabilities.
  - All of the special education, related services, and other supports listed in the IEP must be provided to the child by the school.
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## IEP Team

- School staff and the parent meet as a team to write and review the IEP. Older students also may be included.
- The law often requires attendance at team meetings for the school staff assigned to the IEP Team for a given student.
- The IEP Team must meet at least once every year to review and revise the IEP based on the child's progress on annual goals, the child's progress in the general education curriculum, any reevaluations that have been done, and parent or teacher concerns.

## Least Restrictive Environment

- The law presumes that children with disabilities should be taught in the "least restrictive environment" with children who do not have disabilities to the maximum extent appropriate.
- If the child cannot be in regular education classes for the whole school day, the IEP Team must consider what part of the child's program (including academic classes, non-academic classes, lunch, recess, and extracurricular activities) the child can attend with children who do not have disabilities.
- In most situations, the law gives children with disabilities a right to be educated in a regular classroom if they can make reasonable educational progress in that setting when they are given extra supports and services.

## Progress in the General Education Curriculum

- The IEP is designed so the student's needs are met and the child can make progress and be involved in the general education curriculum. "Progress" and "involvement" are broadly defined to meet IEP goals and do not require children with disabilities to do all of the same work at the same level and pace as other students.
- The "general education curriculum" means the curriculum that the school follows for all students at the child's grade level. The law presumes that children with disabilities should be taught what all other children at their grade level are taught unless there is a good, disability-based reason why they should be taught at a different level. The school cannot refuse to include the child in the general curriculum solely because the curriculum would need to be modified for the child.

**USEFUL BACKGROUND RESOURCES** are found at PA Training and Technical Assistance Network (<http://www.pattan.net/category/Resources/PaTTAN%20Publications>). This fact sheet also uses information from publications by the Disability Rights Network (<http://www.drnpa.org/publications/#Education>).

## **Support Options for Students Eligible for Special Education**

- In general, supports can assist children to learn academic skills (learning support), to control behaviors (emotional support), or to acquire basic living skills (life skills).
  - Levels of support are also defined by the amount of time in a typical day the child receives special education supports:
    - “Itinerant support” (provided for 20% or less each day);
    - “Supplemental support” (more than 20% of the day but less than 80% of the day); or
    - “Full-time” support (provided for 80% or more of the day).
  - Students must receive appropriate supports in the least restrictive environment.
  - Examples of supports and related services include curriculum adaptation, therapies (speech, physical, occupational), school health services, assistive technology, transportation, behavior counseling, and training and assistance for teachers.
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## **Program Modifications and Specially Designed Instruction**

- The IEP describes the specialized instruction, methods, and strategies that will be used by the school to help the child advance toward reaching the IEP goals, to be involved and make progress in the general education curriculum, and participate in extracurricular and nonacademic activities.
- All supports and services must be “based on peer-reviewed research to the extent practicable” – research studies showing that the strategies are successful in helping children with similar needs to learn and make progress.

## **Extended School Year (ESY) Services**

- All children with a disability must be considered for ESY.
- ESY services may be appropriate for a child who loses skills over the summer or a child who needs the extra time in the summer to learn skills that are crucial for the child to receive an appropriate education.

## **Transition Planning**

- For children age 14 and older, the IEP must include – and the school must provide – services and supports needed to help the student achieve post-high school goals for higher education, employment, independent living, and community participation.

## **Written Notices and Dispute Resolution Processes**

- Schools are required to give written notice to parents about most special education matters, providing explanations and offering opportunities to discuss the issues.
- A variety of administrative processes exist to help schools and parents resolve disputes, including IEP team meetings, complaints to PDE’s Bureau of Special Education, mediation services through the PA Office for Dispute Resolution (ODR), and due process/special education hearings (also offered through ODR).

## **Early Intervention**

- Programs and services for children with disabilities or developmental delays from birth to age three are called “Early Intervention” (EI).
- EI Preschool Services often continue supports for children from age three through their entry to kindergarten or first grade.