

---

# 1

## Overview of Special Education and Eligibility Procedures

### Brief History of the Individuals with Disabilities Education Act

The Individuals with Disabilities Education Act (IDEA) is a federal law that supports special education and **related service** programming for students and youth with disabilities. It was formerly known as the Education for the Handicapped Act (EHA). IDEA has its roots in Public Law (PL) 94-142 (the Education of All Handicapped Students Act), which was originally enacted in 1975 to establish grants to states for the education of students with disabilities. This law has been amended several times. Under Part B of the law, all eligible school-aged students and youth with disabilities are entitled to receive a **free appropriate public education (FAPE)**.

In 1986, the EHA was amended by PL 99-457 to provide special funding incentives for states that would make FAPE available for all eligible preschool-aged students, ages 3 through 5, with disabilities. Provisions were also included to help states develop early **intervention** programs for infants and toddlers with disabilities; this part of the legislation became known as the Part H Program. In 1997, when

the amendments to IDEA were authorized, this section of the law that applied to infants and toddlers was changed to Part C.

The EHA was amended again in 1990 by PL 101-476, which, among other things, changed the name of the legislation to the Individuals with Disabilities Education Act, or IDEA. IDEA was first amended in 1992 by PL 102-119. The newest amendments to this law are the Individuals with Disabilities Education Act Amendments of 1997 (PL 105-17). These amendments restructured IDEA into four parts: Part A addresses General Provisions; Part B covers the Assistance for Education of All Students with Disabilities; Part C covers Infants and Toddlers with Disabilities; and Part D addresses National Activities to Improve the Education of Students with Disabilities.

On December 3, 2004, the Individuals with Disabilities Education Improvement Act of 2004 was enacted into law as PL 108-446. The statute, as passed by Congress and signed by President George W. Bush, reauthorized and made significant changes to IDEA.

IDEA, as amended by the Individuals with Disabilities Education Improvement Act of 2004, seeks to help students with disabilities achieve high educational standards by promoting accountability for results, enhancing parent or guardian involvement, using proven practices and materials, and providing more flexibility and reducing paperwork burdens for teachers, states, and local school districts.

The new law provides for improvements in the current regulations, whereby every student with a disability is ensured an FAPE that (1) is of high quality and (2) will help each such student achieve the high standards reflected in the Elementary and Secondary Education Act of 1965, as amended by the No Child Left Behind Act of 2001 (NCLB) and its implementing regulations.

## Purposes of IDEA

The major purposes of IDEA are as follows:

- To ensure that all students with disabilities have access to FAPE that emphasizes special education and related services designed to meet their unique needs and to prepare them for employment and independent living
- To ensure that the rights of students and youth with disabilities and their parents or guardians are protected

- To assist states, localities, educational service agencies, and federal agencies to provide for the education of all students with disabilities
- To assess and ensure the effectiveness of efforts to educate students with disabilities

## Special Education

Special education is instruction that is specially designed, at no cost to parents or guardians, to meet a student's unique needs. Specially designed instruction means adapting the content, methodology, or delivery of instruction in order to fulfill the following objectives:

- To address the unique needs of the student that result from his or her disability
- To ensure the student's access to the general curriculum so that he or she can meet the educational standards that apply to all students within the jurisdiction of the public agency

Special education can include instruction conducted in the classroom, in the home, in hospitals and institutions, and in other settings. It can also include instruction in physical education. Under state standards, speech-language pathology services or any other related service can be considered special education rather than a related service providing the instruction is specially designed, at no cost to the parents or guardians, to meet the unique needs of a student with a disability. Travel training and vocational education that meet these standards can also be considered special education.

## Student With a Disability

As delineated in IDEA 2004, a student with a disability is one who has been *evaluated as having mental retardation, a hearing impairment (including deafness), a speech or language impairment, a visual impairment (including blindness), a serious emotional disturbance, an orthopedic impairment, autism, traumatic brain injury, an other [sic] health impairment, a specific **learning disability**, deaf-blindness, or multiple disabilities, and who, by reason thereof, needs special education and related services.*

For students ages 3 through 9, a “student with a disability” may include a student who is experiencing *developmental delays*. Such a definition must originate from the state and be measured by appropriate diagnostic instruments and procedures, in one or more of the following areas: physical development, cognitive development, communication development, social or emotional development, adaptive development, *and* who, for that reason, needs special education and related services.

From birth through age 2, students may be eligible for services through the Infants and Toddlers with Disabilities Program (Part C) of IDEA.

## Disabilities Covered Under IDEA

Under IDEA, a student with a disability may have one or more of the following disabling conditions (Authority: 20 U.S.C. 1401(3); 1401(30)):

- Autism
- Deaf-blindness
- Deafness
- Developmental delay
- Emotional disturbance
- Hearing impairment
- Mental retardation
- Multiple disabilities
- Orthopedic impairment
- Other health impairment
- Specific learning disability
- Speech or language impairment
- Traumatic brain injury
- Visual impairment

## Evaluation for Special Education

When a student is referred for a suspected disability, an individual evaluation of the student takes place, providing the parent or guardian has given consent to do the evaluation (written permission). This evaluation involves formal tests, informal assessment measures, observations, interviews, and other assessment measures deemed necessary. Through this evaluation, the school can determine whether

the student has a disability and whether that student will need special services. The evaluation also attempts to determine whether certain factors unrelated to the disability may be affecting the student in school. The results of the evaluation are then used as a guide to develop the student's educational program and to determine whether adjustments to the student's educational program will be necessary.

## Components of a Comprehensive Evaluation

An evaluation for a suspected disability should constitute a comprehensive assessment of the student's abilities. Professionals involved in the evaluation process can use numerous tests to evaluate the student's suspected disability; it is important that these tests be administered on an individual basis. Most of these tests are either **norm-referenced** or **criterion-referenced**. *Norm-referenced tests* are those tests that are standardized on groups of individuals and that measure a student's performance relative to the performance of a group with similar characteristics. District, state, or national offices usually administer norm-referenced tests.

*Criterion-referenced tests* measure a student's **achievement** or development relative to a specific standard. Such tests are especially useful for planning instruction or for measuring curriculum content mastery because they can correspond closely to curriculum content and classroom instruction. The classroom teacher generally selects or develops, as well as administers, criterion-referenced tests.

Specifically, these assessment measures may include but are not limited to

- Individual psychological evaluation (when determined necessary by the multidisciplinary team), including general intelligence, instructional needs, learning strengths and weaknesses, and social emotional dynamics. A licensed school psychologist completes this measure.
- Social history taken by either a social worker or a school psychologist
- Physical examination, including specific assessments that relate to vision, hearing, and general health, conducted by either the school physician or the student's own doctor
- Observation of the student in his or her current educational setting, usually by another teacher, most likely a special education teacher

- Appropriate educational evaluation specifically pinpointing the areas of **deficit** or suspected disability, including but not limited to educational achievement, academic needs, learning strengths and weaknesses, vocational assessments
- Vocational assessments by professional vocational or rehabilitation counselors, work study evaluators, or guidance counselors if the student is of age (14 years and older)
- **Bilingual** assessment for students with limited English proficiency, conducted in the student's **native language**

## The Eligibility Committee/IEP Committee

The Eligibility Committee, which is also referred to as the IEP Committee, is responsible for developing a recommendation statement that addresses the student's individual educational needs. By law, parents and guardians are invited to Eligibility Committee/IEP Committee meetings and are encouraged to participate in developing the recommendation together with the committee members. Based on the evaluations completed by the designees and the district evaluators, the Eligibility Committee decides whether the student meets the criteria for a disability and is entitled to special education services.

If the student does not require special education, the Eligibility Committee/IEP Committee forwards copies of the recommendation to the parents or guardians, the building administrator, and the board of education. The recommendation states the Eligibility Committee's/IEP Committee's findings and specifies that educational services other than special education, such as speech and language improvement services, be considered. The Eligibility Committee/IEP Committee should determine what, if any, educationally related support services should be provided to the student.

If the student does require special education, an IEP will be developed for the student. This IEP will include the specific type of disability; describe the student's strengths and areas of need; list goals that the student should reach in a year's time; include short-term instructional objectives that represent a series of specific skills to be mastered; set out **annual goals** for the student; and identify the types of programs and services, including general education, that the student will receive. This information is included on the student's IEP; one copy of the recommendation is sent to the board of education for approval and another to the parent or guardian for his or her records.

## **Responsibilities of the Eligibility Committee/IEP Committee**

The district's Eligibility Committee

- Reviews and evaluates all relevant information that may appear on each student with a disability
- Determines the least restrictive educational setting for any student classified as having a disability
- Follows appropriate procedures and takes appropriate action on any student referred as having a suspected disability
- Determines the suitable classification for a student with a suspected disability
- Reviews, at least annually, the status of each student with a disability residing within the district
- Evaluates the adequacy of programs, services, and facilities for the students with disabilities in the district
- Maintains ongoing communication in writing to the parents or guardians in regard to planning, modifying, changing, reviewing, placing, or evaluating the program, classification, or educational plan for a student with disabilities
- Advises the board of education as to the status and recommendations for all students with disabilities in the district

## **Members of the Eligibility Committee/IEP Committee**

Membership of the Eligibility Committee/IEP Committee includes school division personnel representing the disciplines that provide assessments (e.g., school psychologist, speech language clinician, school nurse), the special education administrator or designee (someone standing in for the special education administrator assigned by the district), the student's classroom teacher, and the parents or guardians. At least one representative on the committee must have either assessed or observed the student. Other members can include professionals who have worked with the student outside of the classroom, attorneys, and any other individual who may be appropriate. Finally, the student can attend the meeting, which is often the case when the student is over the age of 14 years old.

## **Procedures for Determining Eligibility**

The members of the Eligibility Committee/IEP Committee who make the decision regarding the student's eligibility are expected to work until they reach consensus. The school district has to obtain parent or guardian consent for the initial eligibility determination. Thereafter, parent or guardian consent needs to be secured for any change in the student's special education classification.

The Eligibility Committee issues a written summary that sets forth its basis for its determination as to the student's eligibility for special education and related services. Each committee member present at the meeting signs the summary. The written summary is henceforth maintained in the student's scholastic record, and the district gives the parent or guardian a copy of all of the documentation used in determining the student's classification and educational placement.

No changes can be made to a student's classification and placement for special education and related services without parent or guardian consent.