

IDEA 101



Special Education in the Time of COVID-19

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Special Education History



- **Pre-1975:** Statutory and case law precursors to the IDEA.
- **1975: *Education for All Handicapped Act (P.L. 94-142)*:** Required “*free appropriate public education*” for all eligible kids with disabilities.
- **1986:** Added preschool & infant/toddler programs.
- **1990 amendments:** Became “*Individuals with Disabilities Education Act.*”
- **1997 & 2004 Reauthorizations:** Added discipline provisions; coordinated general & special education.
- **Important Concept:** “Access” v. “Academic Achievement!”

The ABCs of the IDEA



What's Where: Structure of the Law



- **Part A – General Provisions:**
 - Findings and purposes, definitions, administrative stuff.
- **Part B – Assistance for Education of All Children with Disabilities (ages 3-21): The “heart” of the law.**
 - Includes preschool program (ages 3-5) – “Section 619.”
- **Part C – Infants and Toddlers with Disabilities:**
 - For kids with or at risk of developmental delay.
 - AKA “early intervention” for ages birth to 3.
- **Part D – National Activities: Supports for implementation.**

Some Key Statutory Points



- **IMPORTANT:** Part B is *permanently* authorized!
 - All talk of “reauthorization” technically refers to A, C, & D.
 - “Permanent authorization” does not preclude **AMENDING** Part B!

- **ALSO,** “full funding” of IDEA refers only to Part B!

The Funding “Promise”



- Even with permanent authorization, all parts of IDEA subject to annual appropriations.
- The “40% promise” for Part B:
 - Maximum amount State may receive = # of children, 3-5 & 6-21, times 40% of APPE, adjusted by rate of annual changes in sum of population & poverty!
 - Funds flow from feds to SEA & by formula from SEA to LEAs.
 - ✦ Maintenance of Effort requirements apply (state & local).
- Reality: Funding more in the 15% range right now for Part B.

Who IS a “Child w/ a Disability?”



- Must fit one of 13 categories of “disability.”
 - Autism; deaf-blindness; deafness; emotional disturbance; hearing impairment; intellectual disability; multiple disabilities; orthopedic impairment; other health impairment; specific learning disability; speech or language impairment; traumatic brain injury; or visual impairment (including blindness).
 - States may add “Developmental Delay” for ages 3-9 or any subset within those ages.
 - ADHD: If deemed eligible, usually “Other Health Impairment.”
- *Must need – because of disability – special education and related services.”*

Basic IDEA Terms & Principles



- *FAPE*: free appropriate public education.
 - The basic requirement of the IDEA – “zero reject.”
- *LRE*: least restrictive environment.
 - Most appropriate educational environment.
- *Child Find*
 - Identify, locate, evaluate.
- “*Special education*”
 - Specially designed instruction, at no cost to parents, to meet child’s unique needs.
- “*Related Services*” [“specialized instructional support personnel” (SISP) in ESSA]
 - “Non-exhaustive” list.
- *IEP*: individualized education program.
 - IFSP: individualized family service plan (infants and toddlers).

Department of Education's “Two Cents”



Regulations & Guidance

Agency Issues



- **Significant Disproportionality**
 - Delayed implementation by 2 years.
 - After court battle, implementing 2016 rule.
- **Rescission of School Discipline guidance**
 - Impact on students with disabilities.
 - Intersection with IDEA discipline provisions.
- **COVID-19: Refusal to allow any flexibilities in implementing the IDEA (more about this later!).**

The Supremes & Special Ed



2017 S.Ct. Update of *Rowley*



- *Endrew F. v. Douglas Cty Sch. Dist. Re-1 (2017)*.
 - School must offer IEP “**reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances.**”
 - Overturned several circuits’ standard of education program providing “merely more than *de minimis*.”
 - Important to note that this is a SUPREME COURT decision, i.e., applies prospectively to all IDEA cases.
- NOTE: This new FAPE “standard” may be very important in light of COVID-19!