



Individuals with Disabilities Education Improvement Act (IDEA) 2004

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Including supplemental IDEA information from Dec. 2008



For More Information

When you complete this power point, if you need more information about educational services in Louisiana and children suspected of or known to have a disability, ages birth through twenty-six, please contact:

Louisiana Parent Training and Information Center

201 Evans Road, Building 1, Suite 100

Harahan, Louisiana 70123

504 888 9111 OR TOLL FREE 800 766 7736

FAX: 504 888 0246, E-MAIL: INFO@LAPTIC.ORG

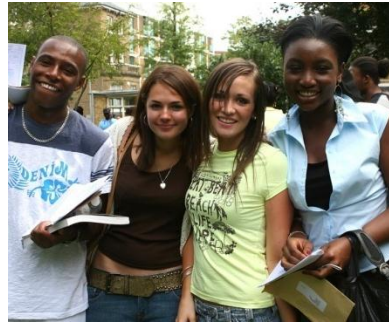


IDEA 2004 Workshop Structure

- Definitions
- Evaluation
- Individualized Education Program (IEP)
- Least Restrictive Environment (LRE)
- Private School Placement
- Procedural Safeguards



DEFINITIONS



Child Find

All children with disabilities

- Are identified, located and evaluated, including:
 - Homeless
 - Wards of the State
 - Private school students
- Classification by disability is not required to receive special education and related services



Assistive Technology

Device: Item, equipment, or product system to increase, maintain, or improve functional capabilities of a child

Service: a service that directly assists with selecting, acquiring, or using an assistive technology device. The term includes:

- Evaluation
- Providing, maintaining, customizing or replacing equipment
- Coordinating other therapies with A.T.
- Training and technical assistance for children, families or others involved in major life functions of the child



Child with a Disability

Ages 3 through 21*

- Mental retardation
- Hearing impairments including deafness
- Speech-language impairments
- Visual impairments including blindness
- Serious emotional disturbance
- Orthopedic impairments
- Autism
- Traumatic brain injury
- Other health impairments
- Specific learning disabilities

**who, by reason of disability,
needs special education and
related services**

***except in States that do not serve children 3-5 or 18-21**



Child with a Disability

Ages 3 through 9, or any subset of this range:

- “Child with a disability” if State and LEA choose, include a child with developmental delays in one or more of the following:
 - Physical development
 - Cognitive development
 - Communication development
 - Social or emotional development, or
 - Adaptive development
- who, by reason of developmental delay, needs special education and related services



Free Appropriate Public Education

Special education & related services:

- Public expense, public supervision, no cost to parents
- Meet the standards of the SEA
- Include preschool, elementary or secondary education
- Provided in conformity with the IEP

FAPE applies to all children, including those who have been suspended or expelled



FAPE Exceptions

Ages: 3-5 and 18-21 if inconsistent with State law or court order

Ages: 18 through 21 in adult correctional facilities if State law does not require services to those students who, in their most recent educational placement-

- were not identified as being a child with a disability, and
- did not have an IEP

Students with disabilities who have graduated with a regular high school diploma



Students Convicted as Adults and Placed in Adult Prisons

Requirements that do not apply:

- participation in general assessments
- transition planning and transition services if eligibility for special education will end, because of age, before release

Modification of IEP and placement:

- the IEP and placement can be modified for a bona fide security or compelling penological reason that cannot otherwise be accommodated



Parent

- Natural, adoptive or foster parent (if state law permits)
- Guardian (not the State if child is a ward of the State)
 - A person acting as a parent
 - A person legally responsible for child's welfare, or
 - A person appointed as surrogate





Surrogate Parent

Person appointed to represent child with a disability when:

- No parent can be identified
- Child is ward of the state or
- Unaccompanied/homeless

The surrogate:

- Is not employee of SEA
- Has no conflict of interest
- Has knowledge and skills

Transition Services



- School to post-school activities to improve academic and functional achievement
- Based on student needs, considering their strengths, preferences and interests
- Includes
 - Instruction and related services
 - Community experience
 - Employment



Special Education Teachers

Alternate achievement standards

Teaching core academic subjects exclusively to children assessed using alternate achievement standards:

- Elementary school: same requirements for 'highly qualified' as any teacher **or**
- Above elementary: subject matter knowledge appropriate to level of instruction as determined by the State



Specific Learning Disability

- Disorder in one or more of the basic psychological processes involved in understanding and using spoken or written language
- May affect listening, thinking, speaking, reading, writing, spelling or doing math



Specific Learning Disability

- Includes perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia
- Does NOT include learning problems as a result of visual, hearing and motor disabilities, mental retardation, emotional disturbance, environmental, cultural, or economic disadvantage



Special Education

...*specially designed instruction* at no cost to parents, to meet the unique needs of a child with a disability, including -

- Instruction in the classroom, home, hospital or institution, and in other settings
- Instruction in physical education



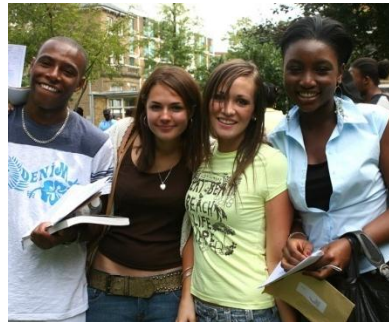
Related Services

“transportation and such developmental, corrective, and other supportive services as are required to assist a child with a disability to benefit from special education.” The term includes:

- speech-language pathology and audiology
- interpreting services
- psychological services
- physical & occupational therapy
- recreation, including therapeutic recreation
- social work services
- school nurse services
- counseling, including rehabilitation counseling
- orientation and mobility services
- medical services for diagnostic or evaluation purposes



PARENT CONSENT: ASSESSMENT AND IEP



Parent Consent: Initial Evaluation

Initial evaluation: Parent refuses or does not respond to request for consent

District *may* - but is not required to - pursue evaluation through procedural safeguards

Ward of the state. No consent needed if:

- Parents cannot be located
- Rights are terminated, or
- Parents have lost the right to participate and judge appoints representative



Parent Consent: Spec. Ed. Services

Initial services: Parent refuses or does not respond to request for consent

The district:

- May *not use* procedural safeguards for consent
- Is not in violation of FAPE
- Does not need to convene IEP meeting or develop an IEP

****New: Dec. 2008 IDEA Regulations***



Parent Consent: Spec. Ed. Services

Revocation of consent: Parent revokes consent for child already receiving services

The district:

1. Must first provide parents with written notice
2. Must discontinue services
3. May not use procedural safeguards
4. Is not in violation of FAPE
5. Does not need IEP meeting or IEP
6. Is not required to remove special education references from child's records

****New: Dec. 2008 IDEA Regulations***



Parent Consent: Reevaluation

Reevaluation: Parent refuses
or does not respond to request for consent

The district:

1. For parent refusal: may, but is not required to, seek consent
override though due process

2. For parent non-response: District may proceed if it can show that
the parent did not respond to requests



What Parents Need to Know

Refusing services or revoking consent

1. You must revoke consent **in writing**
2. Revoking consent or refusing services removes all IDEA protections for a child
 - Children will be subject to the same academic and behavior expectations and consequences as all children
 - Parents must weigh cost/benefit of decision



EVALUATION



Initial Evaluation

To determine—

- **if child needs special education and related services**
- **educational needs**

60 days of parent consent or within State timeline

Written request for evaluation

Informed consent for initial evaluation and initial services



Reevaluation

When—

- **Conditions warrant**
- **Parent requests**
- **Not more often than 1x per year unless school and parent agree otherwise**
- **At least 1x every 3 years, unless parent and school agree it is not needed**



Evaluation

Use a variety of tools and strategies to determine:

- if child has a disability
- contents of the IEP
- no one measure is used to make decisions

Instruments examine cognitive or behavioral factors in addition to physical or developmental factors



Evaluation

Assessments and evaluation materials are—

- Non-discriminatory on racial or cultural basis
- In the language and form most effective with a child
- Used for purposes intended
- Given by trained staff
- Given in accordance with test instructions



Evaluation

- **In all areas of suspected disability**
- **Gathers information to determine educational needs**
- **When children transfer districts in a school year, assessments are coordinated between schools to ensure prompt completion of evaluations**
- **60 day timeline does not apply**



Eligibility



- A team of professionals and the parent determine the need for special education
- A child cannot be found to have a disability based on the lack of appropriate instruction in reading or math, or limited English proficiency
- Parents must be given a copy of the evaluation report and eligibility determination



Specific Learning Disability

- The school is not required to consider whether there is a severe discrepancy between achievement and ability

- The school may determine if the child responds to research-based intervention as part of the evaluation



Functional Behavioral Assessment

A functional assessment looks at **why** a child behaves as he or she does, given—

- The nature of the child and
- What is happening in the environment



Functional Behavioral Assessment



A

Antecedent: event, cause or condition that influences behavior



B

Behavior: what one does



C

Consequence: what happens as a result of the behavior



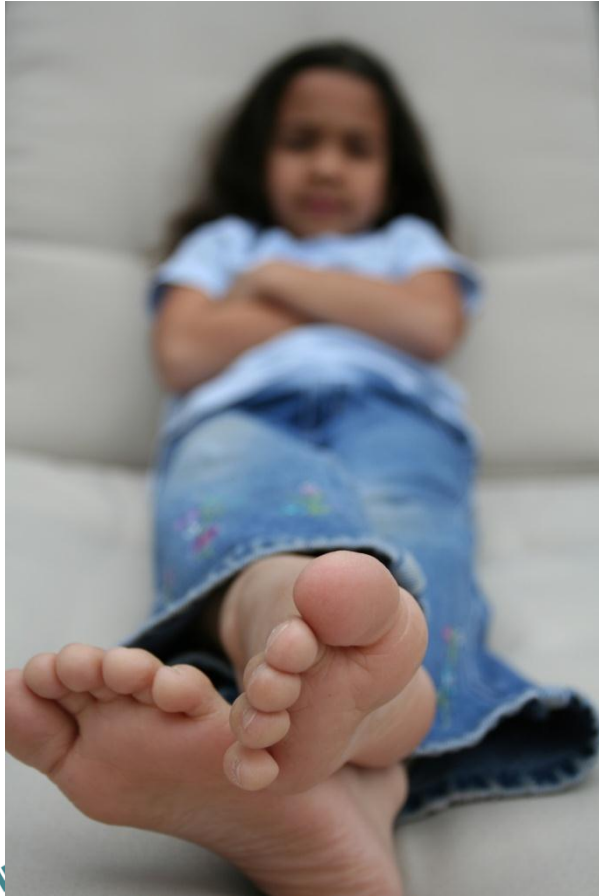
Additional Requirements

As part of reevaluation (and initial evaluation if appropriate) the IEP team and others shall—

- Review data and identify what else is needed to determine:
 - If child has a disability
 - Present levels of performance
 - If child needs special education
 - If changes are needed for child to meet IEP goals and participate in the general curriculum



Additional Requirements



- The school will complete any assessments and evaluation measures that are needed by the IEP team for planning
- **For reevaluation:** the school district must obtain parent's consent unless it has tried to obtain consent and the parent did not respond



Additional Requirements



- If additional data are not needed, the school will tell parent:
 - the reason for the decision
 - parents' right to request assessment to determine educational needs
- The LEA is not required to conduct additional assessment unless requested by parent



Additional Requirements

- The district will conduct evaluation before ceasing services, unless the child:
 - Graduates with a regular diploma, or
 - Exceeds age of eligibility
- If eligibility ends with graduation, LEA will give child a summary of—
 - Academic achievement and functional performance
 - Recommendations for meeting post-secondary goals



Evaluation Tips for Parents

- Ask in writing for evaluation – keep a copy of your request
- Explain child's problems and why evaluation is needed
- Share important information with school staff about your child and your concerns
- You must give informed consent for evaluation - except if you fail to respond to a request for reevaluation
- You have a right to an independent educational evaluation of your child



INDIVIDUALIZED EDUCATION PROGRAM



Three little words...

**Where's the
data?**



Transition: Early Intervention to Preschool Programs

- Children in early intervention programs must experience a smooth and effective transition to preschool programs
- By the 3rd birthday of the child, an IEP or IFSP must be in effect
- Each LEA will participate in transition planning conferences arranged by the lead agency



Individualized Family Service Plan



- Birth through 2 years (3-5 years if consistent with state policy and parent agrees)
- Family centered
- Multiple agency
- Coordinated



Conference Planning

IEP Parent tips:

- Ask for and review evaluation data
- Know who will attend the meeting
- Gather information to share: medical, psychological, other assessments
- Write down your questions
- Write down your priorities
- Let someone know if the meeting time does not work for you



Members of the IEP Team

- Parent
- Regular education teacher
- Special education teacher
- LEA representative*
- A person who can interpret evaluation results
- Others with knowledge or expertise
- Child, when appropriate



*qualified to provide or supervise special education and knows about general curriculum and LEA resources



Members of the IEP Team

- Attendance: not necessary* when member's area is not modified or discussed
- A team member may be excused when the parent and school consent* and the member submits written input

** Parent must consent in writing*



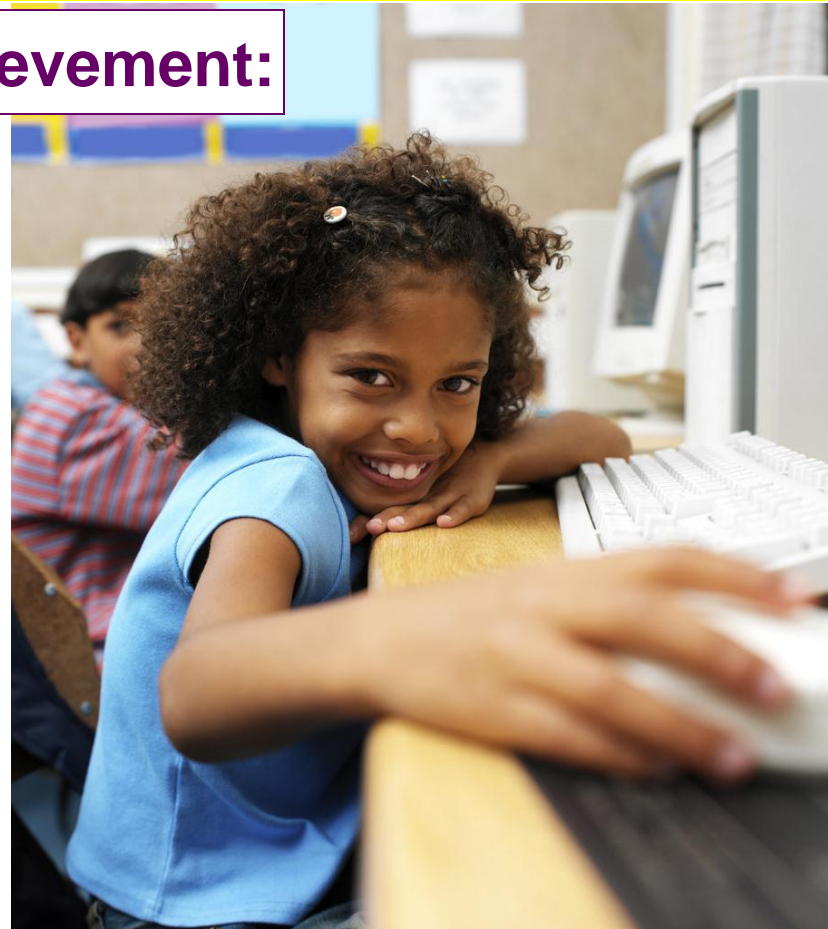
If the parent requests, the part C coordinator or representative shall be invited to the initial IEP for a child transitioning from part C

IEP Components:

written statements of...

1. Present levels of academic achievement:

- How disability affects involvement or progress in the general curriculum
- For preschool age children, how disability affects participation in appropriate activities
- For children taking alternate assessments, benchmarks or objectives



IEP Components:

written statements of...

2. Measurable annual goals, including academic and functional goals to meet—

- Needs so the child can be involved and make progress in the general curriculum
- Other educational needs that result from disability

3. How progress will be measured and when reports will be issued



IEP Components:

written statements of...

4. Special education and other supports and services to:



- advance toward annual goals
 - progress in the general curriculum
- participate in extracurricular and non-academic activities
- be educated and participate with all children

5. Extent the child will not participate with non-disabled children in regular classes or activities



IEP Components:

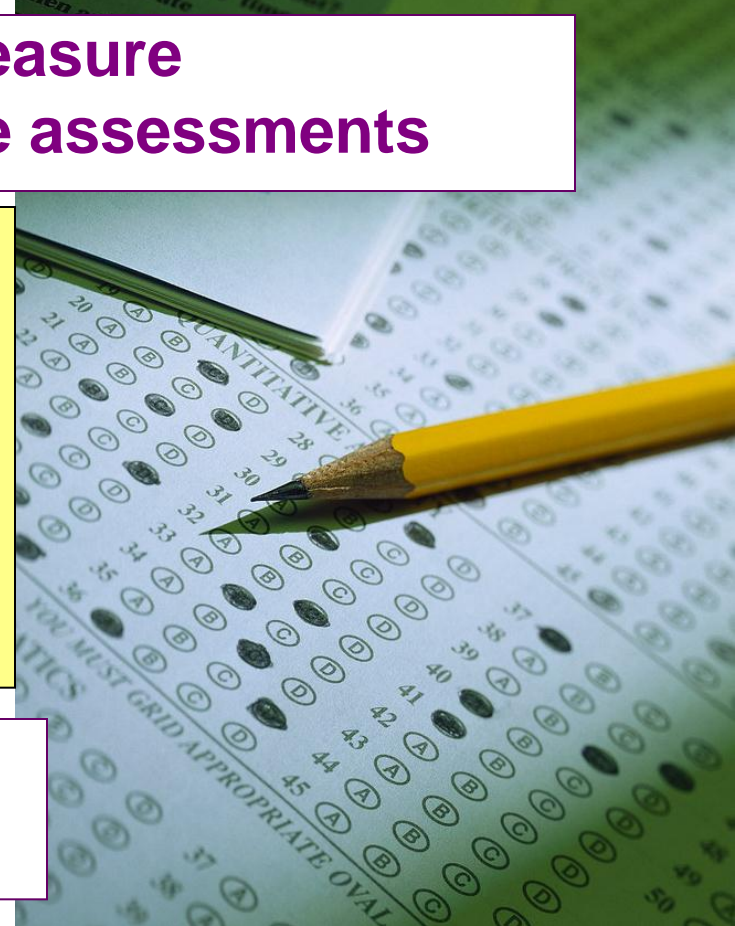
written statements of...

6. Any accommodations needed to measure achievement on State and districtwide assessments

If the IEP team determines alternate assessment is needed:

- Why child cannot take regular assessment
- How the team determined that the alternate assessment is appropriate

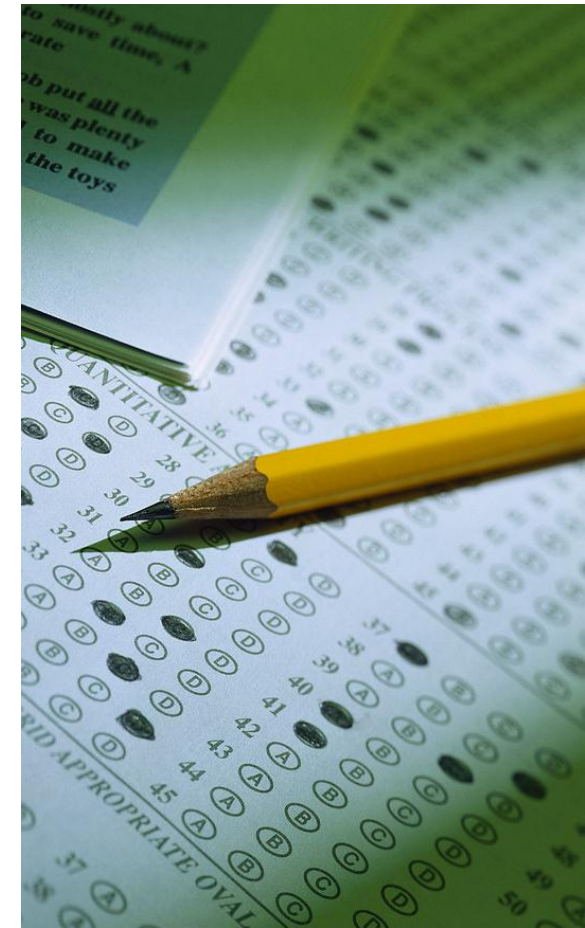
7. Date services begin, and their frequency, location, and duration



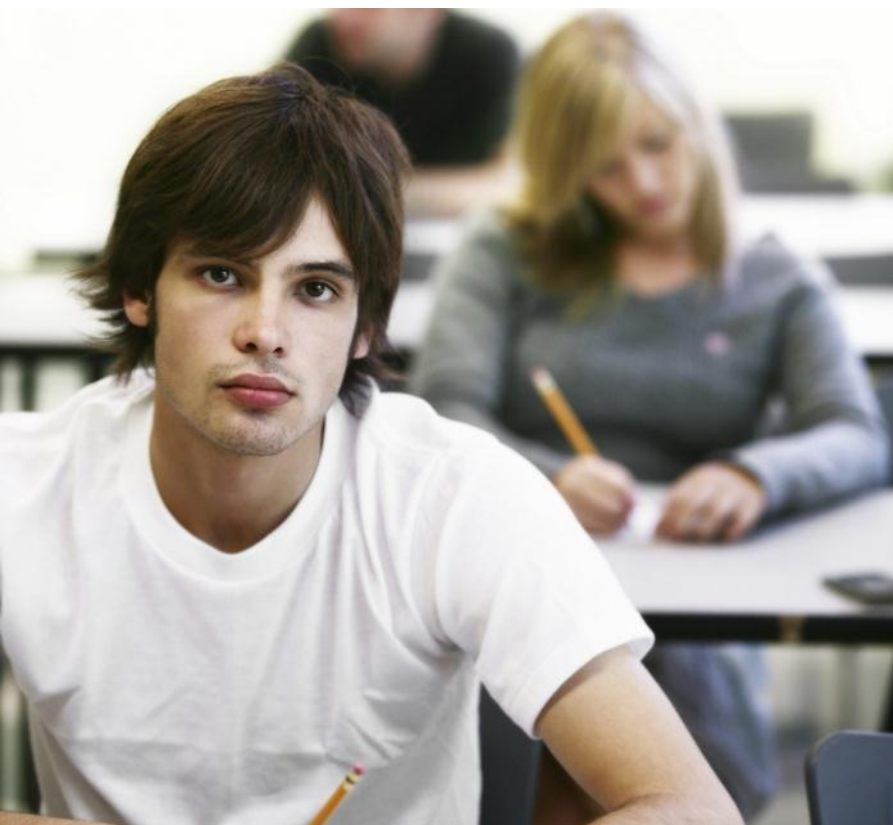
State and Districtwide Assessments

All children participate in all general State and districtwide assessments

- Accommodations as needed
- Alternate assessments listed in the IEP
- Aligned with state standards
- May measure achievement against alternate standards



IEP Components



Annually, beginning at age 16

Goals based on age appropriate transition assessments related to:

- Independent living skills (where appropriate)
- Training
- Employment
- Education
- Transition services needed to reach the goal

One year before age of majority, a statement that the child has been informed of rights that transfer to the child on majority



Transition Services

Coordinated set of activities:

- Focused on improving achievement
- Based on needs, considering interests and preferences
- Includes instruction, related services, community experience, employment and other post-school objectives, and when appropriate, daily living skills and functional vocational evaluation



Transfer of Rights

If a State transfers educational rights to students upon reaching the age of majority:

- Special education notice is provided to both the child and the parents
- All other rights given to parents transfer to the child, including to children in corrections
- Schools must notify both the individual student and the parents of the transfer of rights



Student Transfers

In-state school district transfers:

FAPE, comparable services until the LEA:

- Adopts previous IEP or
- Develops new IEP

Outside the state transfers:

FAPE, comparable services in IEP until LEA:

- Conducts evaluation (if needed) and
- Develops a new IEP

Transmittal of records

- New school must try to obtain records
- Previous school must take steps to respond



IEP Development:

The team shall consider...



- The child's strengths and the concerns of parents for their education
- Results of initial or most recent evaluation
- Academic, developmental, and functional needs



Special Factors:

The team shall consider...

In the case of a child whose behavior impedes his or her learning or that of others, consider the use of positive behavioral interventions, supports and other strategies to address that behavior.



Special Factors:

The team shall consider...

- *For a child with limited English proficiency, consider the language needs of the child as they relate to the child's IEP*
- *For a child who is blind or visually impaired, provide instruction in Braille and the use of Braille, unless the IEP team determines, after an evaluation, that it is not appropriate*



Special Factors:

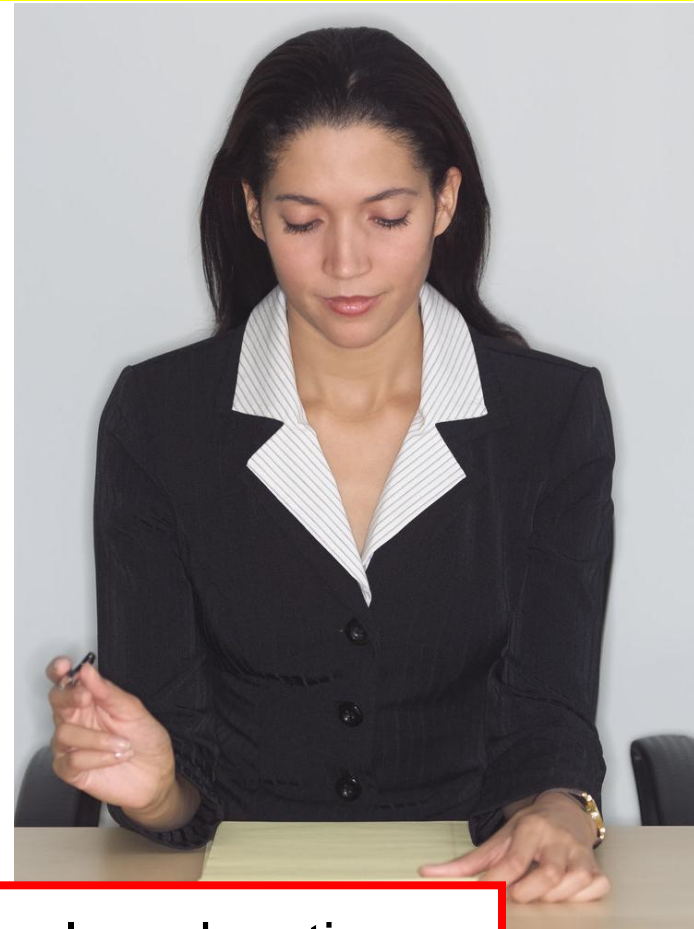
The team shall consider...

- The communication needs of children
- For a child who is deaf or hard of hearing:
 - language and communication needs
 - direct communication in the child's language and communication mode
 - academic level
 - full needs, including direct instruction in the child's language and communication
- Whether child needs assistive technology



The IEP Team Shall:

- Review the IEP at least once per year
- Determine if annual goals are being met
- Revise the IEP if needed to address:
 - lack of progress in goals
 - lack of progress in curriculum
 - reevaluation results
 - parent information
 - anticipated needs
 - other matters



The IEP team should include the regular education teacher, when appropriate, in the review and revision



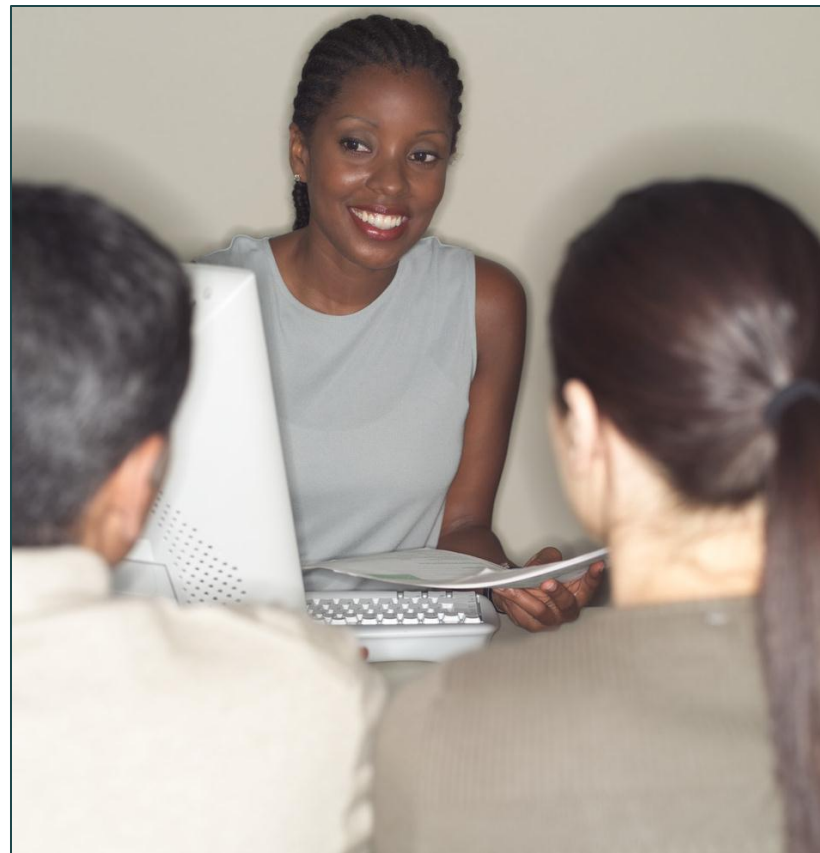
Parents Need To Know

- Parent and school may agree, *after the first annual IEP meeting*, to amend or modify the IEP without having another meeting that school year
- Reevaluations/IEP meetings may be held at the same time
- The IEP may be changed at or without a meeting, and may have an amended page. **Parents may request a copy.**



Parents Need To Know

- Educational placements: Parents are members of any group that makes decisions on placement
- Alternative ways to meet: Parents and schools may agree to conduct IEP, placement or other meetings by alternative means (such as conference calls)

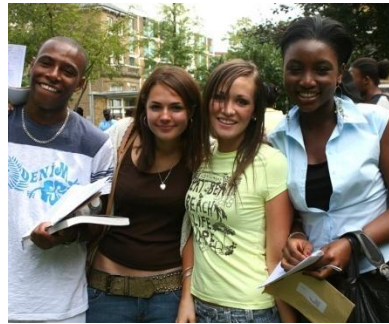


IEP Questions to Ask

- Are the goals measurable?
- Is my child in the regular education environment all or part of the day? Why or why not?
- Does the IEP list modifications, accommodations and supports, including for State and districtwide test accommodations?
- Is the school expecting the kind of progress I believe my child should make?
- Is my child expected (and able) to meet graduation requirements?
- When will the IEP be reviewed?



LEAST RESTRICTIVE ENVIRONMENT



Least Restrictive Environment

“...To the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are not disabled”



Least Restrictive Environment

State funding mechanisms cannot result in more restrictive placements

States must revise policies to ensure that funding mechanisms do not result in placement



PRIVATE SCHOOL PLACEMENT



Private Schools

- Proportionate IDEA funds for children ages 3-21 in private schools
- LEA and private schools determine numbers of parentally placed children in LEA
- Services may be provided on-site, consistent with law
- State/local funds may supplement IDEA funds
- LEA keeps records of children evaluated, eligible, and served



Private Schools

- Equitable services are provided by the public agency or through contract by the public agency
- Services are secular, neutral, and non-ideological
- Public agency maintains control of funds, materials, equipment, or property



Private Schools

- No cost to parents

SEA determines whether:

- school complies with its standards
 - children have the same rights as in public school
- LEA is not required to pay for parentally placed children if LEA made FAPE available before parents enrolled child in private school
 - Parents may seek reimbursement if school failed to provide FAPE



Private Schools

Reimbursement reduced or denied if parents did not:

- Reject placement and state intent to enroll in private school
- Give written notice of their intent 10 days before removal
- Make child available for evaluation

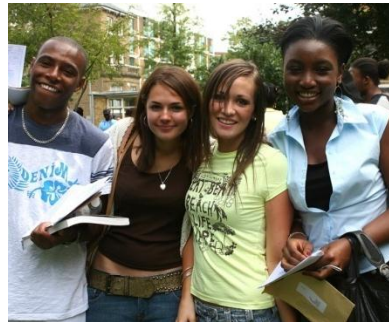
Or upon judicial finding that parent action was unreasonable

Reimbursement not reduced or denied for failing to provide notice if—

- School prevented notice or parents were not informed
- Not placing child would likely cause harm, or
- Compliance with notice may result in **harm**



PROCEDURAL SAFEGUARDS



Procedural Safeguards Notice

Given only 1x per year, except upon

- initial referral or request for evaluation
- first occurrence of the filing of a complaint
- request by parent

Contents:

- Full explanation of procedural safeguards
- In parents' native language unless clearly not feasible to do so
- Written in easily understandable manner



School Records and Meetings

Parents must have the opportunity to—

- Examine all education records in their child's file
- Participate in all meetings related to the evaluation, identification, placement and the provision of FAPE for their child



Written Parental Consent

Before:

- Initial evaluation or reevaluation, consistent with State law
- Initial provision of special education and related services
- Written consent is **not required** for review of existing data as part of evaluation or reevaluation
- Consent for evaluation is **not an agreement for placement** in special education



Written Prior Notice

Written notice - whenever the public agency proposes or refuses to initiate or change:

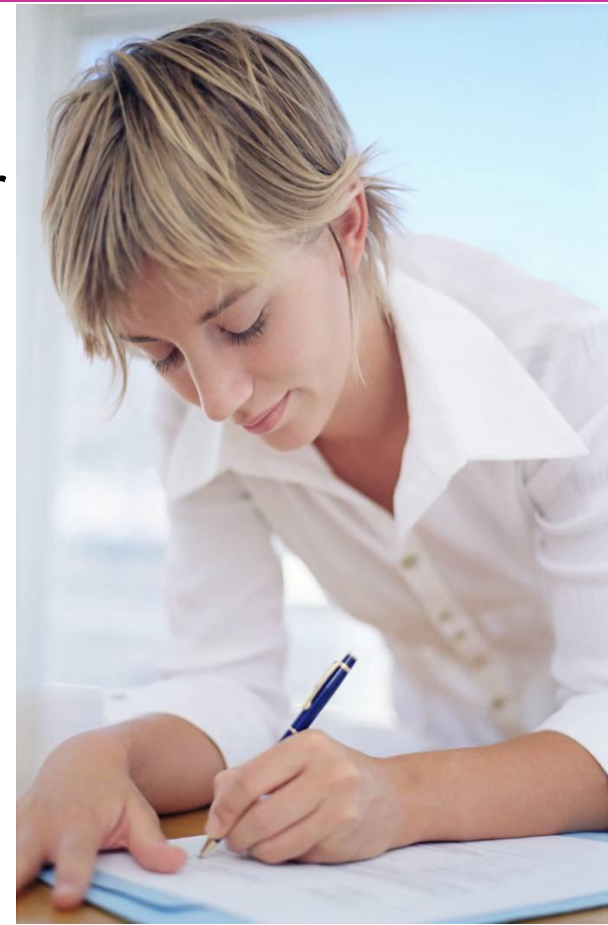
- identification
- evaluation
- educational placement
- provision of FAPE

Notice in native language of parent unless it is clearly not feasible to do so



Filing a Complaint

- Alleged violation within 2 years of action
- Complaining party provides notice to other and the State
 - Name, address of child (contact info. for homeless)
 - Name of school child attends
 - Description of the problem; desired solution
- No hearing without proper notice
- SEA has model forms for complaint



Mediation

- Voluntary
- Cannot delay hearing
- Trained impartial mediator
- No cost to parent or school
- Timely and in a convenient location
- Written agreement (binding)
- Confidential (cannot be used at hearing)



Due Process Hearing

Parent or LEA may initiate

Two year timeline for requesting hearing

Exception: if parent was prevented from filing

Hearing Rights:

State law prevails on whether a non attorney can represent parents at hearing

1. Right to counsel, or to have non-attorney present
2. Present evidence and compel attendance of witnesses
3. Prohibit evidence not disclosed at least **5 business days** before the hearing
4. Obtain written, verbatim or electronic record
5. Obtain written or electronic decision and findings



Due Process Hearing

Parent or LEA may initiate

Resolution session: LEA sets meeting within 15 days of parent's written complaint

LEA, parents and IEP team members discuss complaint and resolution

Parents / LEA may agree to waive meeting

If LEA has not resolved issues within 30 days, a hearing may occur

Written settlement is legally binding



Due Process Hearing

Parent or LEA may initiate

Each party discloses all evaluations at least 5 days before hearing – if not disclosed, may be barred from use in the hearing

The Hearing Officer:

- Must not be SEA or LEA employee or have a conflict of interest
- Has the knowledge and ability to understand laws and regulations and legal interpretations
- Has the knowledge and ability to hold the hearing and make decision in accordance with law



Due Process Hearing

Parent or LEA may initiate

Hearing decision is based on whether child received FAPE.

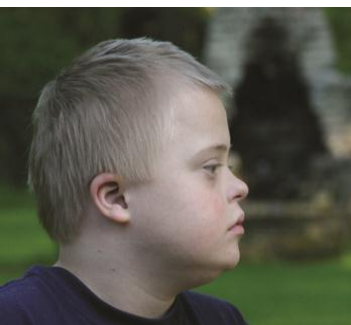
Procedural violation: child did not receive FAPE only if the procedural inadequacies—

1. impeded the child's right to FAPE
2. substantially impeded parents' participation in FAPE decisions for their child
3. caused a deprivation of educational benefits

Either party may appeal a hearing decision



PLACEMENT IN AN IAES



Placement in an IAES

School personnel may remove a child for violating a school code of conduct-

1. an appropriate **interim alternative educational setting (IAES)**
2. another appropriate setting
3. suspension

**Does not require
parent permission**

- Up to 10 school days
- If used with all children

**School personnel may consider unique
circumstances on a case-by-case basis**



Placement in an IAES

If school personnel seek to order a change in placement for the code violation (removal beyond 10 school days)

AND

The behavior is not a manifestation of the disability

THEN

- Regular discipline policies apply, including placement in an IAES
- FAPE continues in the new setting



Placement in an IAES

Removal for drugs, weapons, or serious bodily injury

Child continues to receive:

- services to continue to progress in regular and special education (placement is determined by the IEP team)
- functional behavioral assessment
- behavioral interventions and modifications that address the behavior so that it does not recur



Manifestation Determination

Within 10 school days of decision to change placement:

- LEA, parent, and IEP team members review child's file, IEP, teacher observations, and parent information to determine if the conduct—
 - Was caused by or had a direct relationship to the child's disability, or
 - Was a direct result of school failure to implement the IEP



Manifestation Determination

If manifestation, the IEP team shall—

- Conduct functional behavioral assessment and implement a behavior intervention plan if not previously done
- If a BIP exists, review/ modify if needed
 - Return child to previous placement, **or**
 - If parents/school agree, change placement as part of modifying the behavior intervention plan (BIP)



Special Circumstances

School personnel may place child in IAES for up to 45 school days (manifestation or not) if the child —

- Has a weapon
- Has or uses illegal drugs, or sells or solicits sale of controlled substance
- Has inflicted serious bodily injury

The IAES is determined by the IEP team



Definitions

WEAPON.-- ‘dangerous weapon’ under section 930(g)(2) of title 18, United States Code: “ a device, instrument material, or substance, animate or inanimate that is used for or is readily capable of causing death or serious bodily injury, except that such term does not include a pocket knife with a blade of less than 2 ½ inches in length.”



Definitions

SERIOUS BODILY INJURY.-- the meaning given the term ‘serious bodily injury’ under paragraph (3) of subsection (h) of section 1365 of title 18, United States Code:

“Serious bodily injury” means bodily injury which involves— a substantial risk of death; extreme physical pain; protracted and obvious disfigurement; or protracted loss or impairment of the function of a bodily member, organ, or mental faculty”



Hearing

Who may request:

1. **Parent:** disagree with placement or manifestation determination
2. **LEA:** current placement may result in injury

Hearing officer decides:

1. Return the child to previous placement, or
2. Order placement in IAES, up to 45 days, based on likelihood of injury



Expedited Hearing

Child remains in IAES

- Until hearing decision, or
- Time period expires (unless otherwise agreed)
- Hearing must be expedited (20 school days)
- Determination issued within 10 school days after hearing



Children Not Yet Eligible

A child may assert IDEA protections if LEA “had knowledge” of child’s disability



- parent expressed in writing that the child needed special education and related services
- parent requested an evaluation
- teacher expressed concern about child’s behavior to special education director or other supervisory personnel

A school does not have knowledge if the parent has not allowed an evaluation or has refused services

No Basis of Knowledge



If LEA does not “have knowledge” that child has a disability, the child may be subjected to regular discipline

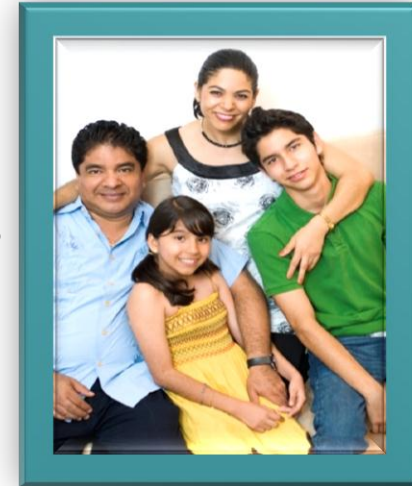
- Evaluation requested during disciplinary period must be expedited
- Child remains in placement determined by school authorities pending evaluation
- If child has disability, LEA will provide special education and related services





LaPTIC Helps Families

- Better understand their children's disabilities and education needs
- Communicate more effectively with school and related professionals
- Understand their rights and responsibilities under the IDEA
- Obtain appropriate services for their children
- Resolve disagreements with the school or other agencies
- Connect with other community resources that assist children with disabilities



LaPTIC Serves Families, Students with disabilities and Professionals statewide regarding children and young adults, ages birth – twenty-six, suspected of having or known to have a disability, no matter the type or severity of the disability. We provide 3 main services: Information and Referral; Education and Training; Peer to Peer Support





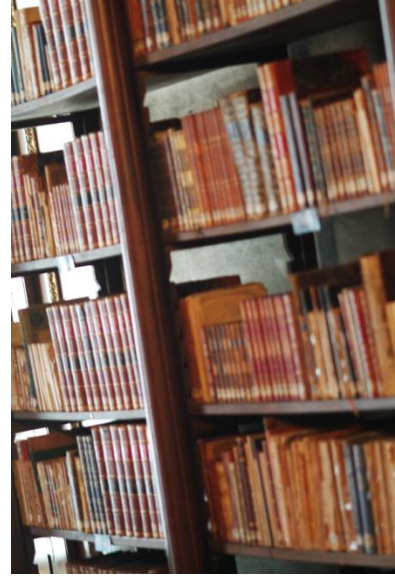
What Do We Do?

Information and Referral Services

Talk List



LaPTIC Lending Library Statewide



Communicate with Experienced Parent By E-mail, Mail, Phone



Individual Meeting By Web Class



Call Toll Free Number!

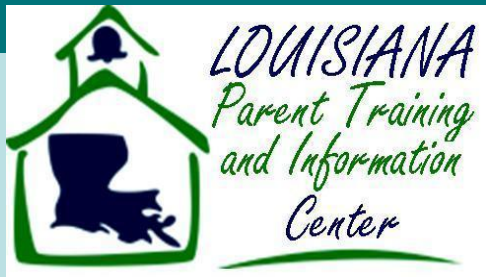
Social Networking FB, Twitter, YouTube

Website



Exceptional Times Quarterly Newsletter





What Do We Do?

Education & Training

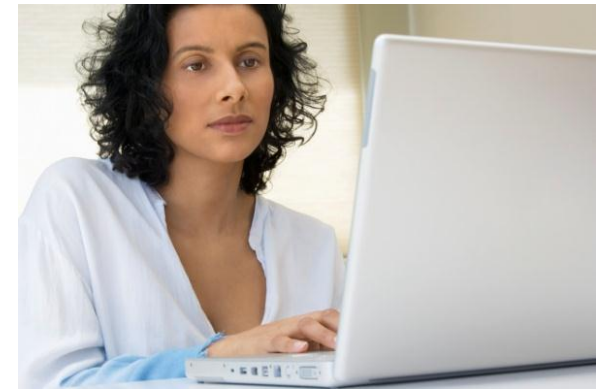
Annual Conference



Live Scheduled
Web Classes,
with Conference Call



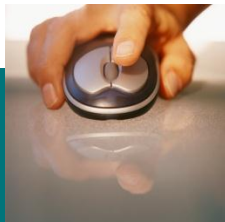
Self Directed Training
Via LaPTIC Website



Self -Directed
Training on CD
Your Library or
Community Center



Summer
Educational
Policy Course
Online



Individual Online
Training for
1 or Group
Time/Day/Topic
Choice
By Appointment

In Person Workshops



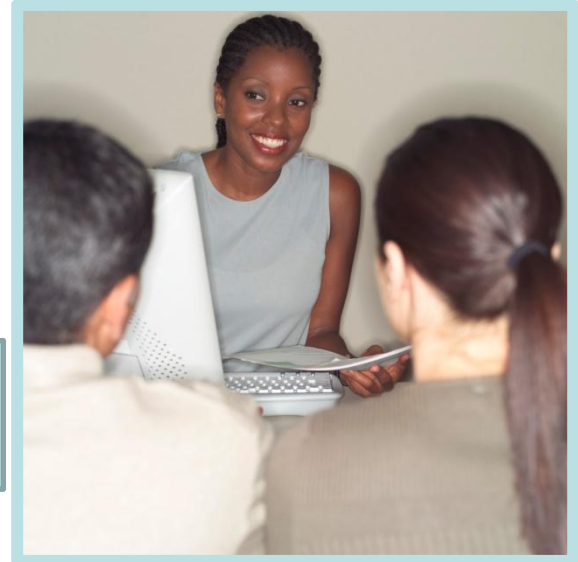


What Do We Do?

Peer to Peer Support by Phone, E-mail, Meetings

INFORM

SUPPORT



**Share
What
Works**

**Meeting Preparation
IFSP, SBLC, RTI, IEP, S.504**





Questions?

Contact LaPTIC

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504 888 9111

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