

# Creating Quality Special Education



## ***Understanding the Basics of Special Education***

### **Key Ideas for Section I**

- Students who receive special education are a very diverse group. A large number of these students share many characteristics with other low-achieving students.
- Special education is not a separate program or place—it is a system of supports and services in a school.
- Special education policies and practices can vary tremendously from state to state and district to district, but the core principles remain consistent.

**T**he Individuals with Disabilities Education Improvement Act, or IDEA, is the federal law that governs special education. This law is a combination of both civil rights and education laws and has the following core requirements:

- All students with disabilities who are eligible to receive special education must be provided *a free, appropriate public education*, or FAPE. This means specially designed instruction and related services that

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meet the unique needs of an individual student and which should be provided in the *least restrictive* environment possible.

- The rights of every student with a disability and his or her family are ensured and protected through procedural safeguards.

### WHAT IS AN APPROPRIATE EDUCATION?

The IDEA and the courts have defined an *appropriate* education as one that is provided in accordance with a child's Individualized Education Program (IEP) and is "reasonably calculated to confer benefit." The law assumes that a team of professionals, including a student's parents or guardian, is in the best position to determine what is appropriate for the student.

The IDEA defines related services to include such things as transportation, speech and language services, physical therapy, occupational therapy, technology, and recreation that an individual student may need to benefit from special education. There are certain restrictions on the type of medical services required, specifically those that require a physician.

The IEP is central to special education. It is the official record of a child's legal entitlement to FAPE and defines the specially designed instructional services and supports and related services a student requires to meet his or her educational goals. The procedures and paperwork surrounding the IEP reflect the fact that this document represents a contract between the school district and the parent or guardian, so failure to follow procedures means that a student has been denied FAPE. There have been a number of changes made over the years to what must be included in an IEP as well as who must be involved in its development. The most recent changes were made to the IDEA in 2004.

There are three important areas to consider in developing an IEP: ensuring that including mandatory content is addressed, all required participants are included in decision making, and all notices and timelines are conducted according to procedures. Specific membership of an IEP team, as well as its content, procedures, and timelines, is determined by a combination of federal and state laws and local district procedures.

Beyond the mandatory procedures and content, what is "appropriate" for one student with a disability may not be appropriate for another. The core principle of FAPE is individualization.

Two good sources for legal requirements are as follows:

- Yell, M. (2006). *The law and special education* (2nd ed.). Upper Saddle River, NJ: Pearson Education, Inc.
- Huefner, D. S. (2005). *Getting comfortable with special education law: A framework for working with children with disabilities*. Norwood, MA: Christopher-Gordon Publishers, Inc.

The current legal interpretation of “appropriate” comes from a U.S. Supreme Court decision, *Board of Education of the Hendrick Hudson School District v. Rowley* (1982), which determined that FAPE was not intended to mean that schools must maximize the potential of a student with a disability but must provide access to education that allows the student to “benefit” from educational programs and services. Other federal court cases have established that the educational benefit must be “more than trivial.”

## THE IEP

Since the IEP is central to special education, it is important for principals to understand the procedures for developing IEPs. (I discuss the IEP in more detail in Section II). There are a number of rules associated with developing an IEP, and it is essential that principals and teachers understand the procedures and timelines as developed by the local school district. However, the following provides a basic overview of the legal requirements associated with an IEP.

### What Must Be in an IEP?

An IEP is a written document that must be developed for each student who is receiving special education or related services. The document has the following major components: assessment of the student’s areas of need, individualized annual goals, measures of progress toward goals, services that will be provided, and the settings in which services will be provided.

#### **Box 1.1 Each IEP Must Include, at Minimum, the Following Content**

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- A statement of the child’s present levels of academic achievement and functional performance.
- A statement of measurable annual goals, including academic and functional goals designed to
  - Meet the child’s needs that result from his or her disability to enable the child to be involved in and make progress in the general education curriculum.
  - Meet each of the child’s other educational needs that result from the child’s disability.

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- For children with disabilities who take alternate assessments aligned to alternate achievement standards, a description of benchmarks or short-term objectives.
- A description of
  - How progress toward meeting the annual goals will be measured.
  - When periodic reports on the progress the child is making toward meeting the annual goals (such as through the use of quarterly or other periodic reports, concurrent with the issuance of report cards) will be provided.
- A statement of the special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, that will be provided to the child.
- A statement of any accommodations that are necessary to measure the academic achievement and functional performance of the child on state and district-wide assessments.
- If the IEP team determines that the child must take an alternate assessment instead of the regular state or districtwide assessment, there must be a statement of why the child cannot participate in the regular assessment and why the particular alternate assessment that will be used is appropriate for the child.

For students 16 years and older, or younger if determined appropriate by the IEP team, the IEP must include the following:

- Measurable postsecondary goals based on assessments related to training, education, employment, and, if appropriate, independent living skills.
- Transition services (including courses of study) needed to help the child in reaching those goals.

### Who Develops the IEP?

The IEP team for each child with a disability includes the following:

- The parents of the student.
- Not less than one regular education teacher of the student if the student is, or may be, participating in the regular education environment.

- Not less than one special education teacher of the student or, where appropriate, not less than one special education provider of the student.
- A representative of the school district or public agency (who has certain specific knowledge and qualifications).
- An individual who can interpret the instructional implications (may also be one of the other members).
- At the discretion of the parent or the school district or other individuals who have knowledge or special expertise regarding the student, including related services personnel as appropriate.
- Whenever appropriate, the student with a disability. The student must be invited to attend if the purpose of the meeting will be to consider postsecondary goals and the transition services needed to reach those goals.

A member of the IEP team may not be required to attend the meeting if both the parent and district agree in writing. There are other team members who may not need to attend depending on the content of the IEP. However, principals should make themselves aware of the procedures established by their school district regarding team membership.

### **The IEP Meeting**

Developing good IEPs can take time and requires good data and good communication. It requires that the IEP team have good assessment data and knowledge of the general curriculum as well as strategies and effective instructional practices that can meet diverse educational needs. Then, the team must have an opportunity to discuss and deliberate.

Schools may now conduct IEP meetings as well as other mandatory meetings involving parents or other providers using alternative means, such as video conferences and conference calls.

The IDEA requires that the team review a student's IEP periodically, but at least annually, to determine whether the annual goals are being achieved as well as to address the following:

- Any lack of expected progress toward the annual goals and in the general education curriculum.
- The results of any evaluations.
- Changes in a student's needs or other matters team members deem relevant.

If there is a need to change a student's IEP during the school year, there is no need to convene an IEP team meeting as long as the parent and district agree. Instead, a written amendment can be used to modify the student's current IEP.

## The IEP and the Responsibility of the Principal

Beyond understanding the legal requirements for developing IEPs, there are several other areas where principal leadership is essential. For

The following site has important training modules that can help in understanding and developing IEPs and other important requirements of IDEA: <http://idea.ed.gov>

instance, principals can make sure that IEP teams have sufficient time to fulfill their responsibilities. Principals can support the IEP process logistically as well as being a proactive member of the IEP team. Principals also must ensure that IEPs are accessible to each regular education teacher, special education teacher, related services provider, and any other service provider who is responsible for implementing

an IEP. Finally, principals must assume a leadership role in ensuring that services specified on an IEP are available and provided as prescribed. This may require negotiating for more resources outside the building.

## THE LEAST RESTRICTIVE ENVIRONMENT

A second major entitlement in the IDEA is that a student with a disability be educated in the Least Restrictive Environment or LRE. This must also be an individual decision. The IDEA requires that students with disabilities be educated with their nondisabled peers to “the maximum extent appropriate.” The regulations governing the IDEA also require that each district make available a continuum of placements as part of meeting the LRE requirement. These settings include regular classrooms, special classrooms, special schools, home instruction, and instruction in hospitals and institutions. The placements do not have to be used, but must be available should an IEP team determine that a specific student requires that setting.

The basic legal standard for determining the LRE requires that a student’s IEP team first determine what constitutes an appropriate education for a student and then consider how to provide the special education and related services in the regular classroom within the school the student would have attended if he or she did not have an IEP. Removing a child from this setting can only occur when the nature or severity of the disability is such that education in regular class cannot occur even with the use of supplementary aids and services. A student cannot be educated outside of the regular classroom simply because of the nature of his or her disability or the types of services he or she may require.

Terms associated with LRE have included mainstreaming, reverse mainstreaming, integration, and inclusion. The first three terms often are interpreted to mean that special education is provided outside of the

general classroom or school and that individual students move back into general education if they meet certain criteria. In contrast, inclusion begins with the assumption that every student is a member of a general education classroom and is expected to be educated within that classroom with his or her same-age peers. However, special education and related services may be provided in a variety of arrangements to support access to the general education curriculum.

Today, inclusion is the generally accepted goal for educating students with disabilities in regular schools and classrooms. However, in school districts all over the United States, we find students with disabilities being educated in separate settings. Across the United States, about half of all students with IEPs are educated in general education classrooms for 80% or more of the school day. But the percentages vary a great deal by disability. For example, on average, 55% of students identified as having a learning disability are educated 80% or more each day in general education classrooms compared to 35% of the students with emotional disturbance and 16% of students with mental retardation. As a group, Black students with IEPs are more likely to be educated in special education classes or schools. In 2005, nearly one fourth of Black students with disabilities and one fifth of Hispanic students were educated outside of the regular classroom more than 60% of the time compared to 13% of the White students. The disproportionate placement of minority students in special classes and settings is considered to be a major problem in special education and is now subjected to increased monitoring by states and the federal government.

Several federal court decisions have been instrumental in shaping decision making about LRE. Almost all of the cases have been brought by parents of students with moderate to significant disabilities. The decisions have resulted in a number of considerations for an IEP team that is deciding on a setting for a particular student.

**Box 1.2 Basic Questions an IEP Team May Ask When Considering LRE**

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1. Can the special education and services offered in a segregated placement be feasibly provided in an inclusive setting?
2. Can education in the general education classroom be achieved if the right supplementary aids and services are provided?

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