

The Basics of Special Education Law and Procedures

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In This Session We Will:

- Identify the basic rules governing school special education / procedures.
- Learn how to assist parents and students to obtain services from the school district
- Learn how to work effectively with school and court staff in cases where special education is an issue.

What is Special Education?

Under the IDEA, “Special Education” means:

- Specially designed instruction.
- At no cost to the parents
- Intended to meet the unique needs of a child with a disability.
- The requirement to provide FAPE – (Free, Appropriate, Public, Education.)

Terminology and Definitions



- IEP – Individual Education Program
- IEE- Independent Ed Eval
- FAPE- Free Appropriate Public Education.
- BIP – Behavior Intervention Plan
- FBA – Functional Behavioral Assessment
- PLOP – Present Level of Performance.

Students that are considered to have a disability

- Students who have been found eligible for special education services under IDEA.
- Students that have a handicap under section 504

The Purposes of 504 and IDEA

- 504 (504 Plan)
 - Prevent discrimination
 - Access to Learning
 - Provide FAPE
- IDEA (Child has IEP)
 - Provision of special education and related services.
 - Specific disabilities related to eligibility
 - FAPE

Child Find Duty

- **Child Find:** schools have a duty to identify, locate, and evaluate *all* children with disabilities residing in their district
- suspected disability = Student having trouble
 - low grades
 - problems reading or paying attention
 - repeated suspensions
 - poor behavior or fighting in school
- A disability may be present even if a child is not failing and is passing from grade to grade

The school is deemed to have knowledge of a child's potential disability if:

- The parent has expressed written concern that the child may need special education services.
- The school notes a pattern of behavior or performance that indicates a need for special education services
- The parent has requested an evaluation for eligibility for special education services.

The Determination of Eligibility

- The eligibility decision must draw upon information from a variety of sources (not just aptitude and achievement scores)
 - Is there a disability & does it **adversely impact** education?
 - Grades? Attendance? Classroom functional performance? Pattern of strengths and weaknesses?

Basic Root Problems in Special Education Cases

- ❑ The “**Diagnostic Disconnect**” – Parents and school do not agree about the nature and scope of a child's disability.
- ❑ Eligibility does not match the student's diagnosis or needs.
- ❑ Therefore – Impossible to have viable IEP

The Manifestation Determination Review (MDR)

- If a special education student is faced with expulsion or long-term suspension (over 10 days), the school **must determine whether the behavior is a manifestation of the child's disability.**
- If a manifestation, the disciplinary suspension must end and the behavior must be addressed through the IEP process

Common issues in special education discipline cases

- ❖ Findings and Procedures in the Manifestation Determination Review (MDR)
- ❖ Denial of FAPE by extended homebound exclusion without adequate services.
- ❖ Failure to provide FAPE in an alternative learning environment.

What are the dispute resolution options for a parent?

- Written complaint to VDOE: VDOE will investigate and require compliance in founded cases
- Mediation: No cost to parent and mediated agreements are binding and enforceable.
- Due Process Hearing: A formal hearing with a Hearing Officer. Parent should have advocate or attorney.

Effective advocacy for school Special Education cases

- ❖ Understand the process and be prepared.
- ❖ Collaborate to keep the child in school.
- ❖ Identify and promote a behavior intervention plan. (BIP)
- ❖ Assist parents to learn about due process rights.
- ❖ Be more credible than adversarial.

