

The Clinical Evaluation of the Special Needs Child – A Legal Perspective

Speech and Hearing Associates

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AGENDA

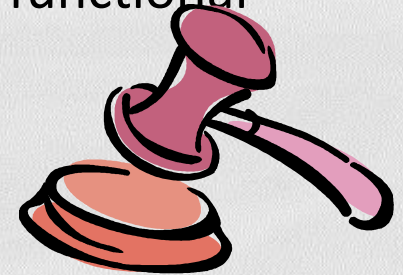
- Overview of the Individuals with Disabilities in Education Act (IDEA)
- The Individualized Education Plan (IEP)
- Due Process – The legal avenue to resolve disputes
- The role of the Speech/Language and Audiology Evaluator
 - From initial eligibility evaluation to expert
 - Role of the expert witness



IDEA

Individuals with Disabilities in Education Act

- First enacted in 1975 with reauthorization in 1997 and amendments in 2005
- Goals and values:
 - To allow disabled student to access education
 - To provide a program to meet unique and individual needs
 - To provide an education to prepare a student to lead a productive and independent life as an adult
 - To prepare for further education and employment
 - Results oriented process focusing on academic and functional achievement



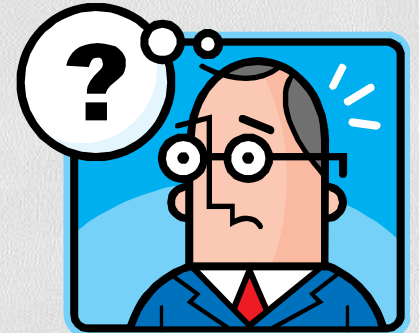
Other Legislation

- NO CHILD LEFT BEHIND
 - Added scientifically based teaching methods
 - Accountability
 - Aims to close achievement gap



Acronyms can be confusing!

- FAPE – Free Appropriate Public Education
- LRE – Least Restrictive Environment
- IEP – Individualized Education Plan



What do words mean in legal context?

“FREE APPROPRIATE PUBLIC EDUCATION”

“Personalized instruction with sufficient support services to permit the child to **“benefit educationally”** from that instruction”

“Benefit Educationally” = **Meaningful Benefit** which is more than trivial

Goals and objectives must be individually tailored to suit the unique needs of the child

Programs and services must be sufficient to permit **Access to Education**

Rowley case 3rd Circuit

What do words mean in legal context?

APPROPRIATE

...does not mean the BEST

APPROPRIATE

...means necessary to
permit ACCESS TO
EDUCATION

Related Services

- What the child needs to access education
- What the child needs to benefit from the educational program

TRANSPORTATION

SPEECH

PT

COUNSELLING

COMMUNICATIONS
SYSTEMS

ASSISTIVE
TECHNOLOGY

The Individualized Education Plan (IEP)

CHILD FIND

ELIGIBILITY

CLASSIFICATION

PLACEMENT

SERVICES

FAPE in the LRE

The least restrictive environment

- To the maximum extent possible, students with a disability are to be educated with students without disabilities in the same setting and as close to home as possible
- There is a strong preference in the law for educating children with disabilities in the general education curriculum

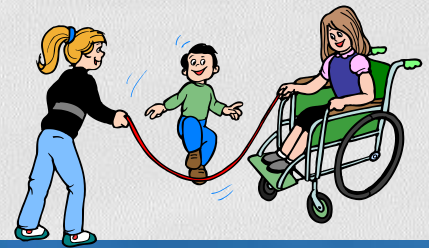
Continuum of LRE

- Mainstream class with in-class supports
- Pull Out – Resource Room
- Self-contained class within school
- Special school – Out of district placement
- Home instruction
- Residential placement (Therapeutic)



Classifications

- Auditorily Impaired or handicapped
- Cognitive impaired
- Communication impaired
- Emotionally disturbed
- Multiply disabled
- Visually Impaired
- Traumatic brain injury
- Deaf/Blindness
- Orthopedically impaired
- Other health impaired (OH)
- Preschool child with a disability
- Social maladjustment
- Specific learning disability (SLD)



Auditory Impairment

- Means the inability to hear within normal limits due to physical impairment or dysfunction of auditory evaluation and speech language is required

Communication Impaired

- Language disorder adversely affects the student's educational performance, demonstrated through a functional assessment of language in other than a testing situation and performance below 1/5 standard deviations, or the 10th percentile on at least two standardized language tests – one of which shall be a comprehensive test of both receptive and expressive language.

The Evaluation

Purpose

- To determine that student is eligible for services
- To provide information on how to teach the student
- What supplementary services are necessary
- Whether they can be met in the LRE – or what would the LRE be under the circumstances

Points To Cover In The Evaluation (1)

- History
- Present levels of functional performance
 - The child's strengths and weaknesses
 - Their skill sets and challenges faced
- Analysis of how that functioning impacts education/instruction
- Statement of relevant behavior, either written or observed

Points To Cover In The Evaluation (2)

- The relationship of the behavior to the child's academic performance
- Structured observation as part of that functional assessment
- How progress is to be measured

Points To Cover In The Evaluation (3)

- Goals and objectives
- Frequency, duration and location of services
- Statement of specific related services, supplemental aides and services
- All must be based on peer-reviewed scientifically sound methodology research
- Program modifications required – what teaching methods would be successful
- Necessary accommodations

The evaluation will determine the classification IEP contains:

- Current levels of educational performance (PLEP)
- Measurable annual goals and objectives
- Frequency, locations and duration of services
- The supports, services and accommodations
- Communications needs
- Assistive technology devices
- ESY – Extended School Year

The Independent Educational Evaluation (IEE)

- Permits the parent to request an independent evaluation when they do not agree with the evaluations by the school district
- School district must pay or file court proceedings
- Advocacy by the evaluator becoming more important

Due Process

- Filing of a complaint with Department of Education
- Mediation or resolution session
- Trial in the Office of Administrative Law (OAL)
- Appeal to Federal Court

The Role of the Expert Witness 1

- What FAPE means for this child
- Explain the “Magic Words”
- Speculation or possibilities not admissible
- Opinions to be expressed in a legally acceptable manner
- Within a reasonable degree of probability/certainty



The Role of the Expert Witness 2

- Advocate one position
- Scientific Methodology
- Rebut adversary witness/expert
- Withstand cross-examination
- Must know the whole case as an entirety



Questions?