



PRINCIPALS INSTITUTE: PART I

**An Overview of the History and Requirements of Part B
of the Individuals with Disabilities Education Act**

UNITED STATES GOVERNMENT

Articles I, II, and III of the United States Constitution describe three co-equal branches of government:

- Legislative Branch
- Executive Branch
- Judicial Branch



LEGISLATIVE BRANCH

Article I of the Constitution vests “[a]ll legislative Powers in a Congress of the United States, which shall consist of a Senate and a House of Representatives.”

- Makes laws
- Creates statutes



EXECUTIVE BRANCH

Article II of the Constitution vests “[t]he executive Power . . . in a President of the United States of America.”

- Administers laws
- Creates regulations or rules
 - Provide the framework to implement laws
 - Explain how laws will be enforced



JUDICIAL BRANCH

Article III of the Constitution vests “[t]he judicial Power of the United States in one supreme court, and such inferior courts as the Congress may from time to time ordain and establish.”

- Interprets laws based on specific cases
- Creates case law
 - Precedents for future courts



CITATION TO A FEDERAL STATUTE

20 U.S.C. § 1414

Title 20 of the United States Code at section 1414



CITATION TO A FEDERAL REGULATION

34 C.F.R. § 300.660

Title 34 of the Code of Federal Regulations at
section 300.660



CITATION TO A STATE STATUTE

A.R.S. § 15-761

Arizona Revised Statutes at Title 15, section 761



CITATION TO AN ARIZONA STATE BOARD OF EDUCATION RULE

A.A.C. R7-2-401

Arizona Administrative Code at Title 7, Chapter 2,
Article 4



CITATION TO A COURT OPINION

- *Board of Education v. Rowley*, 458 U.S. 176, 102 S.Ct. 3034 (1982)
- *Poolaw v. Bishop*, 67 F.3d 830 (9th Cir. 1995)
- *Magyar v. Tucson Unif. School Dist.*, 958 F.Supp. 1423 (D. Ariz. 1997)

Case citation format:

- volume number
- abbreviated name of the reporter that the case appears in
- page number of the first page of the opinion.
- location and level of the court, and the year the opinion was published in parenthesis
 - Information regarding the level and location of the court is omitted for citations to United States Supreme Court opinions and only the year will appear in the parenthesis



SECTION 504 OF THE REHABILITATION ACT

- A civil rights law, enforced by the United States Department of Education/Office for Civil Rights.
- Prohibits discrimination on the basis of disability in public and private programs and activities that receive federal financial assistance.



THE AMERICANS WITH DISABILITIES ACT

- Civil rights law
- Broadens scope of section 504
- Prohibits discrimination solely on the basis of disability in several areas
 - Employment
 - public entities
 - accommodations



THE NO CHILD LEFT BEHIND ACT

- An accountability law designed to close the gap between disadvantaged, disabled, and minority students and their peers by ensuring that all children have access to high quality educational opportunities
- Stresses stronger accountability for results, increased flexibility and local control, and expanded options for parents
- Focuses on “highly qualified” teachers



MCKINNEY-VENTO HOMELESS ASSISTANCE ACT

- The primary federal law addressing the education of public school children and youth experiencing homelessness
- Requires schools to ensure that homeless students have access to education and other services they need to meet the same high academic achievement standards as all students



SPECIAL EDUCATION: AN HISTORICAL PERSPECTIVE



SPECIAL EDUCATION: AN HISTORICAL PERSPECTIVE

- *Pennsylvania Ass'n for Retarded Children (PARC) v. Pennsylvania (1972)*
- *Mills v. Board of Education of the District of Columbia (1972)*
- Education for all Handicapped Children Act (1975)



INDIVIDUALS WITH
DISABILITIES
EDUCATION ACT (IDEA)



INDIVIDUALS WITH DISABILITIES EDUCATION ACT (IDEA)

- Enacted in 1975 and reauthorized in 1997 and 2004
- Protects the rights of children with disabilities
- Ensures they receive a *free appropriate public education* in the *least restrictive environment*



INDIVIDUALS WITH DISABILITIES EDUCATION ACT (IDEA)

Schools must develop individualized education programs (IEP) for eligible children that must:

- Be developed at a meeting by the child's IEP team
- Specifically identify the child's educational needs and outline a plan for meeting those needs
- Outline the child's present levels of academic achievement and functional performance, measurable annual goals, and special education and related services the child needs to make progress toward achieving those goals



CHILD WITH A DISABILITY

In order to be eligible for special education services, a child must:

- Have a disability
- Because of that disability, need special education and related services in order to make progress in the general curriculum.



CHILD WITH A DISABILITY

In Arizona, the categories of disability for children age 3 through 21 are:

- Autism
- Developmental Delay
- Emotional Disability
- Hearing Impairment
- Intellectual Disability
- Multiple Disabilities
- Multiple Disabilities with Severe Sensory Impairment
- Orthopedic Impairment
- Other Health Impairment
- Preschool Severe Delay
- Specific Learning Disability
- Speech and Language Impairment
- Traumatic Brain Injury
- Visual Impairment



THE FAPE MANDATE

Under the IDEA, all children with disabilities are entitled to a free appropriate public education – a FAPE – that emphasizes special education and related services designed to meet their unique needs and prepare them for employment and independent living.



THE FAPE MANDATE

FAPE is defined to mean special education and related services that:

- Are provided at public expense, under public supervision and direction, and without charge
- Meet the standards of the State Education Agency
- Include preschool, elementary school, or secondary school education in the State
- Are provided in conformity with an IEP



THE ROLE OF THE PARENT

Schools must allow parents to participate in meetings that concern:

- **Identification**
- **Evaluation**
- **Educational placement**
- **FAPE**



DEFINITION OF “PARENT”

The IDEA defines a parent as:

- A biological or adoptive parent
- A foster parent
- A legal guardian
- An individual acting in the place of a biological or adoptive parent
- A surrogate parent
 - ❖ When more than one person meets the definition of a parent, the biological or adoptive parent (when attempting to act as the parent) must be presumed to be the parent unless he or she does not have legal authority to make educational decisions for the child.



SURROGATE PARENT

Schools are required to ensure the appointment of a surrogate parents for a child with a disability if an of the following are true:

- No parent can be identified
- After having made reasonable attempts, the school cannot determine the parents' whereabouts
- The child is a ward of the State and a parent cannot be identified or a school cannot determine the location of a parent after having made reasonable attempts (this does not include foster children)
- The child is an unaccompanied homeless youth as defined in the McKinney-Vento Homeless Assistance Act



SURROGATE PARENT

In order to be eligible to serve as a surrogate parent, a person must:

- Possess adequate knowledge and skills to represent the child
- May not be an employee of a state agency involved in the education or care of the child
- May not have an interest that would conflict with the child's best interest
- Must have a valid fingerprint clearance card issued by the Arizona Department of Public Safety



CHILD FIND

The IDEA obligates schools to locate, identify, and evaluate all children with disabilities. This applies to all children residing in the state, regardless of the severity of the disability, including:

- “Highly mobile” children
 - Migrant
 - Homeless
 - Wards of the state
- Children attending private school
- Children suspected of having a disability who are advancing from grade to grade



CHILD FIND

In Arizona, schools must screen all children for disabilities within 45 calendar days:

- After a child enters a preschool program or Kindergarten
- After a child enrolls without appropriate records of screening, evaluation and progress in school
- Upon notification of concern by the parent
 - ❖ Parental consent is not required for screening



CHILD FIND

Screening procedures must include consideration of the following:

- Hearing and vision status
- Cognitive
- Academic
- Communication
- Motor
- Social
- Behavioral
- Adaptive development

- ❖ Screening does not include a detailed individualized comprehensive evaluation



CHILD FIND

If concerns arise during the screening process, the school must notify the parent within 10 school days and address the concerns through some type of pre-referral intervention strategy.

Possible interventions include:

- Vision or hearing acuity screening
- Social or emotional interventions
- Academic interventions
- Referral to a child study team
- Referral for a full and individual evaluation



EVALUATION

Schools are required to conduct a full and individual evaluation in order to determine whether a child is or continues to be a child with a disability.

- Must first obtain informed written parental consent
- Must be completed within 60 calendar days



EVALUATION

Evaluation process

- Review of existing data
- Team decision
- Additional data, if any
- Eligibility considerations
- Eligibility determination



EVALUATION: INDEPENDENT EDUCATIONAL EVALUATION

Independent Educational Evaluations are evaluations conducted at the school's expense by a qualified evaluator not employed by the school.

- Parents may request each time they disagree with the school's evaluation
- School must either provide agency criteria or initiate a due process hearing
- IEP team must consider the results



CONSENT

Consent for initial provision of services is required before a school can provide special education.

- Absent consent the school *cannot* provide special education to the child.
- Schools *cannot* challenge the parent's decision to refuse to consent to services.



REVOCACTION OF CONSENT

Parents may revoke consent for their child to receive special education and related services at any time.

- Must be in writing
- School must provide prior written notice
- School may not continue to provide services
- School is not in violation of its obligation to provide a FAPE
- School is not required to convene an IEP team meeting or develop an IEP
- School cannot challenge the parent's decision to revoke consent.
 - ❖ Revocation of consent is for *all* special education and related services, not *specific* services.



INDIVIDUALIZED EDUCATION PROGRAM (IEP)

An IEP:

- A written statement for a child with a disability
- Is developed by the child's IEP team
- Must be reasonably calculated to provide a FAPE
- Must be reviewed and revised, as appropriate, at least annually
- Must be implemented as written
- Must be in effect at the beginning of the school year
- Must be provided to the parent at no charge



IEP TEAM

The IEP team must include:

- Not less than one of the child's parents
 - The adult student, if legal rights have transferred
- Not less than one of the child's regular education teachers
- Not less than one of the child's special education teachers
- Individual to explain evaluation results
- A representative of the public school



IEP TEAM

Representative of the public school:

- Is qualified to provide, or supervise the provision of, special education
- Is knowledgeable about the general curriculum
- Is knowledgeable about the availability of the school's resources, **and has the authority to commit those resources**



IEP TEAM

The IEP team may include:

- Related service personnel
- Additional general and/or special education teachers
- Paraprofessionals or other classified personnel
- Any person the parent or school believes has knowledge or special expertise regarding the child
- Whenever possible, the student
- Outside agency representatives (with prior permission from the parent or adult student)



IEP TEAM

IEP team excusal if the member's area is not being modified or discussed:

- Any member may be excused from the entire, or part of, an IEP team meeting
- The parent and the school must *agree* to the excusal in writing

IEP team excusal if the member's area is being discussed:

- Any member may be excused from the entire, or part of, an IEP team meeting
- Parent and school must *consent*
- Excused member must submit written input prior to the meeting



IEP TEAM MEETINGS

Parent participation:

- Meeting notice
- Alternate means of participation
- Holding a meeting without the parent

Consensus

- Goal is to work toward agreement
- Not a “vote”
- Absent consensus, decision is made by **public agency representative**



IEP DEVELOPMENT

In developing an IEP, teams must consider:

- The child's strengths
- The parents' concerns
- The results of the child's most recent evaluation
- The child's academic, developmental, and functional needs



IEP CONTENTS

Each student's IEP must include:

- Present levels of academic achievement and functional performance (PLAAFP)
- Measurable annual goals
 - Objectives for students measured by alternate assessment
 - Progress monitoring tools
 - Progress reports
- Special education and related services
- Supplementary aids and services
 - Program modifications
 - Supports for school personnel
- Extent of non-participation with nondisabled peers
- Accommodations for State and district-wide assessment



IEP CONTENTS

Each student's IEP must include:

- Implementation date
- Frequency, location, and duration of services
- Post-secondary transition planning, beginning at age 16
- Transfer of rights
- Special factors:
 - Behavior
 - Limited English proficiency
 - Braille consideration, if VI
 - Communication consideration, if HI
 - Assistive technology



IEP CONTENTS

Extended School Year (ESY)

- Special education and related services provided beyond the normal school year
 - Is not limited to summer break
 - Can be before or after school
- Consider regression, recoupment, whether child is at a critical learning stage, other factors
- Decision must be based on retrospective and predictive data
- Must be determined no later than 45 days prior to the last day of school
- ESY is *not*:
 - Day care
 - Respite care
 - Summer recreation program/summer school
 - Educational program to maximize child's academic potential



DELIVERY OF SERVICES

Special education

- Specially designed instruction
- Individualized to meet the student's unique needs
- Adaptation of the content, methodology, or delivery of instruction within the general education curriculum
- Different from accommodations



DELIVERY OF SERVICES

Related services

- Developmental, corrective, and other supportive services
- Required to assist the child in benefitting from special education
- Includes, but is not limited to:
 - Speech-language therapy
 - Occupational or physical therapy
 - Counseling
 - Transportation
 - Nursing services
 - Orientation and mobility



ACCOMMODATIONS

Accommodations are provisions made to allow a student to access and demonstrate learning

- Allow the student equal access to learning
- Do not substantially change the instructional level
- Do not substantially change the performance criteria
- Do not substantially change the content of the curriculum or a test
- Are required to be considered for state and district-wide assessment

❖ Accommodations are not the same as program modifications



LEAST RESTRICTIVE ENVIRONMENT

To the maximum extent appropriate, children with disabilities are educated:

- With their nondisabled peers
- In special classes or schools, or otherwise removed from the regular education environment *only* when education in the regular class cannot be achieved satisfactorily with the use of supplementary aids and services
- As close to home as possible
- In the same school he or she would attend if nondisabled



CONTINUUM

Schools must ensure the availability of a *continuum of alternative placements*:

- Services provided in the regular education classroom
- Resource setting
- Self-contained setting
- Private day school
- Home-based instruction
 - ❖ This is not the same as homebound or home-schooling
- Hospitals or institutions
- Residential treatment centers

Placement decisions are made by the IEP team and based on the student's unique needs, not on the school's service model



UNILATERAL PLACEMENTS

“Unilateral placement” is the placement of a child with a disability in a private school by the child’s parent rather than by the IEP team.

Parents may be reimbursed for the cost of the private placement if they can prove in a due process hearing:

- The IEP offered by the public school was inappropriate, and
- The parent’s placement was proper

Reimbursement may be reduced or denied if:

- Parents did not inform the school:
 - that they were rejecting the school’s placement
 - that they intended to enroll the child in a private school either at the most recent IEP meeting or 10 business days prior to the removal
- Parents did not make the child available for an evaluation
- Upon a judicial finding of unreasonableness



IMPLEMENTING THE IEP

Each child's IEP must:

- Be implemented as soon as possible following development
- Be in effect before a school can provide services
- Accessible to each teacher and staff member responsible for its implementation



REVIEW AND REVISION OF THE IEP

IEP teams must review each child's IEP periodically, but not less than annually, to determine if the child is making progress, and revise the IEP as appropriate to address:

- Any lack of expected progress in the general curriculum or toward annual goals
- The results of a re-evaluation
- The child's anticipated needs

❖ The IEP can be changed outside of the IEP team any time after the annual review if the parent and the school agree.



REVIEW AND REVISION OF THE IEP

In Arizona, IEP meetings must be held within 15 school days of a parent's written request, or at a mutually agreed upon time not to exceed 30 school days.



TRANSFER STUDENTS

Schools must ensure the continuity of services for transfer students.

- In state transfers
- Out of state transfers
- Timeline for obtaining records



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