




# Legal Rights under IDEA and Chapter 14

A basic guide for parents and guardians.


Presented October 8, 2009

South Eastern School District



Special Education is teaching, services, and supports for children with disabilities so that they can do well in school.

- Special education is free.
- Special education should be “appropriate”
- Special education should help your child make meaningful progress.
- Special education should treat each child as an individual.
- Special education is services and supports it is **NOT** a place where your child goes.



If your child has trouble learning or behaving at school and has one or more of these disabilities, they are eligible for special education:

- Mental retardation
- Emotional disturbance
- Orthopedic disability
- Deafness or hearing problems
- Speech or language disability
- Autism spectrum

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- Blindness or other vision problems
- Traumatic brain injury
- Learning disability in math or reading
- Health impairment (can include ADD/ADHD and Tourette's Syndrome)
- Deaf/blindness
- Multiple disabilities

Following a psychological by the school psychologist and any further evaluation deemed necessary, the ER will be written.

# Educational Review-ER and Individualized Educational Plans -IEP

- Once permission is given for the evaluation, the district has 60 calendar days to complete the report. The parent will be send a copy 10 days before the IEP meeting.
- Following the ER, the district has 30 days to develop an IEP with parent/guardian participation. Time from IEP writing to implementation is no more than 10 days.
- IEPs are reviewed annually

# The IEP

- Following the ER meeting, with parent permission, the team can go directly to writing the IEP. It must be written within 30 days of the ER meeting.
- The IEP is like a contract to you from your school. It should tell you what the school will do to help your child learn. It contains services, goals, specially designed instruction and information on your child.

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- The IEP will be written by you and the school team of professionals. It is re-written at least one time each year but can be opened and revised anytime as requested by the parent or the school.

# Parts of the IEP

- Cover page contains demographic information, just make sure it is all correct.
- Second page is signatures to show your attendance only. It is also the page you are asked to sign to document you received a copy of the Procedural Safeguards. We must supply you one each year.



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- The Special Considerations section reviews factors that must be addressed in the IEP such as blind or visually impaired, deaf or hard of hearing, communication needs, assistive technology needs, limited English proficiency and behaviors that impede learning of your child or others in the classroom.
- Section II is a complete report taken from the ER or RR that provides present levels and functional performance.

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- Transition services are specifically for students who will turn 14 during the time of the current IEP. Federal regulations in IDEA state 16 but PA has changed it to 14.
- The PSSA is the state assessment most of our students complete. It is given on the grade level the student is placed. Our students participate in the same activities to prepare for this assessment as the other students in the school.

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- Goals are written for each area the student requires additional assistance with during the school day. They are written to be measurable, describe how the progress will be measured, and when reports will be shared with the parent.
- **\*\*\*It is important to remember that while the teacher has come to the team table with a draft IEP, it is exactly that- a draft. If you are not in agreement, ask questions, give your opinion, and be heard.**

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- Specially Designed Instruction-SDI- is the part of the IEP where adaptations, accommodations, or modifications to the general education curriculum are identified for the student with a disability. It is important here to note that these SDIs are to provide the student with a level playing field, these are not to provide an advantage over other students. Many are created to model skills for the student with the thought that those skills will be developed by the student and the SDI can be deleted.

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- Related services may be different for different students. It could include transportation for students attending classes outside the district. It could include health services if the student's disability warrants special services.
- Supports for school personnel included the meeting times for regular ed teachers and special ed teachers needed to implement the IEP.

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- Extended School Year – refers to students who regress when not in school for extended periods of time (summer vacation) and take more than 6 weeks of the new school year to recoup those skills. This is to be discussed by the IEP team at the meeting. Our district classes do ESY testing in May for comparison in August. It is also completed for the Christmas, break before and after.

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- When considering the education placement of a special education student, questions for the IEP team are generated from the Gaskin's Settlement Agreement:
- *“Supplementary aids and services means aids, services, and other supports that are provided in regular education classes, other education-related settings, and in extracurricular and nonacademic settings, to enable children with disabilities to be educated with nondisabled children to the maximum extent appropriate in accordance with 300.114 through 300.116”*

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- Type of special education supports identifies the specific class the student will be enrolled in – Learning Support, Emotional Support, etc.
- Also included is the percentage a student is in regular education/special education classes during the school day.....

Itinerant inside regular class 80% or more

Supplemental inside reg class 79%-40%

Full time inside reg class less than 40%



# Other required paperwork

- NOREP (Notice of Recommended Educational Placement) This is the form used to obtain your formal permission to put the IEP in place for your child. The box you check indicates what the next action will be. If you approve, placement and programming will begin. If not, you have the option of an informal meeting, or requesting mediation or a due process hearing. The information for such requests are included in the Procedural Safeguards.



## Please remember:

You have the right to request an IEP meeting  
**ANYTIME.**

My advice is to never sign unless you agree and remember if you do sign and change your mind, you can call an IEP meeting to discuss your concerns. At the same time you must remember we cannot begin services for your child until we have your signature.

# FAPE-

## Free and Appropriate Education

- FAPE means at no cost to the parent, at the expense of the school district; under the school district's supervision and direction.
- IDEA requires that states receiving federal funds under the ACT provide a free and appropriate public education to all children with disabilities between the ages of 3 and 21.

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- Appropriate means individualized to meet the needs of the student; NOT based on what is available. This also means what meets the needs of the student. We would all love to provide our students with the very best that money could buy but a Chevy will take you just as far as a BMW. If the student is making progress as anticipated, the program is meeting their needs.

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- Age limits – children with disabilities are entitled to FAPE beginning no later than their third birthday and continuing through age 21, unless the student has met the requirements for graduation and has been provided with written notice of the ‘change in placement’.

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- To determine if the district has provided FAPE under the Rowley standard, the court asks:
- Has the district complied with procedural safeguards and requirements, in particular those involving parents?
- Has the district developed an IEP that is ‘reasonably calculated’ to enable the child to make educational benefit?

- - Procedural requirements and Denial of FAPE:
  - Procedures are meant to guarantee parents meaningful input
  - Procedures are a safeguard against arbitrary decision making
  - Failure to comply with procedures is grounds to conclude FAPE has been denied

# Disciplining Students with Disabilities

- IDEA has identified students with disabilities and students needing to be identified (thought to be) from being discriminated against or denied appropriate educational programming based on/for behaviors related to their disability.



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- In general, students with disabilities may be disciplined under the same rules as regular education students including in-school suspension, out of school suspension, and alternative school. The exception is that schools have to take extra measures if the discipline counts as a 'change in placement'.

- - What is a change in placement?


When the child is suspended, expelled, or moved to an alternative school for:

- \*more than 10 school days in a row

- \*more than 15 school days in a year

- \*a series of days that 'constitute a pattern' exceeding 10 days a year


- \*For a child with mental retardation, any of the above is a 'change in placement'.

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- - What if the school wants to change the child's placement?
  - The school proposing the discipline must:
    - Give the parents notice of the discipline
    - Inform the parents of their rights
    - Hold a 'manifestation determination meeting' within 10 school days

# Manifestation Determination

- The misbehavior IS a manifestation of the disability if it:
  - was caused by the disability
  - had a direct and substantial relationship to the child's disability
  - or was the direct result of the school's failure to implement (follow) the IEP

The parent is a part of the team but the school will make the decision, parent can disagree at a hearing.

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- - When the conduct is a manifestation:
  - The school may NOT change the child's placement without parent consent \*unless it is an 'exceptional situation'. This would be if the child carried a weapon, knowingly possessed, used or sold illegal drugs at school, or inflicted serious bodily injury while at school.

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- The school must hold an IEP meeting within 10 school days of the manifestation determination and arrange for a functional behavioral assessment and positive behavioral support plan. If a plan already exists, it must be reviewed and/or revised.

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- When the conduct is **not** a manifestation of the student's disability:

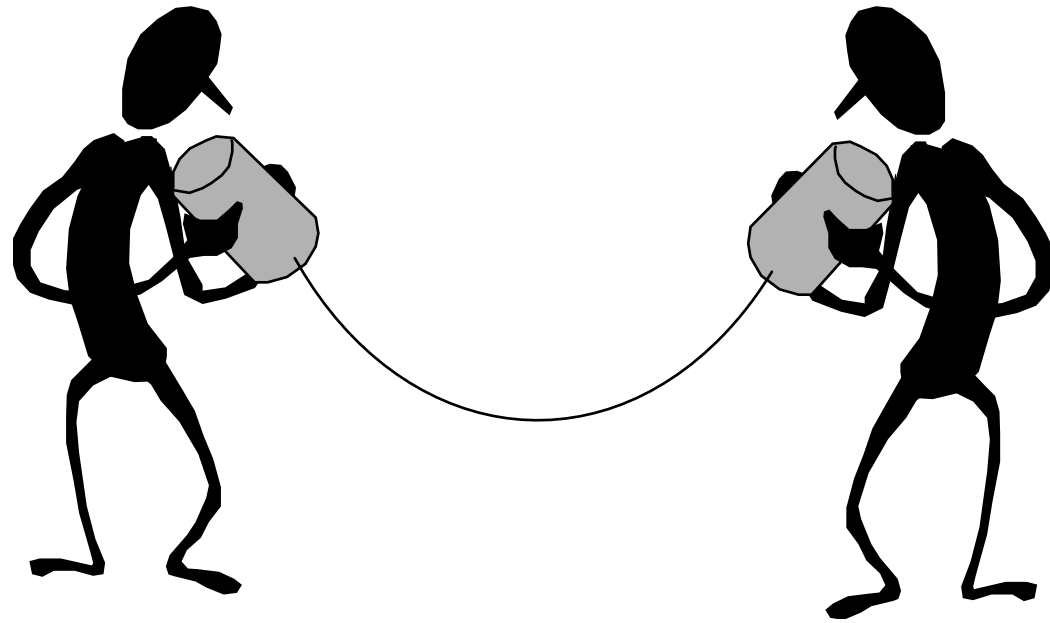
The school district may discipline the child. Punishment must be decided on a case by case basis as with regular education students. If the school determines the student should be expelled it requires a formal hearing.


# Children not yet eligible for Special Education

- The same rules apply if, prior to the incident the parent stated in writing to school personnel that the child might need special education, the parent requested an evaluation, or if staff has expressed specific concerns about a child's pattern of behavior.
- This does not apply to students previously evaluated and found not eligible or if a student was found eligible and the parent refused special education or the evaluation.



- Please know that all district personnel are always willing to answer questions or meet with you. We need to keep the line of communication open.



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- - Please also know that district personnel are trained and aware of the regulations of IDEA and Chapter 14. We are cautious to always follow and protect the legal rights of you and your student.

- Questions?



You can always call our office  
382-4843 x 6890 for Melissa -our secretary  
x 6891 for my desk

# Thank you for coming!

- Mark your calendar:

January 12, 2010

What's So Special About Special Ed in  
South Eastern School District-  
services, practices, and programs

Community Room

7:00 p.m.

March 24, 2010 Expectations and Transition  
- preparing for the real world

Together we can do so much more  
for your child and our student.

