

Individuals with Disabilities Education Act 2004 Final Regulations

Presentation Outline
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Section I General Overview

1. Identify the following terms:

- a. IDEA Individuals with Disabilities Education Act
 - b. NCLB No Child Left Behind
 - c. SPP State Performance Plan
 - d. APR Annual Performance Report
 - e. HQ Highly Qualified
 - f. AYP Annual Yearly Progress
 - g. RtI Responsiveness to Intervention
 - h. EI Early Intervention
 - i. PLAAFP Present Levels of Academic Achievement and Functional Performance
 - j. SPDG State Personnel Development Grant
 - k. SEA State Education Agency
 - l. LA Lead Agency
 - m. LEA Local Education Agency
 - n. RS Resolution Session
 - o. Subpart C LEA Eligibility
2. The new IDEA is P.L. 108 - 446.
 3. The final regulations take effect on October 14, 2006.
 4. IDEA 2004 and regulations are effective through 2011.

5. **Structure of Regulations**

Title—Part 300 Assistance to States for the Education of Children with Disabilities

Subpart A General Supervision

Subpart B State Eligibility

Subpart C LEA Eligibility

**Subpart D FAPE/IEP/LRE

**Subpart E Procedural Safeguards

Subpart F—Monitoring, Enforcement, Confidentiality

Subpart G—Use of Funds

Subpart H—Preschool Grants

6. Along with final regulations, the U.S. Department of Education published their model special education forms, including

a. Procedural Safeguards

b. IEP

c. Prior Written Notice

7. All LEA Directors should study Subpart C of the regulations dealing with Local Educational Agency eligibility.

Section II Definitions

1. *Other Health Impairment* now includes Tourette's syndrome (300.8(g)).
2. *Local education agencies* include the term charter schools (300.2(b)(1)(ii) and 300.7). They have the same obligations as other LEAs.
3. *Consent* and *agree* have different meanings. Consent has a higher standard and requires notice and written consent. Agreement refers to an “understanding” and need not be in writing (300.9).
4. *Core academic subjects* include English, reading or language arts, mathematics, science, foreign languages, civics and government, economics, history, arts, and geography (300.10).
5. *Highly Qualified*—A State may develop a separate HOUSSE for special education teachers (300.18(e)(1)).

6. There is no “right of action” for a parent based solely on the fact that a teacher is not *highly qualified* (300.18(f)).
7. Students with disabilities who have been suspended or expelled must still be taught by *highly qualified teachers* (300.18 and 300.101).
8. The term *parent* no longer refers to as natural; instead, the term biological applies (300.30).
9. There is now a hierarchy for the term *parent* (300.30(b)(2)).
Judicial decree → biological or adoptive foster parent → guardian → an individual acting in place (relative) and surrogate parent.
10. *Related services* do not include a medical device that is surgically implanted. Schools are required to ensure that the external components are functioning properly (300.34(b)(1)).
11. *Scientifically based research* has the same meaning as in the Title I (300.25).
12. *Early intervention services* are for birth to 2 year old students. *Early intervening services* are available to K to 12 students who are not receiving special education (300.226).
13. *Early intervening services* are not available for pre school (300.226).
14. Supplemental aids and services apply to extracurricular and nonacademic subjects (300.42).
15. *Child Find*—All children with disabilities who are homeless, wards of the State, or attending private schools and who are in need of special education are identified, located, and evaluated (300.111).

Section III Eligibility and Evaluation

1. The initial evaluation must be completed within 60 days of receiving parent consent for evaluation (300.301(c)(1)).
2. Name the two sources of referral for an initial evaluation:
 - a. Parent(s)
 - b. School District

3. The 60-day timeline does not apply if the parent repeatedly fails to produce the child for evaluation or enrolls the child in another public school (300.301(d)(1-2)).
4. Screening for instructional purposes is not evaluation (300.302).
5. **True** or False—The regulations do not alter the definition of specific learning disability (300.307).
6. Instead of a reevaluation, for students who graduate with a regular diploma or exceed the age ceiling, the school district is required to provide a summary of the student's academic achievement and functional performance (300.305(e)(3)).
7. List the three factors that would disqualify a child from having a disability (300.306(b)).
 - a. Lack of appropriate instruction in reading
 - b. Lack of appropriate instruction in math
 - c. Limited English proficiency
8. Responsiveness to Intervention is only one component of the process to identify a child with a learning disability (300.307).
9. School districts can still use the severe discrepancy to identify learning disabilities (300.307).
10. Failing a State assessment may be one factor in an evaluation for SLD (300.309).
11. The evaluation must include a statement that the child was given appropriate instruction in regular education settings developed by qualified personnel (300.310).
12. The final regulations add reading fluency skills to grade level standards (300.309(1)(V)).
13. Team member is required to conduct a classroom observation (300.310).
14. Eligibility for SLD must include a statement that the child participated in a process that evaluates the child's response to research- based practices (300.311(7)).

Section IV Individualized Education Programs

1. The IDEA regulations extend the definition of supplemental aids and services to extracurricular and nonacademic settings to enable children with disabilities to be educated with nondisabled children to the maximum extent appropriate (300.42).
2. **True** or False—Physical Education (PE) must be made available to every child receiving FAPE (300.108).
3. **Commentary**—There is nothing in the act requiring IEP members to sign the IEP (300.324).
4. **True** or False—**Commentary**—If the school district develops a draft IEP prior to the IEP meeting, a copy must be made available to the parent (300.322(b)).
5. All IEPs must have the following seven components (300.320(a)):
 - a. Present levels of academic achievement and functional performance
 - b. Measurable annual goals including academic and functional goals
 - c. Progress toward meeting annual goals
 - d. Statement of special education and related services
 - e. Statement of non-participation with nondisabled children
 - f. Accommodations during statewide assessments
 - g. Projected date for beginning services and anticipated frequency, location, and duration of services
6. IEP Team Membership (300.321)
 - a. Parents of child
 - b. Not less than one general education teacher
 - c. Not less than one special education teacher
 - d. School District representative
 - e. An individual who can interpret the instructional implications of the evaluation results
 - f. Other individuals, such as related service staff
 - g. The student, when appropriate

7. True or **False**—Regarding the IEP attendance of the child, the child must attend if the IEP Team is addressing postsecondary goals (300.321(7)(b)(1)).
8. If the child does not attend the IEP Team meeting, the school must take steps to ensure the child’s preferences and interests are addressed (300.321(7)(b)(2)).
9. The IDEA regulations increase the emphasis on parent participation at IEP meetings, including the use of individual or conference calls (300.322(c)).
10. A meeting to develop the IEP for a child is conducted within 30 days of the determination of eligibility (300.323(c)).
11. A copy of the IEP is accessible to each regular education teacher, special education teacher, or any other service provider responsible for the implementation of the IEP (300.323(d)(1)).
12. Each service provider responsible for the implementation of the IEP is informed of
 - a. Specific responsibilities
 - b. Specific accommodations and modifications
 (300.323(d)(2)(i–ii))
13. What are the two responsibilities of the general education teacher in developing or revising the IEP (300.324(a)(3)(i–ii))?
 - a. Positive behavioral interventions
 - b. Supplemental aids and services
14. An IEP can be revised without an IEP Team meeting if a copy is provided to the parent and they consent in writing not to hold a meeting (300.324(a)(6)).

Section V

Least Restrictive Environment

1. A removal of more than 10 consecutive days is a change of placement. A series of removals that add up to more than 10 days will be a change of placement only if the removals “constitute a pattern” (300.536).

Section VI Discipline

1. Students with disabilities who have been suspended or expelled must be taught by highly
qualified teachers (300.18 and 300.156).
2. Parents who refuse special education services cannot later claim protections of
IDEA in connection with discipline (300.300).
3. If a student is removed from school after 10 days, the student must continue to participate in
the general curriculum (300.530(d)).
4. What are the next three steps if there is a manifestation?
 - a. IEP team
 - b. Conduct FBA
 - c. Revise or develop BIP
5. What are the next three steps if it is not a manifestation?
 - a. IEP team
 - b. Can change placement
 - c. If necessary, FBA and BIP
6. The Department of Education has made a distinction between settings and locations
for students who are removed for discipline reasons (300.530(d)).
7. The IEP Team should analyze the child's behavior across settings
and time (300.530(e)).
8. A behavior intervention plan (BIP) is required if the behavior was a manifestation. If the
behavior is not a manifestation, no BIP is required (300.530(d)(1)(ii)).

Section VII Procedural Safeguards

1. A parent is entitled to only one IEE each time the school conducts an
evaluation (300.502(a)(5)).
2. The parent rights brochure is given to the parents one time each year (300.504).
3. A parent may elect to receive notices by electronic mail if the school makes the option
available (300.505).

4. The parent has 2 years to file for a DPH from the date of the alleged violation (300.507(a)).
5. Within 15 days of receiving notice of a parent’s DPH and prior to a DPH, the school must convene a resolution session (300.510).
6. The parent and school may agree not to hold a resolution session (300.510(a)(3)(ii)).
7. The SEA must ensure a surrogate parent is appointed not more than 30 days after a need is established (300.519).

Section VIII LEA Responsibilities

1. The LEA must have consistent policies and procedures with the SEA (300.201).
2. Special education federal funds should be used to pay excess costs for providing special education services (300.202(a)(2)).
3. Federal funds must be used to supplement State, local, and other federal funds, not to supplant those funds (300.202(a)(3)).
4. Define “maintenance of effort” (300.203):
 The amount of expenditures is at least the same as the preceding year

5. List the five exceptions to maintenance of fiscal effort (300.204):
 - a. Voluntary departure—retirement
 - b. Decrease in enrollment of CWD
 - c. Termination of high cost child
 - d. Termination of high cost purchases
 - e. Assumption of cost of high cost funds
6. The school district can use federal Part B funds to carry out a schoolwide
 program Under Title I (300.206).
7. The school district must provide personnel development activities to ensure a qualified staff (300.207).
8. There are four areas that allow the permissive use of Part B funds under 300.208:

- a. Services and aids that also benefit nondisabled children
 - b. Early Intervening Services
 - c. High cost special education and related services
 - d. Administration case management.
9. Charter schools are considered public schools and have the same obligations to provide FAPE (300.209).
10. No later than December 3, 2006, the school district must choose to coordinate with the National Instructional Materials Access Center (300.210).
11. The school district must provide information and data to the SEA for reporting purposes (300.211).
12. The school district must provide information to the parents regarding their eligibility (300.212).
13. The school district must ensure the linkage of records pertaining to the migratory children with disabilities (300.213).
14. Each school district must have on file with the SEA their policies and procedures (300.220).
15. The SEA must notify the school district and provide an opportunity for hearing if they are not eligible for Part B funding (300.221 and 300.222).
16. The SEA may require an LEA to establish eligibility with another LEA if the SEA determines the LEA will not be eligible (300.223 and 300.224).
17. List the conditions for using not more than 15 percent of Part B for early intervening services (300.226):
- FAPE
- Delay appropriate evaluation
18. What is the difference between “early intervening” and “early intervention”?
- Birth–2 year
- K–12

