

ADMINISTRATION OF PROGRAMS FOR STUDENTS WITH DISABILITIES

POST-TEST

SPECIAL EDUCATION

1. What are the original and current names of the federal legislation that govern special education?

The original law enacted in 1975 was the Education of All Handicapped Children Act of 1975, also known as Public Law 94-142. This law is now called the Individuals with Disabilities Education Act (IDEA). The current version of IDEA was reauthorized in 2004.

2. Why was this legislation necessary, and what was its basic intent and purpose?

Prior to 1975, many students with disabilities were either excluded from or struggled in public schools because schools were not equipped to provide for their special needs. The basic intent of IDEA is to protect the rights of and meet the individual needs of students with disabilities while guaranteeing equal access to the general education curriculum.

3. At what ages are public schools required to provide services to disabled students under this law?

Ages 3 through 21

4. Identify these six basic principles of special education, and briefly state why they are important for administrators to understand.

- 1. Zero Reject:** Students cannot be excluded from special education for any reason. It is important for administrators to know that every disabled child is entitled to an appropriate education, regardless of the type and severity of the disability. The principle of zero reject also ensures that schools do not expel a student whose behavior is a manifestation of his/her disability.
- 2. Nondiscriminatory Evaluation:** Schools must evaluate students fairly to determine if they have a disability, and if so, the extent of the disability. Administrators must ensure the evaluation procedures are adequate to identify the child's strengths and weaknesses, and do not provide false results that are due to factors other than a disability, such as the child's culture, language, or background.
- 3. Free and Appropriate Public Education (FAPE):** Schools must provide (at no cost to the parent) an individually tailored education for disabled students based on the evaluation of their needs. Administrators must ensure that all the requirements for the development of the Individual Education Program (IEP) are followed, that a continuum of services is available, and that the program is truly individualized. It is also important for administrators to know that the law requires the IEP is calculated to provide an educational benefit to the child, not necessarily one that develops the child to his/her maximum potential.
- 4. Least Restrictive Environment (LRE):** Students with disabilities must be educated with non-disabled students to the maximum extent appropriate.

Administrators must be aware that schools may not remove students from the general education program unless he/she cannot be educated successfully there with the support of appropriate modifications and related services. Administrators should also be aware this is a highly litigated and controversial aspect of special education law, and that the principle of Least Restrictive Environment (LRE) does not necessarily mandate placement in the regular education program. Appropriate placement in the environment that is the least restrictive for that particular student is the standard.

5. **Parent and Student Participation:** Schools must collaborate with parents and adolescent students in designing and carrying out special education programs. Administrators must be skilled at building consensus and involving parents/students in meaningful ways.
6. **Procedural Due Process:** Procedural due process provides safeguards, including a right to sue in court, against actions that violate the rights of disabled students. Administrators must have a working knowledge of the rights of the students and parents, and ensure that procedures and policies are in place to guarantee those rights.

5. Name at least eight rights that are guaranteed through procedural due process.

1. Opportunity to examine records
2. Participation in meetings
3. Parent involvement in placement decisions
4. Independent educational evaluation
5. Prior notice of action that impacts the child's educational program
6. Parent consent in certain situations
7. Mediation
8. Impartial due process hearing
9. Surrogate parent
10. Notice of procedural safeguards

6. What are the three cases in which written parent consent is required?

1. Initial evaluation for a possible disability
2. Initial placement in special education
3. Reevaluation when new data needs to be collected

7. What is an ARD meeting, and what is the role of the administrator in that meeting?

ARD stands for Admission, Review and Dismissal. The ARD Meeting is also commonly known as the IEP (Individual Education Program) Meeting. This is the meeting that is held between school personnel and the parents (and/or adult student) to develop the student's individual education program. The administrator, or his/her designee, is the person at the meeting who has the authority to commit the resources of the district toward the implementation of the student's IEP.

8. What should occur when the school and parent disagree on the student's educational program?

The school must offer a 10-day recess to give both parties time to gather more information that might help them reach an agreement. If, upon the second meeting, the school and parent still do not agree, the school may implement the IEP that it determines is appropriate for the child. At that time the parent may request mediation, file a complaint, or ask for a due process hearing.

9. Name at least six strategies an administrator could use to help successfully facilitate a difficult ARD meeting.

1. Maintain a current working knowledge of procedures and requirements – most due process hearings that rule against school districts are ultimately lost due to procedural errors
2. Set a calm, collaborative tone – ensure parents and staff know the goal is to work together to reach agreement in a way that serves the best interest of the child; make sure interactions during the meeting remain calm and respectful
3. Educate the parent – many times parents do not fully understand their role in the ARD meeting and/or the scope of what schools are required to do
4. Use plain language – be approachable and sensible; remember the use of acronyms, legal terms or unfamiliar educational terms can alienate or intimidate the parent
5. Show your concern – parents want and deserve respect for themselves and their children; put yourself in the parents' place, and treat them as you would like to be treated; reinforce that you are all there for the child
6. Don't take it personally – parents sometimes lash out at school personnel out of frustration over the situation, not necessarily the school; counsel the staff about how to be objective if challenged by the parent
7. Listen – litigation often arises simply because parents don't feel they've been heard
8. Keep the focus on the child – redirect the meeting if and when it gets off track, and tie all recommendations to what is best for the child; do not blame the denial of a parent's request on administrative convenience

10. Name at least four recommendations for an administrator that can promote a successful and effective special education program on his/her campus.

1. Proactively monitor the special education program – make sure the special education staff is actively and appropriately monitoring the implementation of the child's IEP; the campus and/or district must provide a continuum of services based on the students' needs, not just programs that are currently in place
2. Make regular education teachers aware of their responsibilities – they should understand that the implementation of the IEP in the inclusive setting is their responsibility
3. Make communication a priority – put procedures and processes in place that provide an avenue for the regular education and special education personnel to collaborate on a regular basis; communicate your expectations to all staff members; provide information and staff development on special education issues

4. Build relationships – the prior trust and relationship you have built with parents, staff and students can make it easier to get through difficult times
5. Monitor and express support for the proper referral process – referral to special education should be the last resort after all reasonable interventions within regular education have been attempted and failed
6. Stress the importance of documentation - thorough documentation should be an ingrained and institutionalized practice in the school

SECTION B: SECTION 504-ONLY STUDENTS

1. To what statute does the term “Section 504” refer?

“Section 504” refers to Section 504 of the Rehabilitation Act of 1973. This single paragraph states the following: *“No otherwise qualified individual with a disability . . . shall, solely, by reason of her or his handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program . . . receiving Federal financial assistance . . .”* – 29 U.S.C. § 794(a) (1973).

2. How and why does it apply to public schools?

The focus of Section 504 of the Rehabilitation Act of 1973 is non-discrimination. Since most public schools receive federal funding, the language in Section 504 prohibits the denial of public education participation, or the enjoyment of the benefits offered by public school programs, because of a child’s disability.

3. What governmental body oversees compliance with Section 504?

The Office of Civil Rights (OCR)

4. Who is eligible for protection under Section 504?

Section 504 applies to any student who has a physical or mental impairment that substantially limits one or more major life activities, AND that is in need of either regular education with supplementary services or special education and related services.

5. What is the definition of a “major life activity”?

The major life activities that can make a student eligible under Section 504 are learning, caring for one’s self, performing manual tasks, walking, seeing, hearing, speaking, breathing or walking.

6. How do Section 504 and IDEA overlap?

Section 504 covers a large umbrella of disabilities. There is a smaller subset of students who also qualify for special education under IDEA. Some students are only eligible for

services under Section 504, while others whose needs cannot be met solely through Section 504 additionally qualify for special education under IDEA. Section 504-only students are entitled to many, but not all, of the rights and protections afforded to special education students.

7. Does Section 504 require committee meetings similar to ARD meetings?

There is a requirement that placement decisions must be made by a group of persons knowledgeable about the child, the meaning of the evaluation data, and the placement options. There is no requirement for parental participation.

8. Name at least eight basic responsibilities that school districts have toward students who are identified under Section 504.

1. Child Find – the district must undertake efforts to identify and locate every qualified person residing in the district who is not receiving a public education
2. Annual Notice – district must take appropriate steps to notify handicapped persons and their parents/guardians of the district's duty
3. Referral Process – districts must have a referral process in place
4. Evaluation System – the requirements include an evaluation prior to placement or changes in placement; it also requires periodic reevaluation
5. Evaluation Criteria – evaluation must include a variety of data, however does not require any specific testing or evaluation methods
6. Free and Appropriate Public Education (FAPE) – the district must provide an individualized program that meets the needs of the student and is free to the parent
7. Placement – Placement decisions must be made by a group of knowledgeable persons; the program must be written and should be specific
8. Least Restrictive Environment – services must be provided in the least restrictive environment
9. Parent Procedural Rights – these include notice, an opportunity to examine records, an impartial hearing and a review procedure
10. Hearing Procedures – the district must develop a process by which 504 complaints can be heard and decided

9. Name at least three recommendations for administrators regarding the education of Section 504-only students.

- 1) Know your district policies – legislation that governs section 504 is vague and broad, and policies and procedures vary from district to district
- 2) Stay up-to-date on OCR rulings - most policies school districts' have developed are in response to OCR rulings over the years
- 3) Inform the staff - most teachers don't realize that Section 504-only students are entitled to some of the same rights as special education students.
- 4) Monitor development and implementations of accommodations plans - accommodations plans should be individualized and tailored to the unique needs of the student

- 5) Don't over-identify - make sure the students who are identified (1) truly do have a substantial disability that affects a major life activity, and (2) have an educational need for services

SECTION C: DISCIPLINE OF STUDENTS WITH DISABILITIES

1. When it comes to discipline, are the protections for a Section 504-only student different than those for a student identified under IDEA?

The basic rights and protections are the same, with a few statutory differences if the offense involves alcohol or drugs. The basic purpose of the protections is to ensure educational services are not removed if a child's behavior is a manifestation of his/her disability

2. Can disabled students be disciplined in the same way as non-disabled students?

There are distinct protections and procedures that exist for disabled students for both special education and Section 504-only students when the disciplinary consequences involve a removal of the educational services outlined in the IEP or accommodations plan.

3. What is the first step to ensure that a disabled student's rights are protected in discipline cases?

The first and most important step a district must take is to develop and implement an individual program that meets both the academic and behavioral needs of the student.

4. What are the rules that govern restraint and time-out for disabled students?

1. **Restraint:** Restraint is the use of physical force or a mechanical device to significantly restrict the free movement of the student's body. It may only be used in emergency situations and must be implemented in such a way as to protect the health and safety of the student and others. Staff must receive proper training, and the use of restraint requires documentation and notification of parents. An emergency is defined as a situation in which a student's behavior poses a threat of (1) imminent, serious physical harm to the student or others, or (2) imminent, serious property destruction.
2. **Time-out:** Time-out may only be used in conjunction with other positive behavior intervention strategies, and must be included in the student's accommodation plan, IEP and/or BIP if it is utilized on a recurrent basis. Time-out may only be implemented for a limited time in a setting that is not locked, and from which the exit is not blocked by furniture, a closed door held shut from the outside, or another inanimate object. Staff must receive proper training, and the use of time-out must be documented.

5. Can disabled students be removed from the classroom for disciplinary reasons?

A disabled student may be removed from his/her educational placement for disciplinary reasons for a cumulative of 10 days or less during a school year. Beyond those 10 days, new rights and procedures must be initiated.

6. What does “change of placement” mean as it applies to the discipline of disabled students?

Upon the 11th day of removal, the school must determine if the removals constitute a change in placement. A change in placement could result from a removal that is for more than 10 consecutive school days, or a series of shorter removals for more than 10 days that form a pattern. A pattern can be determined by considering factors such as the length of each removal, the total amount of time the child has been removed, how close the removals are to one another, and whether the behavior is similar to other behaviors that led to the previous removals.

7. What does a school have to do if a disciplinary action will result in a change of placement?

The school must hold a manifestation determination review (MDR) meeting. The MDR meeting is conducted by an ARD Committee for special education students, and a Section 504 Committee for the Section-504 only students.

8. What is the purpose of a manifestation determination review meeting?

When conducting the MDR, the members must review all relevant information to determine if the child’s conduct was caused by his/her disability and/or the school’s failure to adequately implement the IEP or accommodations plan. If either of those conditions exists, then it is determined that the behavior is a manifestation of the child’s disability.

9. What happens if it is determined that the child’s behavior was a manifestation of his/her disability?

The committee must conduct a Functional Behavior Analysis (FBA) and develop a Behavior Improvement Plan (BIP). The change in placement may not be applied (unless the school and parent agree otherwise), and the child must be returned to the current educational setting with the implementation of the BIP. Other disciplinary procedures that do not require a change of placement could be applied. There are special circumstances involving weapons, drugs and assault that could allow the district to implement certain consequences as outlined by the regulations. In those cases, an MDR must still be completed, but the student can be removed from the educational setting for up to 45 days in the interim.

10. What happens if it is determined that the child’s behavior was not caused by his/her disability?

The relevant discipline procedures applicable to children without disabilities may be applied to the child in the same manner and for the same duration in which they would be applied to children without disabilities. There is, however, a requirement for a continuation of services necessary for the child to continue to make progress toward meeting the goals set out in the child’s IEP.

11. Name at least five recommendations for an administrator in regard to the discipline of students with disabilities.

1. Maintain a current working knowledge of procedures and requirements – the area of discipline is highly litigated; the regulations are complex and subject to change
2. Develop appropriate ARD or accommodations plans – the administrator must ensure the ARD or accommodations plan addresses behavioral intervention strategies if the child's behavior interferes with his/her learning or the learning of others
3. Monitor implementation of the IEP or accommodations plan services – if the services that address both academic and behavioral issues are not implemented, then the school has not met its responsibility
4. Have a process for monitoring the discipline of students with disabilities – the administrator must count the number of days a child is removed from his/her normal placement in order to know when it is appropriate to initiate the procedures for a manifestation determination review
5. Consider a continuum of disciplinary consequences – when it's time to make decisions about discipline for students with disabilities, consider a wide array of consequences that includes alternatives to the removal of educational services
6. Know your students - have thorough knowledge and understanding of the behavioral needs of the disabled children on campus.
7. Protect the rights of all – in addition to the rights of the disabled, administrators must also protect the right of others in situations where a child's behavior is dangerous or is interfering with the learning that should be taking place in the classroom.