

Special Education Services Overview

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Issue

Provide an overview of the following aspects of special education law: (1) which laws govern school districts' special education responsibilities, (2) what services must school districts provide to students who qualify for special education, and (3) what are the procedural requirements for determining special education eligibility and providing services.

Summary

Both federal and state law require school districts to provide specialized instruction and other services to qualifying children with disabilities who reside in their districts. At the federal level, the Individuals with Disabilities Education Act (IDEA) gives children with qualifying disabilities the right to a free appropriate public education (FAPE) and establishes various requirements and procedures for school districts to ensure that children receive FAPE. State special education law separately requires school districts to provide special education, and its requirements conform to IDEA.

School districts are legally required to provide the services necessary for children to receive FAPE. Under federal law, special education and related services constitute FAPE if they are provided at the public's expense, meet the state's educational standards, approximate the grade levels used in the state's regular education, and conform to the individualized education program (IEP) developed for the child ([20 U.S.C. § 1401\(9\)](#)). Beyond this, the law does not define what constitutes FAPE for students with disabilities or specify what services they must be provided.

While IDEA and state special education law do not require specific services to be provided to students with disabilities, they do require districts to follow specific processes and procedures to determine a student's needs and provide services that constitute FAPE. School districts must

assemble a planning and placement team (PPT), comprised as the law requires, to evaluate students referred to special education, determine eligibility, and develop an IEP for qualifying students. Parents, guardians, or surrogate parents (“parents”) are part of this team, and federal and state law establish many procedural rights for parents in the process, including a way to resolve disputes with the school district.

Depending on an individual child’s needs, an IEP may include special education and related services (e.g., occupational or physical therapy or transportation), accommodations and modifications provided in regular classrooms, or assistive technology. The PPT decides which services a child needs, taking specified factors into account, and includes them in the child’s IEP. School districts are required to adhere to a child’s IEP, and failure to do so could constitute denial of FAPE.

Laws Governing Special Education

Federal IDEA

Special education services are governed primarily by the federal IDEA and its implementing regulations. Broadly, IDEA makes school districts responsible for providing students with disabilities with FAPE that meets their unique needs and prepares them for further education, employment, and independent living ([20 U.S.C. § 1400 et seq.](#)). Among other things, IDEA establishes (1) criteria that children must meet to receive special education services under IDEA, (2) requirements for identifying and evaluating children, and (3) procedures for developing IEPs for children who qualify for special education and related services.

To be covered by IDEA, a child with a disability must (1) have a condition that falls in one of the specified disability categories and (2) require special education as a result of the disability. The disability categories are:

1. Autism,
2. Deaf-blindness,
3. Hearing impairment (including deafness),
4. Intellectual disability,
5. Multiple disabilities,
6. Orthopedic impairment,
7. Other Health Impairment,

8. Serious emotional disturbance,
9. Specific learning disability,
10. Speech or language impairment,
11. Traumatic brain injury, and
12. Vision impairment.

State Special Education Law

In addition to the federal IDEA, Connecticut also has a state-level special education law and implementing regulations ([CGS §§ 10-76a to 10-76nn](#); [Conn. Agencies Regs., §§ 10-76a-1 to 10-76l-1](#)). This law was initially enacted in 1967, several years prior to the enactment of the first federal special education law (*A Practical Guide to Connecticut School Law, 10th Edition*, p. 479). These statutes and regulations are separate from the federal IDEA but conform to its requirements and specifically refer to IDEA in a number of places. In some cases, state law goes further than IDEA (for example, state law covers gifted and talented education).

Section 504

Access to FAPE is also protected under another federal law, known as Section 504 (which is a section of a larger law, the Rehabilitation Act of 1973 ([29 U.S.C. § 701 et seq.](#))). This law and the plans commonly used to implement it (i.e., 504 plans) are sometimes confused with, but are fundamentally different from, IDEA and IEPs. While IDEA guarantees individually tailored education services for students with disabilities (i.e., special education), Section 504 is a broad civil rights law that aims to eliminate barriers to a student’s access to FAPE by providing reasonable accommodations. Section 504 defines disability more broadly than IDEA, and students with 504 plans are generally enrolled in regular, rather than special, education programs with accommodations. Additionally, unlike IDEA, it also applies after the student leaves the K-12 education system. While this report focuses on special education, more information on Section 504 and 504 plans is available in OLR Report [2021-R-0217](#).

Required Services for Qualifying Students

IDEA guarantees an individual child’s right to an education that is tailored to his or her educational needs and provided in the general education environment to the maximum extent appropriate (known as the “least restrictive environment”). This focus on a tailored approach means that what FAPE entails (and the services a school must provide) is different for each child. Schools must provide the services necessary for children to receive FAPE, but the law does not require the

provision of any specific service to children who qualify for special education. The necessary services are contained in the IEP (see below for IEP development).

While the law does not contain bright-line rules for determining which services a school must provide, case law has further defined what constitutes FAPE. The Supreme Court has rejected arguments both that IDEA has no enforceable substantive standards and that it requires schools to achieve strict equality of opportunity between children with and without disabilities. Instead, it has held that a school must offer an IEP “reasonably calculated to enable a child to make progress appropriate in light of the child’s circumstances.” For most children in regular classrooms, services designed to enable a student to advance through grade levels meet this standard. If regular advancement is not possible, IEPs must still be appropriately ambitious and allow the child a chance to meet challenging objectives. Courts primarily judge an IEP’s design, not its effect (e.g., whether or not the student passes their classes), and seek to determine whether the IEP is reasonable, rather than ideal ([Congressional Research Services Report R48068](#), pp. 23-25).

Process for Determining Eligibility

IDEA and state special education law are principally focused on the process for determining eligibility for special education and developing an IEP, rather than specific services a school district must provide to qualifying children. To be eligible for special education, a student must (1) have a qualifying disability that adversely affects his or her educational performance and (2) require a specially designed instructional program in order to benefit from public education. School districts must evaluate students who are referred to special education to determine their eligibility and develop an IEP for each student who qualifies.

Planning and Placement Team

The procedural requirements under federal and state law are carried out by a PPT (called an IEP team under federal law). The law specifies the individuals that must be part of the PPT, which include the following (1) the child’s parent, guardian, or surrogate parent (“parent”); (2) at least one of the student’s general education teachers and special education teachers (as applicable); (3) a school district representative versed in special education and knowledgeable about the district’s curriculum and resources; and (4) a pupil services member (e.g., a school social worker or guidance counselor). PPTs review referrals to special education, decide which evaluations a child needs, and determine if the child is eligible for services.

Students may be referred to special education by school personnel, their parents or guardians, or other individuals who receive parental permission to make the referral (e.g., doctors and social workers). State law specifically allows parents, guardians, or surrogate parents (“parents”) to

request a meeting with a member of the public school district's PPT to discuss whether their child may require special education services, and the board of education must grant that request ([CGS § 10-76d\(a\)\(10\)\(B\)](#)).

After referral and review by the PPT, the school district then assesses and evaluates the child to determine whether he or she is eligible to receive special education services. State law outlines how the evaluation must be administered and the types of tools that must be used ([CGS § 10-76ff](#)).

After the evaluations, a second PPT meeting is held to present the evaluation's results to the parents for the first time and to discuss any parental concerns ([CGS § 10-76d\(a\)\(10\)\(B\)](#)). The district must give parents at least five school days' notice of the meeting, which they have the right to attend and participate in along with advisors of their own choosing and the child's assigned paraprofessional, if there is one ([CGS § 10-76d\(a\)\(10\)\(A\) & \(C\)](#)). Additionally, upon the parent's request, the school district must provide the assessment and evaluation results at least three days before the meeting ([CGS § 10-76d\(a\)\(10\)\(G\)](#)).

After evaluations are complete, if the PPT finds the student to be eligible for special education services, the team must develop an IEP for the student. We discuss this further below.

Dispute Resolution

Federal and state law also establish procedures for resolving disputes between a school district and parents through due process hearings. Parents may request a due process hearing when a school district refuses to (1) consider or find that their child is disabled, (2) evaluate their child, (3) place their child in a school program that meets his or her needs, or (4) provide their child with an appropriate education that meets his or her needs. Requests for hearings must be filed within two years of the date any of these incidents occurred. These disputes are handled by hearing officers appointed by the State Department of Education's (SDE) Bureau of Special Education.

IEP Development and Contents

Under IDEA, FAPE is implemented through an IEP, which lays out how school districts will provide services to a child who qualifies for special education. Federal regulations require an IEP to include (1) measurable annual goals and how the child's progress toward the goals will be measured; (2) special education and related services the child will receive; and (3) supplementary aids and services the child will receive, which are supports provided in regular education classes and nonacademic settings ([34 C.F.R. § 300.320\(a\)\(4\)](#)). The included services must be based on peer-reviewed research to the extent practicable and be designed to help the child progress toward his or her annual goals, be involved and make progress in the general education curriculum,

participate in extracurricular and nonacademic activities, and be educated with other children with and without disabilities.

The PPT is responsible for determining which services are necessary to address a child's unique needs. When developing a child's IEP and determining which services he or she will receive, federal regulations require the PPT to consider a number of factors, including:

1. the child's strengths;
2. the parents' concern for enhancing their child's education;
3. the child's evaluation results;
4. the child's academic, developmental, and functional needs;
5. behavioral supports, if the child's behavior impedes his or her learning or that of other children;
6. communication needs, including the language needs of students with limited English proficiency;
7. assistive technology needs; and
8. instruction in braille if the student is blind or visually impaired ([34 C.F.R. § 300.324](#)).

Special Education and Related Services

Under IDEA, special education is specially designed instructional services meant to address a child's unique educational needs. It involves adapting instruction content, methodology, or delivery to serve the child's unique needs that result from the disability and ensure the child's access to the general education curriculum ([34 C.F.R. § 300.39](#)).

Related services are other kinds of services that enable a child to benefit from the special instruction he or she receives. IDEA provides the following non-exhaustive list of developmental, corrective, and other supportive services that could be (but are not necessarily required to be) provided to a student with a disability:

1. speech-language pathology and audiology services;
2. interpreting services for children who are deaf, hard of hearing, or deaf-blind;
3. psychological services;

4. physical therapy and occupational therapy;
5. recreation, including therapeutic recreation;
6. social work services;
7. school health and school nurse services;
8. orientation and mobility services provided to blind or visually impaired children;
9. parent counseling and training;
10. medical services for diagnostic and evaluation purposes;
11. counseling services, including rehabilitation counseling; and
12. early identification and assessment of disabilities ([34 C.F.R. § 300.34](#)).

Whether a related service must be provided to a child under IDEA is often unclear. As noted in *Mooney's Practical Guide to Connecticut Education Law, 10th Edition* (emphasis added):

“the essential quality of a related service is that it must be necessary in order for the child to benefit from special education. Transportation is easily understood in this regard; if the child cannot get to school, he or she cannot benefit from special education...However, it is often unclear whether a particular service is or is not necessary for the child to benefit from special education” (p. 489).

Mooney's further elaborates that a (1) school is not required to provide services that are merely beneficial, but not necessary, and (2) student's progress is a crucial factor in determining which services are necessary – if a student is progressing, a request for related services is less compelling, and vice versa.

Supplementary Aids and Services

Supplementary aids and services are supports that are provided to students with disabilities in regular education classes and extracurricular or nonacademic settings. Their purpose is to enable these children to be educated with the general student population, make progress in the general education curriculum, and participate in extracurricular and other nonacademic activities ([34 C.F.R. § 300.42](#)).

Supplementary aids and services include accommodations, modifications, assistive technology, and adult support provided directly to the child (e.g., a one-on-one paraprofessional).

Accommodations change how a student learns the material their peers are expected to learn. These could include things like large print text, extra time for tests and assignments, oral testing, or reduction of auditory or visual stimulation in the environment. Modifications change what material a student is taught or what they are expected to learn, including things like modified reading material, simplified assignments, or taking classes as pass/fail. Assistive technology is items or equipment that increase, maintain, or improve the capabilities of a child with a disability, like closed captioning, text to speech, digital recorders, alternative keyboards and mice, and translation services. Adult support is support provided directly to an individual child (e.g., a sign language interpreter or one-on-one paraprofessional). For more information, see SDE's list of [Supplementary Aids and Services examples](#).

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