

1 ☐ **The Right to a Free, Appropriate Public Education**

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2 ☐ **Who Qualifies for Special Education under IDEA?**

 Individuals with Disabilities Education Act- Part B (IDEA):


 a child with a specified disability, that needs


 that needs special education and related services

 School Districts must provide a free, appropriate public education to all students, ages 3 through 21 who qualify under the IDEA.

La. Admin. Code tit. 28,§905; 34 CFR 300.8


3 ☐ **Who Qualifies for Protections & Services under 504?**


 Under Section 504 peoples with a disabilities are defined as persons whose physical or mental impairments "substantially limit one or more major life activities"


 A student does not need to have a 504 plan to be protected against discrimination under 504 and the ADA

28 CFR Part 35.108


4 ☐ **Differences Between 504 and IDEA**


 Section 504 is not as detailed as the IDEA.


 Due process procedures and the right to particular types of services are more general under Section 504.

 Despite some differences, basic special education rights relating to FAPE, LRE, and discipline apply under Section 504 as well as under the IDEA.

5 ☐ **Terminology**









 1508 evaluation- This is an evaluation for Special Education under the IDEA (procedures are in Louisiana Bulletin 1508).

 Exceptionality- Term used in Louisiana for a disability under 1508 (& gifted).


 504 plan- The plan of accommodations for a student who only has been found to qualify under Section 504. Sometimes called an IAP.

 IEP- Individualized Education Program- The accommodation plan for students found eligible under 1508/IDEA.

6 ☐ **Basic Protections and Rights for Students with Disabilities**

-  Child Find
-  Rights regarding evaluations
-  FAPE (Free & Appropriate Public Education)
-  LRE (Least Restrictive Environment)
-  Communication
-  Restraint & Seclusion
-  Discipline Protections
-  Transition


7 ☐ **Child Find**

-  Under both Section 504 and the IDEA school districts have an ongoing and affirmative obligation to identify, locate and evaluate students with disabilities.

Section 504: *34 CFR 104.32; 34 CFR 104.35*


IDEA: *34 CFR 300.111*

8 ☐ **Response to Interventions**

-  An IDEA evaluation cannot be delayed or denied due to RTI implementation




<https://sites.ed.gov/idea/idea-files/osep-memo-11-07-response-to-intervention-rti-memo/>

9 ☐ **Can You Be “too smart” for Special Education?**

-  School districts have the obligation to evaluate all children, regardless of cognitive skills, who are suspected of having a disability under the IDEA



<https://sites.ed.gov/idea/files/idea/policy/speced/guid/idea/memosdcltrs/13-008520r-sc-delisle-twiceexceptional.pdf>

10 ☐ **IDEA Evaluations**



-  60 business days from parental consent (no exceptions without parental consent)
-  Bulletin 1508 describes qualifications for each exceptionality (must fall under one of them)
-  Reevaluation required at least every 3 years, and as needed and before exiting from special education

Procedures are at *34 CFR 300.301 - 300.311*

11 ☐ **Eligibility**


-  The exceptionality of Developmental Delay only applies to children 3-8 years old, after that they must fall under one of the other categories.
-  The category of disability the child falls under should not impact what services they get. All services should be based on the student's individualized needs and abilities, not those of their generalized category.

12 ☐ **504 Evaluations**

-  No distinct timeline for evaluations, but must be reasonable and reevaluations must be periodic
-  Reevaluation must occur before any significant change in placement.

34 CFR 104.35


13 ☐ **Free Appropriate Public Education (FAPE)**

-  A student with a disability is entitled to a free appropriate public education under the IDEA and 504.

IDEA: 34 CFR 300.101


Section 504: 34 CFR 104.33

14 ☐ **What Makes an Education Appropriate?**

-  In March 2017 the US Supreme Court issued *Endrew F.*, “To meet its substantive obligation under the IDEA, a school must offer an IEP reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances.”


137 S.Ct. 188

15 ☐ **Virtual Schools**

-  Public Virtual Schools must comply with IDEA requirements.

<https://sites.ed.gov/idea/idea-files/osep-dear-colleague-letter-regarding-education-of-children-with-disabilities-attending-public-virtual-schools/>



16 ☐ **Charter Schools**

-  Charter schools the have the same obligations as traditional public schools under the IDEA, Section 504 and the Americans with Disabilities Act, Title II.

Section 504 and the ADA: <https://sites.ed.gov/idea/files/colleague-201612-504-charter-school.pdf>


IDEA: 34 CFR 300.209

17 ☐ **LEAST RESTRICTIVE ENVIRONMENT (LRE)**

-  A student has a right to be educated with regular education peers as much as is appropriate for that particular child
-  The purpose is to discourage segregation of students with disabilities


IDEA at 34 CFR 300.114; Section 504 at 34 CFR 104.34; La. Admin. Code tit. 28, §114 (2012).

18 ☐ **Extracurricular Activities**

-  Students with disabilities (under 504 or IDEA) have the right to accommodations in extracurricular activities

<https://www2.ed.gov/about/offices/list/ocr/letters/colleague-201301-504.pdf>


19 ☐ **Communication**

-  Under Title II of the ADA, schools must ensure that students with speech, hearing, and vision disabilities receive communication that is as effective as communication with others through the provision of appropriate auxiliary aids and services

DOJ, OCR, & OSEP (11/12/2014)



https://sites.ed.gov/idea/files/policy_speced_guid_idea_memosdcltrs_doe-doj-eff-comm-ltr.pdf

20 ☐ **Behavior**

-  “the failure to consider and provide for needed behavioral supports through the IEP process is likely to result in a child not receiving a meaningful educational benefit or FAPE.”

<https://sites.ed.gov/idea/files/dcl-on-pbis-in-ieps-08-01-2016.pdf>

21 ☐ **Restraint & Seclusion**

-  Louisiana law limits the use of restraint and seclusion for students with disabilities.
-  Seclusion and physical restraint can't be used as a form of discipline or punishment, as a threat to control, bully, or obtain behavioral compliance, or for the convenience of school personnel.

LA R.S. 17:416.21;

<https://www2.ed.gov/about/offices/list/ocr/letters/colleague-201612-504-restraint-seclusion-ps.pdf>


22 ☐ **Manifestation Determination**


-  Under the IDEA a manifestation determination review must be held

for all disciplinary changes in placement. It is a change in placement if the student is expelled, suspended for more than ten days total in a school year, or there is a pattern of removals.

34 CFR 300.530; 34 CFR 300.536

23 ☐ **The Manifestation**


 It is a “manifestation” if the team finds that the conduct in question was:

 1) caused by or had a direct and substantial relationship to the child's disability; OR


 2) the conduct in question was the direct result of the school failure to implement the IEP

34 CFR 300.530

24 ☐ **If it is NOT a Manifestation**

 If it is found NOT to be a manifestation, then the student may be disciplined by having their placement changed, but still needs to receive an appropriate education.

25 ☐ **If it IS a Manifestation**

 If it is found to be a manifestation then:

 A Functional Behavioral Analysis, and

 A Behavior Intervention Plan, and

 THE STUDENT RETURNS TO/STAYS IN THEIR PLACEMENT


 UNLESS...

26 ☐ **The Exception**

Under, even if it is a manifestation, school personnel may remove a student to an interim alternative educational setting for not more than 45 school days for:


 Weapons

 Drugs

 Serious bodily




34 CFR 300.530

27 ☐ **Students Who Are Not Identified as Eligible For Special Education**




 If a school attempts to expel a student who has not previously been found eligible for special education for disciplinary reasons, the student is entitled to protections only if the school had knowledge

that the child had a disability before the conduct occurred.
IDEA: 20 U.S.C. §1415(k)(5)




28 ☐ **School's "Knowledge"**

-  Parent expressed concern in writing to school personnel that child needs special education services; OR
 -  Parent requested an evaluation; OR
 -  Teacher or other personnel expressed specific concerns about a pattern of behavior directly to the director of special education.
- 20 U.S.C. 1415(k)(5)(B)*




29 ☐ **Suspensions and Expulsions Under 504**

-  Before an expulsion or other significant change in placement a student with a disability under Section 504 must be:
 -  re-evaluated by the school or school district, AND
 -  placement cannot be changed if the action causing the change in placement was a manifestation of the student's disability.

30 ☐ **Transition- What is it?**



-  The supports and services available to teenagers and younger adults with disabilities so that they can successfully move from high school education to life after school.
-  Transition can include: employment readiness skills, life skills, internships, college readiness, job placement, and assistive technology
-  Needs and goals are assessed through vocational assessments.

31 ☐ **Transition-Who Qualifies?**

-  IDEA requires services to begin no later than the 16th birthday. Transition planning takes place as a part of the IEP meeting. IEPs must provide a transition plan for meeting the student's post-school goals
 -  People with disabilities up to 24 who don't have IEPs still receive transition services from LRS through WIOA.
 -  LRS voc. Rehab. services are available to all qualifying adults with a disability, separate from transition services.
- 34 C.F.R. § 361.5

32 ☐ **Resources**

-  <https://bese.louisiana.gov/policy> (state regulations)
-  <https://www.louisianabelieves.com/students-with-disabilities/>

 <https://ldh.la.gov/page/FamiliesHelpingFamilies>
 [https://www2.laworks.net/WorkforceDev/LRS/LRS_Rehabilitation.a
sp](https://www2.laworks.net/WorkforceDev/LRS/LRS_Rehabilitation.asp)

33 ☐ **QUESTIONS?**

34 ☐ **DISABILITY RIGHTS LOUISIANA**

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