

Part 2: INTRODUCTION TO SPECIAL EDUCATION

The Policy and Procedure Manual is intended to guide schools as they work with students who may be eligible for services as special education students or as Section 504 students. The statutory and constitutional rights afforded students with disabilities as outlined must be adhered to. School personnel are advised to contact the director of special education of the Ripley-Ohio-Dearborn Special Education Cooperative for additional technical assistance.

Federal statute (P.L. 94-142 and 101-476), known as the Education for the Handicapped Act of 1975 and the Individuals with Disabilities Education Act), as well as the Indiana Administrative Code (511 IAC 7-17-1 et seq., known as Article 7), guarantee all students with disabilities who range in age from three (3) years to less than twenty-two (22) years a free appropriate public education in the least restrictive environment. Students and their parents are also provided legal protection known as due process.

For a child enrolled in the First Steps program, (ages birth to thirty-six (36) months) planning for the preschool program begins at 30 months when First Steps provides basic information to ROD. At least 90 days prior to the child's third birthday a conference convenes to discuss any services the child may need. The transition from First Steps to preschool is to proceed smoothly and services are provided to assure an appropriate program.

A free appropriate public education begins with an evaluation to assess whether the student has a disability. Following the evaluation, a case conference committee determines the student's eligibility, if any, for special education services. Those services are provided at no cost to the student or parent. They are designed to meet the special and unique educational needs of the student. They are reasonably calculated to provide educational benefit. Related services are supplementary and complementary to the instructional program and are required to assist a student to benefit from special education. They also are provided at no cost to the student or parent. Incidental costs, such as those for books and supplies that are charged to all students may be charged to the student with disabilities.

Students with disabilities are educated to the extent appropriate with students who are not disabled. This means the student with disabilities receives instruction in the general education classroom when appropriate and also participates in activities such as meals, art, music, physical education, and recess when appropriate. The amount of time a student with a disability spends with students who are not disabled through inclusion is determined on an individual basis by the case conference committee.

An individualized education program (IEP) is developed by the school, the student's parents, and the student, when appropriate. It must address the student's present levels of functioning and must provide services for those areas which are deficient. The IEP must be developed prior to the time when special education services are provided to the student. The IEP must be reviewed at least once per year, prior to or on the anniversary date of the previous IEP. The IEP may be reviewed more frequently at the request of the school or parent.

Parents must provide written consent for their child to undergo an evaluation to determine eligibility for special education and then to receive special education and related services if the student is eligible. If a parent does not consent to the provision of special education services for the student, the student shall remain in general education programming while any disagreement is being resolved. Parents and schools may request mediation, a complaint investigation, or a due process hearing if they cannot agree on placement.

A student who is not eligible for special education services through Article 7 may be eligible for services pursuant to Section 504 of the Rehabilitation Act of 1973. Section 504 states that "No qualified handicapped person shall, on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity which receives or benefits from federal financial assistance." Students must meet eligibility requirements for Section 504 services. Programs must be accessible to individuals with disabilities (this includes parents who have disabilities and may require the services of an interpreter). Section 504 allows different or special treatment when necessary to insure equal opportunity for individuals with disabilities.

The Family Educational Rights and Privacy Act (FERPA) provides parents of students under age eighteen (18) and students age eighteen (18) and older, the right to examine records kept in the student's educational file. Both custodial parents and noncustodial parents have full rights under the law unless the school has evidence of a court order, statute, or legal document specifically revoking those rights. A school may release certain educational records to educational programs and other social service agencies without permission from the parent or student over age eighteen (18). FERPA applies to all students, not just those with disabilities. The building principal assures confidentiality for students attending his or her building.

Students with disabilities may be disciplined, suspended, and/or expelled. The rights afforded to a student with disabilities are explicit and may not be violated by the school. An expelled student with disabilities continues to receive educational services in an alternative setting after a separation from school for 10 days.

The case conference committee is responsible for all decisions that pertain to a student with a disability. In all decisions, the case conference committee must maintain compliance with IDEA and Article 7.

Special thanks are given to ROD personnel for their input, typing, proofreading, and comments as well as to Mary Jo Dare, IUPUI, and the Indianapolis Public Schools.