

# Laws and Processes Affecting Special Education

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University of Connecticut Center for Excellence in  
Developmental Disabilities

Families as Partners Training

# Laws and Processes Affecting Special Education in the State of Connecticut

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- Individuals with Disabilities Education Act
- P.J. vs. the State of Connecticut
- No Child Left Behind

# Individuals with Disabilities Education Act (IDEA)

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- U.S. Department of Education Act
- Provides funding to districts to educate students with disabilities
- Provides special education and related services to students with disabilities
- Protection under IDEA ends permanently when a student turns 21 or graduates from public school

# The 2004 Reauthorization of IDEA

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- The Individuals with Disabilities Education Improvement Act (P.L. 108-466).
- Signed into law on December 3, 2004.
- Preserves the basic structure and civil rights guarantees of IDEA.
- Contains some significant changes to the law.
- Changes take effect July 1, 2005.

# Special Education & Related Services

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- Special education is specially designed instruction to meet the unique needs of the student to enable access to the general education curriculum
- Related services are services required for a student to benefit from special education

# Six Principles of IDEA

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- Free Appropriate Public Education (FAPE)
- Appropriate Evaluation
- Individualized Education Program (IEP)
- Least Restrictive Environment (LRE)
- Parent Involvement
- Procedural Safeguards

# FAPE

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- Special education and related services provided at no cost to families
- Must meet state and federal requirements
- Include preschool, elementary school, secondary school
- Provided in accordance with an IEP

# FAPE: The 2004 Reauthorization of IDEA

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- States have the option to adopt policies that would permit parents of children receiving Part C early intervention services to extend those services until they are eligible to enter kindergarten. Connecticut is not opting to add this option as Connecticut currently requires FAPE from birth.
- Requirements for states utilizing the Part C extension:
  - Informed written consent from parents.
  - Annual notice to parents explaining difference in services and explanation of rights under IDEA.
  - Program must contain school readiness component including pre-literacy, language and numeracy skills.



# Evaluations: The 2004 Reauthorization of IDEA

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- Adds language that clarifies that either the parent or the Local Education Agency (LEA) may request an initial evaluation.
- Evaluation must take place within 60 days of parental request or within an alternative time frame established by the state. Connecticut will continue to use the 45 school day timeline.
- Permits parents and LEA to override 3 year requirement to reevaluate if both agree
- Prohibits reevaluations more frequently than once a year unless parents and LEA agree.

# Appropriate Evaluation

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- The process used by the IEP team to determine eligibility for special education services
- Comprehensive enough to identify full range of needs
- Must be completed using language or communication form most familiar to student

# Appropriate Evaluation: The 2004 Reauthorization of IDEA

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- Rephrases the “native language” requirement as follows: “assessments and other evaluation materials must be provided and administered in the language and form most likely to yield accurate information on what the child knows and can do academically, developmentally and functionally, unless it is not feasible to do so”.

# Appropriate Evaluation: The 2004 Reauthorization of IDEA

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- Requires coordination between school districts when a child transfers from one LEA to another to ensure prompt completion of full evaluations.
- In determining whether a child has a specific learning disability the LEA “shall not be required to take into consideration whether a child has a severe discrepancy between achievement and intellectual ability.”

# Determining Eligibility

## Eligibility Categories

AUTISM	DEAF-BLINDNESS	DEVELOPMENTAL DELAY (ages 3-5 only)	EMOTIONAL DISTURBANCE
HEARING IMPAIRMENT	INTELLECTUAL DISABILITY	MULTIPLE DISABILITIES	ORTHOPEDIC IMPAIRMENT
OTHER HEALTH IMPAIRMENT	VISUAL IMPAIRMENT	SPEECH LANGUAGE IMPAIRMENT	TRAUMATIC BRAIN INJURY
SPECIFIC LEARNING DISABILITY			

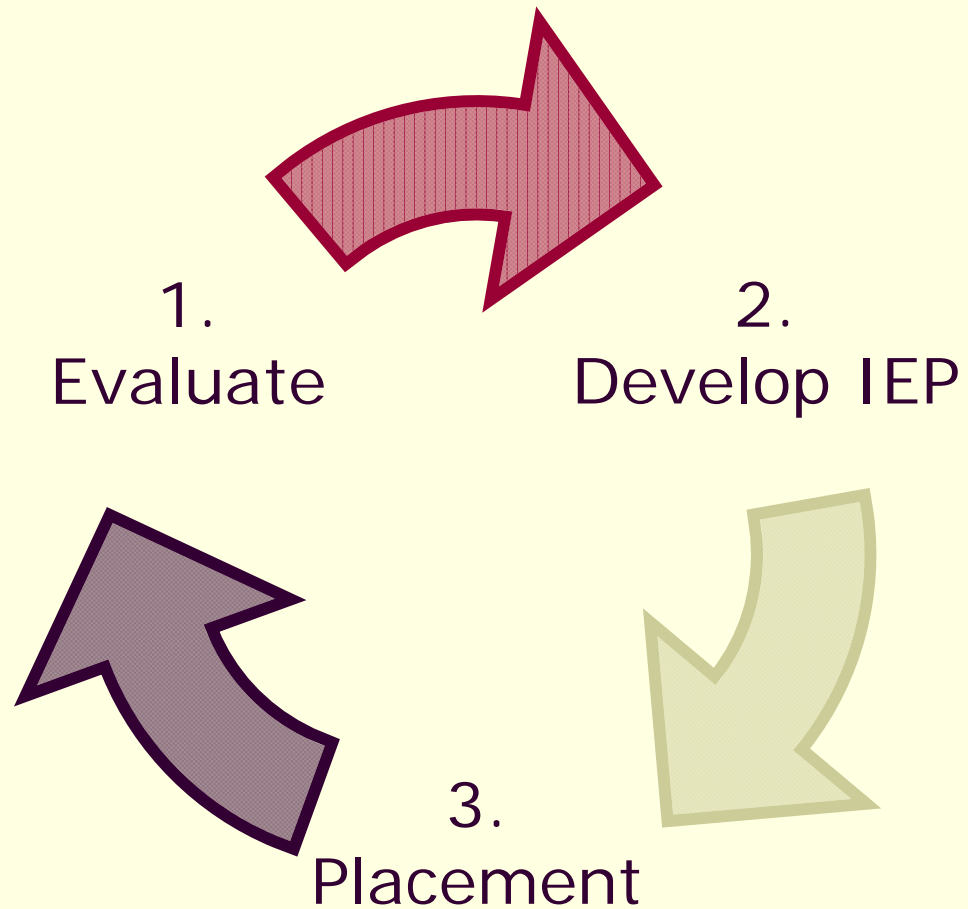
# Individualized Education Program (IEP)

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- The centerpiece of IDEA
- Created for each child according to his or her individual needs
- Details the special education and related services that the district will provide to meet those needs
- Reviewed/revised at least annually

# IEP – Planning **Before** Placement

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# The IEP: The 2004 Reauthorization of IDEA

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- A major change is the elimination of required “benchmarks and short-term objectives” except for those children with the most severe cognitive disabilities.
- Connecticut will continue to require short term goals and objectives in every IEP for all students.



# The IEP: The 2004 Reauthorization of IDEA

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- Team members: the new law permits members of the IEP team to be excused from the meeting if the parent and LEA agree. If the topic of the meeting deals with the absent member's area that person must provide written input to the parent and the team.
- The parent's agreement or consent must be obtained in writing for any member of the team to be excused.

# The IEP: The 2004 Reauthorization of IDEA

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- ***Moving??*** Within state: the LEA must provide “services comparable to those described in the previous IEP” until it adopts the previous IEP or develops and implements a new one.
- ***Moving??*** Between states: the new LEA must also continue comparable services until it conducts an evaluation of the child (if the LEA determines it necessary) and develops a new IEP if appropriate.
- *Both old and new schools are required to “take reasonable steps” to ensure prompt transfer of records, etc.*

# The IEP: The 2004

## Reauthorization of IDEA

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- Changes to IEP: if parent and LEA agree, changes to the IEP after the annual meeting may be made via written document without holding an IEP meeting.
- LEA's are encouraged to consolidate annual and reevaluation meetings when possible.
- Changes to the IEP may be made by amending it rather than completely redrafting.
- Connecticut will be attaching forms for amendments procedures to the new IEPs

# The IEP: The 2004

## Reauthorization of IDEA

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- *Demonstration trials:* Up to 15 states (does not include CT) may be approved to trial a “multi-year” IEP that may span up to 3 years to coincide with the student’s “natural transition points”.
  - ***Optional for parents and requires their informed consent.***
  - ***Must contain measurable goals linked to natural transition points.***
  - ***Must be reviewed at each transition point and annually to measure progress.***

# The IEP: The 2004 Reauthorization of IDEA

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- These “transition points” have been defined to include
  - *From preschool to elementary grades.*
  - *From elementary to middle school.*
  - *From middle school to high school.*
  - *From secondary grades to post-secondary activities.*
- *Under no circumstances can the period exceed 3 years.*

# Placement – Least Restrictive Environment

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- Regular classroom placement is the first option that must be considered
- Regular class placement means 80% of the day or more in a regular education setting
- Based on the child's IEP
- Determined by the child's IEP team
- Determined at least annually

# Least Restrictive Environment

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“Children can be removed from regular classes only when it has been determined that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.”

# Parental Involvement

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- Participation in the IEP process of planning evaluations and reevaluations
- Participation in development, review, revision of IEP
- How and when parents are to receive reports of progress towards meeting IEP goals must be specified at IEP team meetings



# Procedural Safeguards

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## Contents of Notice

- Independent educational evaluation
- Prior written notice
- Parental consent
- Access to educational records
- Complaint/dispute resolution information

# Procedural Safeguards Notice: The 2004 Reauthorization of IDEA

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- Paperwork Reduction: It is only necessary to give one copy of Procedural Safeguards per year with the exception of giving a copy:
  - **Upon initial referral or parent request for evaluation**
  - **Upon first occurrence of filing of a complaint**
  - **Upon request of a parent or guardian**

# Independent Educational Evaluation (IEE)

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- Available if you disagree with the evaluation conducted by the school district
- District must pay for the IEE or initiate a due process hearing to prove its evaluation is appropriate
- Must be provided without undue delay
- Results of IEE must be **considered** by district but they are not required to agree or implement them

# Re-evaluation

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- Conducted at least every 3 years
- Determines continued eligibility
- Can be based on existing data
- Parent can request additional assessment(s) to determine continued eligibility

# Prior Written Notice

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Provided when IEP team makes a decision regarding:

- Identification
- Evaluation
- Educational Placement
- Provision of FAPE

# Prior Written Notice

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Must include:

- What IEP team proposes/refuses
- Reasons for proposal/refusal
- Options considered and why rejected
- What the district used as basis for decision
- Statement of procedural safeguards
- How to seek assistance to understand procedural safeguards

# Parental Consent

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Required:

- Before initial evaluation
- Before initial placement
- Before placing in private placement
- Before reevaluation

# Access to Educational Records

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Parent of student under 18 may:

- Look at records pertaining to child's disability, evaluation, placement, right to FAPE
- Request an explanation of records
- Get one free copy of records
- Have their representative review records
- Look at data about their child (only) in records containing data on multiple students



# What Happens at Age 18?

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- IDEA rights transfer to student unless a court appoints legal guardian for the child
- 1 year before turning 18 the district must inform parents and student of the impending change
- LEA shall provide prior to graduation or age-out, a plan to assist with post-secondary goals
- After transfer of rights parents will continue to be notified of processes, but student can withhold consent
- Right to record review will also expire unless you maintain child as dependent for tax purposes

# Resolving Differences

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- Request an informal team meeting
- Request an IEP meeting
- Contact your special education director
- Mediation
- Due Process Procedures
- Filing a Complaint

# Mediation

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An attempt to resolve issues

- May address issues of:
  - Eligibility
  - Evaluation
  - Placement
  - Right to FAPE
  - IDEA 2004 states that if mediation results in an agreement then “ the parties shall execute a legally binding agreement that sets forth such resolution “.

# Due Process Procedures

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A legally binding process to resolve disagreements

- Procedures may include:
  - Advisory Opinions
  - Hearings
  - Expedited Hearings

# Due Process Procedures

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Issues may include:

- Eligibility
- Evaluation
- Placement
- Right to FAPE
- You have up to 2 years from the time of the disagreement to file for a hearing

# Complaint Resolution Process

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- Filed with the State Bureau of Special Education and Pupil Services
- Reports alleged violation of federal or state law concerning special education
- Alleged violation reported may not be part of a pending due process action
- Alleged violation will not be examined if addressed in previous due process action

# Resolution Session: The 2004 Reauthorization of IDEA

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- Required prior to a due process hearing.
  - A preliminary meeting of parents, relevant team members and LEA representative *who has decision making authority*.
  - Must be convened within 15 business days when a complaint is received.
  - Opportunity to for parent to discuss possible due process and for LEA to resolve the issue.
  - LEA may not include its attorney unless parents are including their attorney.

# Resolution Session: The 2004 Reauthorization of IDEA

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- If the LEA has not resolved the problem within 30 business days from the receipt of the parents' complaint, the due process hearing may occur and applicable time lines shall commence.
- If an agreement is reached at the resolution session, the parties must execute a legally binding agreement signed by both parties and legally enforceable in any state or U.S. district court.



# Resolution Session: The 2004 Reauthorization of IDEA

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- The resolution session may be waived by the LEA and the parents in writing *or* if they agree to use the mediation process.

# Subject Matter of Hearing: The 2004 Reauthorization of IDEA

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- The new law specifically states that the party requesting the due process hearing is not allowed to raise issues at the due process hearing ***that were not raised in the due process complaint notice.***
- The ***decision of the hearing officer*** must be made on substantive grounds based on a determination of ***whether the student with a disability received a free appropriate public education.***

# Disciplinary Procedures

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- A special education student may be suspended for up to 10 school days in any school year
- The time of removal must be comparable to the removal of a non-disabled student for the same action
- Your consent is not required
- The district does not have to provide compensatory services if it does not do so for non-disabled students

# Attorneys' Fees: The 2004 Reauthorization of IDEA

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- The new law allows for attorneys fees for a LEA if parents file complaints that are frivolous, unreasonable or without foundation or where the parents' attorney continues to litigate after the litigation clearly becomes frivolous, unreasonable or without foundation.
- Attorneys' fees for the resolution session are prohibited.

# Disciplinary Procedures

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## Manifestation Determination:

- IEP meeting to determine if behavior of student is related to his/her disability
- Must be held if student is removed from placement for a total of 10 days and constitutes a change in placement

# Disciplinary Procedures

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## Weapons/Drugs:

- A student can be placed in an interim alternative education setting for up to 45 school days for:
  - Possessing a weapon in school or at a school related function
  - Using, possessing, buying, selling drugs in school or at school related function

# Disciplinary Procedures: The 2004 Reauthorization of IDEA

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- If a student with a disability is removed from current placement, he/she must continue to receive educational services that enable continued participation in the general education curriculum and/or progress toward IEP goals, whether or not the behavior is a manifestation of a disability.
- Additionally, students with disabilities must receive, as appropriate, a functional behavior assessment, behavioral interventions services and modifications designed to address the behavior.

# Disciplinary Procedures: The 2004 Reauthorization of IDEA

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- Parents must be included in the meeting to determine if a student's behavior was a manifestation of the disability. Previously, the manifestation determination review was conducted by the IEP team and other qualified personnel. Now it must include parent and relevant members of the IEP team.
- If it is determined that the conduct was a result of the disability, a functional behavioral assessment **MUST** be conducted and a behavior plan implemented. If a behavior plan is already in place, it must be reviewed and modified to address the behavior.



# Disciplinary Procedures: The 2004 Reauthorization of IDEA

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- Removal to an interim alternative educational setting regardless of whether the behavior is caused by the disability under certain circumstances (i.e. possession of weapons or drugs) has been changed from 45 calendar days to 45 school days.
- In addition to drugs and weapons, the LEA can change a student's placement for up to 45 school days if the student has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function.

# Assistive Technology

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- IEP team must determine if necessary
- LEA responsible to provide
- Need for AT must be discussed annually

# Extended School Year Services

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- 5 criteria for consideration
- Must be decided on an annual basis
- ESY required IEP

# Transition Planning

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- Coordinated set of services designed to “transition” a student to life after high school
- Must begin by age 15
- Must be implemented by age 16

# Transition Planning: The 2004 Reauthorization of IDEA

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- Changes the timing of the requirement to include a statement of “transition service needs” from 15 to “not later than the first IEP to be in effect when the child is 16”.
- Adds a transition services requirement for postsecondary goals for appropriate education, training, employment and independent living skills.

# Transition Planning

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## Transition Planning Areas:

- Post-secondary education
- Post-secondary employment
- Community Participation
- Residential outcomes/independent living skills

# The 2004 Reauthorization of IDEA

## Rule of Construction:

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- Adds a “rule of construction” that no additional information is required for the IEP beyond that explicitly required in the Section 614 and information in one part of the IEP need not be contained in another part.

*This has been added to attempt to reduce paperwork*

# Where Can I Look?

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To get a copy of IDEA '04: Go to the  
Dept. of Education website

- [www.ed.gov/policy/speced/leg/idea/idea.pdf](http://www.ed.gov/policy/speced/leg/idea/idea.pdf)





## P.J. V State of Connecticut

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- A class action lawsuit filed on behalf of students with intellectual disabilities in Connecticut who are not educated in regular classrooms
- Resulted in a settlement agreement in May 2002
- There is nothing in the settlement agreement that is not required by IDEA.
- The purpose of increasing student time in the general education setting and their home school is to have access to the general education curriculum and improved academic outcomes for students.

# Settlement Outcomes

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Terms seek increased:

- Time spent in regular ed
- Time spent with non-disabled peers
- Attendance at neighborhood school
- Participation in ex-curricular activities

Decreased:

- Over identification of minority students

# Where Can I Look?

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Settlement agreement can be found at:

- [www.arcct.com/lawsuit/htm](http://www.arcct.com/lawsuit/htm)

Connecticut Parent Advocacy Center:

- [www.cpacinc.org](http://www.cpacinc.org)

Parent training schedule:

- [www.dmr.state.ct.us/idea/events.htm](http://www.dmr.state.ct.us/idea/events.htm)



# No Child Left Behind

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- Federal law covering ALL students
- Emphasizes accountability and teaching methods that work
- Raises qualifications for teachers and paraprofessionals
- Requires proficiency testing for all students
- Affects schools/districts receiving Title 1 funding

# Where Can I Look?

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To find out more about NCLB and view a Listing of schools/districts in CT receiving Title 1 funding go to:

- [www.csde.state.ct.us/public/der/nclb/index.htm](http://www.csde.state.ct.us/public/der/nclb/index.htm)

