

CHAPTER 4

OVERVIEW OF THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT OF 1997

The Individuals with Disabilities Education Act is in the United States Code (U.S.C.) at Volume 20, beginning at Section 1401. This book is based on the United States Code although it does include references to various Sections within the Act. The Individuals with Disabilities Education Act of 1997 is divided into four parts.

The U. S. Department of Education is responsible for issuing the special education regulations. The IDEA Regulations are published in Volume 34 of the Code of Federal Regulations (C.F.R.), beginning at Section 300. Appendix A to the Regulations includes 40 questions and answers about IEPs and transition services.

The regulations about early intervention programs for very young children is in Volume 34 of the Code of Federal Regulations beginning at Section 303.

Parents, advocates, attorneys, and educators will refer most often to Part A and Part B, Sections 1400, 1401, 1412, 1414, and 1415 and the corresponding regulations that relate to these sections.

Part A: General Provisions, Definitions and Other Issues

Part A is titled “General Provisions, Definitions and Other Issues” and begins with “Congressional Findings and Purpose.” Part A is very important because it discusses the purpose of the special education law. Part A also includes definitions of terms that are used in the statute.

Part B: Assistance for Education of All Children with Disabilities

Part B is titled “Assistance for Education of All Children with Disabilities” and includes funding, state plans, evaluations, eligibility, due process, discipline and other areas relating to direct services. Section 1414 is about evaluations, eligibility, and IEPs. Section 1415 describes the procedural safeguards for children and their parents, including the requirement about “Prior Written Notice,” Mediation, Due Process Procedures, “stay put,” and discipline issues. Section 1419 includes procedural information about grants to states that have pre-school programs for children as young as two years of age.

Part C: Infants and Toddlers with Disabilities

Part C is “Infants and Toddlers with Disabilities” and begins with “Findings and Policy” at Section 1431. The term “at-risk infant or toddler” is defined as an individual under 3 years of age who would be at risk of experiencing a substantial developmental delay if early intervention services were not provided. Part C requires a comprehensive child find system and individual family service plans (ISFP) that are similar to IEPs in Part B.

Part D: National Activities to Improve Education of Children with Disabilities

Special education methods and techniques are often criticized for not being based on research and best practices. At the beginning of the IDEA statute is this statement from Congress:

However, the implementation of this Act has been impeded by low expectations, and an insufficient focus on applying replicable research on proven methods of teaching and learning for children with disabilities.” 20 U.S.C. § 1400(c)(4)

Part D focuses on the need to improve special education programs, preparing personnel, disseminating information, supporting research, and applying research findings to education. Part D is called “National Activities to Improve Education of Children with Disabilities” and includes two subparts. Subpart One is “State Program Improvement Grants for Children with Disabilities.” Subpart Two is “Coordinated Research, Personnel Preparation, Technical Assistance, Support, and Dissemination of Information.”

Definition: IDEA Child

What is the definition of a child who requires special education services under IDEA? The United States Code, i.e., the Individuals with Disabilities Education Act of 1997, at 20 U.S.C. § 1401(3) explains that a ‘child with a disability’ means a child-

- (i) with mental retardation, hearing impairments (including deafness), speech or language impairments, visual impairments (including blindness), serious emotional disturbance (hereinafter referred to as ‘emotional disturbance’), orthopedic impairments, autism, traumatic brain injury, other health impairments, or specific learning disabilities; and
- (ii) who, by reason thereof, needs special education and related services.

The key term is “who, by reason thereof, needs special education and related services.” What is the legal definition of special education?

Definition: IDEA Special Education

At 20 U.S.C. § 1401(25), the law defines special education:

- The term ‘**special education**’ means specially designed instruction, at no cost to parents, to meet the unique needs of a child with a disability, including -
- (A) instruction conducted in the classroom, in the home, in hospitals and institutions, and in other settings; and
 - (B) instruction in physical education.

The law is clear that special education is not limited to traditional special education classes. Special education should include a range of services designed to meet the unique needs of children with disabilities. Special education may include “instruction conducted in the classroom,” intensive structured programs in residential facilities, one-to-one tutoring, remediation, and 40+ hour programs of Applied Behavioral Analysis (ABA) therapy for young autistic children.

The term “**free appropriate public education**” means “special education and related services that . . . are provided in conformity with (an) individualized education program (which is) . . . a written statement . . . that includes a statement of the child’s present levels of educational performance . . . measurable annual goals, including benchmarks or short-term objectives, . . . a statement of the special education and related services and supplementary aids and services to be provided to the child, or on behalf of the child and . . . for school personnel . . .” 20 U.S.C. § 1414(d)(1)(A)

The child’s special education program must be reviewed at least once a year. An appropriate special education program provides the child with educational benefit so the child may become an independent functioning member of society.

Summary

The Individuals with Disabilities Education Act (IDEA) requires public schools to locate and identify children with disabilities who may be in need of specialized education. These children will “have available to them a free appropriate public education that emphasizes special education and related services designed to meet their unique needs and prepare them for employment and independent living; (and) . . . to ensure that the rights of children with disabilities and parents of such children are protected . . .” 20 U.S.C. § 1401(d)

The statute includes specific requirements about eligibility for services, components of the Individualized Educational Program (IEP), IEP team members, review of the child’s IEP, prior written notice, members of eligibility and IEP teams, and comprehensive procedural requirements related to disputes and complaints.

Remember - law is always changing and evolving. To understand the law, you need to read the statute, the regulations, and cases that have interpreted the statute and regulations.