

Special Education: Understanding Federal and State Statutory Requirements



PURPOSE OF THIS BRIEF

This brief provides local leaders and educators with an overview of the state and federal statutes governing special education. Through a series of Frequently Asked Questions, educators will learn about the requirements governing the referral process, the elements of Individual Educational Plans, student evaluation, and classroom accommodations.

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STUDENTS WITH DISABILITIES AND THE LAW

FEDERAL LAW AND REGULATIONS

◆ Individuals With Disabilities Act of 2004 (IDEA '04)

<http://idea.ed.gov> for US DOE resources and links

http://www.doe.mass.edu/sped/IDEA2004/sp_meetings/ for MA DESE resources

IDEA determines *who is eligible* for special education services – a student between the ages of 3 and 21 who has an *identified disability* which makes the student unable to access the general curriculum without specially designed instruction or related services. It guarantees a “*free and appropriate public education*” to those students and prescribes the *process* for determination of eligibility and services. A National Education Association (NEA) summary can be found at

<http://www.nea.org/specialed/ideareauthsummary05.html>.

◆ IDEA Regulations – 34 CFR § 300

Regulations provide the detail necessary to carry out the provisions of IDEA.

◆ Section 504 of the Rehabilitation Act of 1973

<http://www.hhs.gov/ocr/504part84.html#education>

This statute is enforced by the Office for Civil Rights (OCR). For many years its main thrust was in areas of employment for individuals with handicaps. More recently OCR has applied its provisions to *the education of handicapped children*. It is more expansive in determining eligibility than IDEA in that it *defines disability as a physical or mental impairment that substantially limits major life activities*.

However, its guarantees - *accommodations to permit equal access to regular education* - are less expansive.

NOTE: *All students in special education are also covered by Section 504; however, the inverse is not always true. Some disabled students are covered by Section 504, but are not covered by IDEA or M.G.L. Chapter 71:B.*

State Law and Regulations

◆ M.G.L. Chapter 71 Section B (Frequently referred to as “Chapter 766”)

This statute is parallel legislation to IDEA. It was originally enacted in 1972 and has been amended a number of times. The most recent amendments were enacted in 2000. The most controversial change eliminated the Massachusetts standard for services – “*maximum possible development*,” also known as MFB or maximum feasible benefit – and substituted the federal standard – a free and appropriate public education.

◆ Special Education Regulations – 603 CMR 28.00

<http://www.doe.mass.edu/lawsregs/603cmr28.html>

Regulations provide the detail necessary to implement the law. The most recent amendments to Massachusetts Special Education regulations were approved by the State Board of Education in May 2005, and became effective July 1, 2005.

◆ Regulations for the Licensure of Educational Personnel in Massachusetts 603 CMR 7.00

<http://www.doe.mass.edu/lawsregs/603cmr7.html>

Licensure requirements establish the standards for educators in specific areas and at specific grade levels. An educator whose primary assignment is teaching students who have been formally identified as having special needs must hold the appropriate special education license. Special education licenses include:

- Teacher of Students with Moderate Disabilities
- Teacher of Students with Severe Disabilities
- Early Childhood: Teacher of Students With and Without Special Needs
- Teacher of the Deaf and Hard-of-Hearing
- Teacher of the Visually Impaired
- Special Education Administrator

NOTE: *Regular education teachers must hold the license appropriate to their field and grade level assignments. Having students with special needs in their regular education classes does not mean they need a special education license.*

HIGHLY QUALIFIED TEACHER

In 2002 Congress reauthorized the Elementary and Secondary Education Act, also known as No Child Left Behind (NCLB). This Act requires all teachers of *core academic subjects*, including special education teachers to be “highly qualified.”

Therefore, any special education teacher who is a child’s *sole teacher* in one or more core academic subjects must demonstrate that s/he is highly qualified all such subjects. Conversely, if the special education teacher is a “consulting” teacher to the child’s primary teacher, this provision does not apply in that case. To learn more on this subject, go to the DOE Web site at www.doe.mass.edu/nclb/hq.

SPECIAL EDUCATION FREQUENTLY ASKED QUESTIONS

THE LAW

1. What is Special Education?

Special Education means specially designed instruction and related services, provided at no cost to the parent, to meet the unique educational needs of students with disabilities, whose educational needs cannot be met fully with modification of the general instructional program. ***Special Education provides a full continuum of program options to meet the educational and service needs of students with disabilities in the least restrictive environment.*** This instruction can include a special education classroom, general education setting, pull-out program, home instruction, instruction in hospitals and institutions.

2. What is the Individuals with Disabilities Education Act (IDEA)?

For most of our nation's history, schools were allowed to exclude certain students, especially those with disabilities. Since the 1960s, there has been a great deal of federal legislation that relates directly or indirectly to individuals with disabilities. Additionally, court decisions rendered at the state and federal levels now protect the rights of students with disabilities and guarantee a free and appropriate public education. In 1975 Congress passed PL 94-142, "The Education for All Handicapped Children Act." This legislation mandated for the first time a free and appropriate education (FAPE) for all students with disabilities, ensured due process rights, mandated Individual Education Programs (IEPs) and instruction in the Least Restrictive Environment (LRE). PL 94-142 has been the core of federal funding for Special Education. In 1990, the Congress added amendments to this law and renamed it the "Individuals with Disabilities Education Act" (IDEA). The 2004 re-enactment of the IDEA is the current law.

3. What is the difference between federal law and state law regarding students with disabilities?

Massachusetts Chapter 766 preceded the federal education law and served as its model. However, Massachusetts law set a higher standard for special education services: “maximum feasible benefit” as opposed to the federal standard of a “free and appropriate public education.” Some believe that the Massachusetts standard resulted in our identifying a higher percentage of special education students as compared to most other states. The state legislature, after many years of debate on the issue, amended Massachusetts law and on January 1, 2002 we adopted the federal standard of a free and appropriate public education.

The federal and state laws contain most of the provisions governing the delivery of special education and related services. The federal and state Departments of Education have also created regulations under both laws that guide their implementation and have the force of law.

Because of the Supremacy Clause of the United States Constitution, federal laws and regulations must be followed whenever there is a conflict between state and federal law, except where the state grants more rights to the individual.

4. What are the principles of the IDEA?

The IDEA establishes six guiding principals that are key to understanding the intent and spirit of the law. They are the following:

- Free and appropriate public education (FAPE)
- Appropriate evaluation
- Individualized education program (IEP)
- Least restrictive environment (LRE)
- Parent and student participation in decision making
- Procedural safeguards

5. How does the IDEA define a student with disabilities?

According to the IDEA, students with disabilities are those who have one or more of the following disabilities:

- Mental retardation
- Hearing impairments (including deafness)
- Speech or language impairments
- Visual impairments (including blindness)
- Serious emotional disturbance
- Orthopedic impairments
- Autism
- Traumatic brain injury

- Other health impairments
- Specific learning disabilities

6. How Do Massachusetts Regulations define a student with disabilities?

- Autism – a developmental disability significantly affecting verbal and non-verbal communication and social interaction.
- Developmental delay – The learning capacity of a young child (3-9 years old) is significantly limited, impaired or delayed.
- Intellectual impairment – The permanent capacity for performing cognitive tasks, functions, or problem solving is significantly limited or impaired; mental retardation is included in this category.
- Sensory impairment – This includes hearing, vision and deaf-blind.
- Neurological impairment – The capacity of the nervous system is limited or impaired; traumatic brain injury is included in this category.
- Emotional impairment – An inability to learn that cannot be explained by intellectual, sensory or growth factors; an inability to build or maintain satisfactory interpersonal relationships; inappropriate behavior or feelings under normal circumstances; a general pervasive mood of unhappiness or depression; or a tendency to develop symptoms or fears associated with personal or school problems.
- Communication impairment – The capacity to use expressive and/or receptive language is significantly limited, impaired or delayed.
- Physical impairment – The physical capacity to move, coordinate actions, or perform physical activities is significantly limited, impaired or delayed.
- Health impairment – A chronic or acute health problem such that the physiological capacity to function is significantly limited or impaired.
- Specific learning disability – A disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, that may manifest itself in an imperfect ability to listen, think, speak, read, write, spell, or to do mathematical calculations.

For the full text of definitions go to

<http://www.doe.mass.edu/lawsregs/603cmr7.html>.

7. Who is responsible for providing special education services for students with disabilities?

Local school districts are responsible for providing appropriate special education instruction and related services. Generally, services may be provided in the local schools, by educational collaboratives, other public or private schools or agencies or public or private institutions. Consult your district special education

administrator or building coordinator to learn more about the delivery of special education services at your school.

8. What are related services and who is responsible for providing them?

Related services, as defined by the IDEA, mean transportation and such developmental, corrective and other supportive services as are required to assist a student with a disability to benefit from special education. These include speech/language pathology and audiology services, psychological services, physical and occupational therapy, recreation including therapeutic recreation, social work studies, adaptive physical education, counseling and guidance services and medical services for diagnostic or evaluation purposes. Normally, the local school district is responsible for providing related services at no charge to the parent.

9. How is a student referred for special education services?

The IDEA requires that before a student can receive special education instruction and related services, they must receive a "full and comprehensive evaluation." For a student evaluation, the IDEA requires the following:

- Parental consent for the initial evaluation of the student
- Nondiscriminatory evaluation
- Evaluation by a team
- Evaluation of the student in all areas of suspected disability
- Use of more than one procedure to determine the student's educational program
- Assessment in the native language or mode of communication of the student

EVALUATION OF STUDENT DISABILITY AND NEEDS

Evaluation is a critical component of the special education process for students with disabilities. Students are evaluated initially to determine whether or not they have a disability and if they need special education and related services designed to address their unique special educational needs.

10. What does the IDEA require when evaluating a student?

- Individualized testing
- Evaluation in the native language or mode of communication
- Nondiscriminatory evaluation
- Standardized tests to be validated for the specific purpose for which they are used (e.g., Woodcock-Johnson, Peabody Individual Achievement Test Revised). Consult your special education coordinator for the standardized test(s) used at your school site.
- Tests administered by trained and knowledgeable personnel

- Tests administered in accordance with any instructions provided by the producer of such tests

11. How often must a student with a disability be re-evaluated?

The IDEA requires re-evaluation to occur every three years to determine if the student continues to have a disability and remains eligible for special education.

THE INDIVIDUAL EDUCATIONAL PLAN

The IDEA requires that every student who qualifies for special education have an Individual Education Plan (IEP) which is a written individualized education program designed to meet the unique needs of a student with a disability. It is a mandated document that spells out the education plan and related services a student with disabilities will receive. This document is developed and reviewed by an IEP team.

12. What are the steps in the process?

The process has three steps:

- Determining eligibility
- Developing the IEP
- Determining placement and/or services

13. What must an IEP include?

The IDEA requires the following to be included in a student's IEP:

- Present levels of educational performance - How is the student presently doing in school? What are the student's strengths and weaknesses? What skills need to be addressed? How does the student's disability affect his/her participation and progress in the general curriculum?
- Annual goals - The IEP must determine appropriate annual goals. The goals must be measurable and have benchmarks or short-term objectives. The goals must relate to helping the student be involved and progress in the general curriculum. The IEP must have a statement of the special education and related services and supplementary aids which are to be provided. An explanation of the extent to which the student will not participate with students without exceptional needs in the general classroom and extracurricular activities must be contained in the IEP.
- A statement of any modifications in the involvement of the student in any state or district-wide assessments
- A statement of evaluation procedures and procedures for reporting student progress

- The projected date for the beginning, frequency, location and duration of services

14. What does the Least Restrictive Environment (LRE) mean?

The LRE is a fundamental principle of the IDEA. LRE is the environment where a student with disabilities can receive the appropriate education designed to meet his or her unique individual needs, while still being educated with non-disabled students. The placement may be full-time in the general classroom, a pull-out program, partial placement in the general classroom or placement in a non-public setting.

It is significant to note that IDEA '04 maintains that to the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are not disabled.

15. Who is responsible for determining the LRE?

The IEP team decides the LRE for the student with disabilities. The IEP team makes the LRE decision based on the unique needs of each individual with disabilities. One student's LRE may be different from another student's. When making a placement decision, the IEP team must consider the following:

- Placement in the general classroom first
- Supplementary aids and services to ensure the implementation of the student's IEP
- Placement, other than in the general classroom, if it is determined that the student's IEP needs cannot be met even with supplementary aids and services

16. Who are the participants on the IEP team?

The participants on the IEP team include the following:

- The parent(s) or guardian(s) of the student with a disability
- A general education teacher(s) of the student (if the student is, or may be, participating in the general education curriculum)
 - IDEA '04 clarifies existing regulations by stating that an IEP team member whose area of the curriculum or related services will not be discussed at an IEP meeting need not attend that meeting, so long as the parent and school district agree that the attendance is not necessary.
 - The law allows a parent and a school district to agree to excuse a member of the IEP team from attending an IEP team meeting (when that meeting does involve the team member's area of the curriculum or related

services), as long as that member submits input in writing prior to the IEP meeting.

- MTA/NEA will work with the U.S. Department of Education to stress the need to clarify in guidance documents that administrators may not use this excusal provision to purposely exclude IEP team members who wish to participate in a meeting from doing so.
- At least one special education teacher
- A representative of the Local Education Agency (LEA) who is qualified to provide or supervise specially designed instruction
- An individual who can interpret the instructional implications of evaluation results and who can make the necessary curriculum modifications (e.g., psychologist, special education teacher)
- At the discretion of the parents, other individuals who may have knowledge or special expertise regarding the student
- If appropriate, the student if fourteen years or older

17. What is the role of the general education teacher at the IEP meeting?

The general education teacher participating in the IEP meeting should be the teacher(s) who is (are), or may be, responsible for implementing the IEP. IDEA 97 emphasized the importance of the participation of the general education teacher. The general education teacher assists in developing behavioral interventions and strategies, the determination of program modifications and most importantly, how best to instruct the student in the general education program. Determining which regular education teacher(s) should attend the IEP meeting, and for which portion of the meeting, varies from district to district. IDEA 04 has created the exception described in #16 above.

18. What are the responsibilities of the IEP team?

The IEP team develops, reviews, and/or revises the IEP of a student with disabilities. Each member serves an important function, as they are knowledgeable about the student and the services that could benefit the student.

19. What "special factors" are to be considered by the IEP team?

Among special factors to be considered are the following:

- The student's language needs if the student has limited English proficiency
- Providing instruction in Braille if the student is blind or visually impaired
- Determining communication needs if the student is deaf or hearing impaired
- Assessing whether the student requires "assistive technology"

20. Who can initiate an IEP meeting?

The parent/guardian, general education teacher, special education teacher, or administrator may request an IEP meeting.

21. How often are IEP teams required to meet?

IEPs are to be reviewed annually; however, a parent/guardian or teacher may request an IEP review at any time.

22. Do general education teachers have access to the student's IEP?

Yes. Federal regulations specify that each general education teacher must have access to and be informed about the student's IEP. General education teachers must be informed of their responsibilities to the student's IEP and of the specific accommodations, modifications, and supports that must be provided for the student in accordance with the IEP.

23. What role do parents/guardians play in the IEP process?

The IDEA ensures that parents are members of the IEP team.

Parents/guardians also have the right to include other individuals on the IEP team who have knowledge or special expertise regarding the student.

The IDEA specifically allows parents/guardians to provide information to the IEP team related to their student. The parents/guardians must be part of a group that makes an educational placement decision for their student.

THE SPECIAL EDUCATION STUDENT – IMPLEMENTING THE IEP

24. May a student with a disability be suspended?

Students with disabilities may be removed from the classroom for up to 10 days for any violation of a school code of conduct, in the same manner and to the same extent that a non-disabled student would be. (In other words, equal punishment for the same offense).

A “manifestation determination” would have to be conducted within 10 days to determine whether the behavior was the result of the child's disability or whether the behavior was a "direct result of the local educational agency's failure to implement the IEP."

Schools can automatically remove a student with a disability for up to 45 days for carrying drugs or a weapon to school, but IDEA '04 adds a new category of offense

to this 45-day automatic removal provision. A student with a disability who causes "serious bodily harm" can now be automatically removed for up to 45 days from the classroom regardless of whether the behavior was the result of the disability.

IDEA '04 restored the previously eliminated requirement to conduct functional behavioral assessments and implement or modify existing behavioral intervention plans in the cases of students for whom the behavior in question is deemed to be manifestations of their disabilities AND who are removed from the classroom for more than 10 days.

Schools may take into account on a case-by-case basis "any unique circumstances . . . when determining whether to order a change in placement for a child with a disability who violates a code of student conduct." This provision is designed to grant limited exceptions to the "stay put" rule (the student remains in her placement pending the manifestation determination). While IDEA '04 regulations have yet to be promulgated, MTA and the National Education Association are working with the US Education Department to include guidance language on how this might be helpful for ensuring the safety of educators and other students.

25. May a student with a disability be assessed?

IDEA provides that students with disabilities are to be included in state and district-wide assessment programs, with appropriate accommodations and modifications.

26. Does this mean every student on an IEP must take MCAS?

Students with disabilities must be included in MCAS testing. The use of accommodations or modifications or an MCAS Alternate Assessment is determined by the individual student's IEP per state guidelines.

27. What are some appropriate accommodations or modifications that may be necessary for a student with disabilities to participate in state or district assessments?

The following is a partial list of appropriate accommodations or modifications depending upon the student's disability:

- Allowing more time for students to complete the test
- Administering the test in several sessions or over a number of days
- Dictating to a scribe
- Using a word processor
- Repeating directions
- Reading the test aloud
- Administering the test in a quiet room

The accommodation or modification is dependent upon the unique needs of the student and the test itself. The IEP should specify the type of accommodation or modification.

28. What are supplementary aids and services?

The IDEA defines supplementary aids and services as "...aids, supports, and other services that are provided in the general education classes or other education-related settings to enable students with disabilities to be educated with non-disabled peers to the maximum extent appropriate...." These services may include, but are not limited to, the following:

- Language and speech development and remediation
- Audiological service
- Orientation and mobility instruction
- Adapted physical education
- Physical and occupational therapy
- Vision services
- Counseling and guidance
- Psychological services
- Health and nursing services
- Social worker services
- Specially designed vocational education and career development
- Recreation services
- Specialized services for low-incidence disabilities such as readers, transcribers, and vision and hearing services

29. What are assistive technology and services? Does the IEP team need to consider them?

The IEP team considers whether the student requires assistive technology and services. An assistive technology device means an off-the-shelf, modified, or customized-device that is used to increase, maintain, or improve the functional capabilities of a student with a disability. The term assistive technology service means any service that directly assists a student with a disability in the selection, acquisition or use of an assistive technology device.

30. What kinds of assistive technology and services are to be considered by the IEP team?

The following are examples of assistive technology and services that may be incorporated into an IEP for a student with a disability:

- Listening: assistive listening device, tape recorder
- Writing: word processor, spell checker, proofreading, laser pointer
- Reading: optical character recognition, books on disc, audio tapes

- Organization/Memory: personal data managers, tape recorder, calendar programs, mathematics-calculator, audio calculator
- Activities for Daily Living: adaptive eating, drinking, dressing devices
- Mobility: walker, manual wheelchair, powered wheel chair, head switch
- Speaking: talking computer

COMMONLY USED ACRONYMS IN SPECIAL EDUCATION

ADA	Americans with Disabilities Act
ADD	Attention Deficit Disorder
ADHD	Attention Deficit Hyperactivity Disorder
FAPE	Free and Appropriate Public Education
IDEA	Individuals with Disabilities Education Act
IEP	Individualized Education Program
LEA	Local Education Agency
LEP	Limited English Proficiency
LRE	Least Restrictive Environment

GLOSSARY OF SPECIAL EDUCATION TERMS

Accommodations

Adaptations to course, test, presentation, timing, setting, student response or other attributes that can typically and easily occur in general education (e.g. preferential seating, extra time on tests) which are necessary to provide access for a student with a disability and which do not fundamentally alter or lower the standard of the curriculum or expectation for the student.

Adaptive Physical Education

A physical education program that has been modified to meet the specific needs of a special education student.

Advocate

A person who speaks or acts knowledgeably on behalf of a student with special needs.

Alternate Assessment

Alternate assessments are allowed for a student with a disability who cannot participate in standardized assessment and who is unable to demonstrate knowledge and skills on a paper and pencil test, even with accommodations. The

Massachusetts Department of Education has developed the “MCAS Alternate Assessment Portfolio” approach which is based on the learning standards in subject area Massachusetts Curriculum Frameworks.

Americans with Disabilities Act

A federal anti-discrimination law giving individuals with disabilities civil rights similar to those given to all people without regard to race, sex, national origin, or religion.

Assistive Technology

Any item, piece of equipment, product or system, that is used to increase, maintain or improve the functional capabilities of children with disabilities.

Behavioral Intervention Plan

A written document which is developed when the individual exhibits a serious behavior problem that interferes with the implementation of the IEP goals and objectives. The “behavioral intervention plan” becomes a part of the IEP.

Benchmarks

Benchmarks describe established expected performance levels (progress) that a student is expected to make within a specified segment of the school year.

Chapter 766

Massachusetts led the nation in the passage of a law which guaranteed students with disabilities the right to be educated to the maximum extent possible in the least restrictive environment. That law was Chapter 766 of the Acts of 1972. It has been amended a number of times over the years and the statutory citation is M.G.L. Ch.71:B.

Child Study Team or School Study Team

A school-based committee, whose members determine if a student should be evaluated for special education eligibility.

Child With a Disability

A child who is evaluated in accordance with the IDEA as having mental retardation; a hearing impairment, including deafness; a speech or language impairment; a visual impairment, including blindness; serious emotional disturbance; an orthopedic impairment; autism; traumatic brain injury; an other health impairment; a specific learning disability, or multiple disabilities; and, by reason thereof, needs special education and related services. While the Massachusetts terminology differs from IDEA, the two are not in conflict. See pages 5 and 6.

Consent

Parental consent is required before a child can be evaluated or receive special education services under the IDEA.

CORE

A now obsolete term referring to the process of evaluating a child and addressing the results of that evaluation.

Evaluation

Before a child is placed in special education an individual assessment of the child's educational needs is conducted by a qualified person(s).

Free and Appropriate Public Education (FAPE)

FAPE as used in the federal law (IDEA) means special education and related services that are provided at public expense to children in preschool, elementary and secondary school that conform with an individualized instruction plan (IEP).

General Education Curriculum (“Regular Education”)

The curriculum used with non-disabled children. It includes preschool and early childhood programs offered by the district, academic and nonacademic offerings, and vocational programs and activities.

Individualized Education Program (IEP)

An IEP is a written plan for each child with a disability, developed by the IEP team, that describes the student's present level of performance, annual goals, specific education and related services, dates for beginning and duration of services and how the IEP will be evaluated.

Individuals with Disabilities Education Act (IDEA)

IDEA is federal legislation that mandates a free, appropriate public education for all children with disabilities.

Inclusion

Inclusion is a commonly used term describing the placement of students in regular education classrooms. Partial inclusion or full inclusion might be used to describe whether some or all services are in the regular education program. While the term does not appear in IDEA, the law does require that students with disabilities receive services in the least restrictive environment. See related terms – Mainstreaming and Least Restrictive Environment.

Individualized Education Program Team

A group of individuals that are responsible for developing, reviewing, and revising an IEP for a child with a disability.

Least Restrictive Environment (LRE)

LRE is the educational placement that allows maximum contact with students who do not have disabilities, while meeting the student's special education needs.

Liaison

Individual with the primary responsibility for overseeing the implementation of the IEP.

Mainstreaming

The term is now rarely used; while similar to inclusion and generally meaning that some services are provided in regular education classrooms, it assumed that the special education program was separate and adjunct to the regular education program.

MCAS

The Massachusetts Comprehensive Assessment System (as it relates to students with disabilities). IDEA requires that students with disabilities be afforded the right and opportunity to demonstrate their educational progress on any required, statewide or district assessments. Accommodations (see above) are allowed as described annually in MCAS directions published by the State Department of Education. Students who are too severely disabled to benefit from allowable accommodations may be eligible for MCAS Alternate Assessment.

Modifications

Alterations in course, test, presentation, timing, student response or other attributes which are necessary to provide access for a student with a disability to participate, and which also fundamentally alter and/or lower the standard or expectations of the test or course.

Placement

Refers to the setting in which a student with disabilities is educated. A continuum of placement options shall include, but are not necessarily limited to, all of the following or any combination of the following: regular education programs, resource program, designated instruction and services, special classes, non-public placement, state schools, instruction using telecommunications, instructions in the home, in hospitals or other institutions.

Prototypes

A now obsolete term from previous Massachusetts regulations which classified special education programs according to the percentage of time a student was placed outside the regular education program.

Referral for Assessment/Evaluation

Any written request for assessment to identify a student with disabilities made by a teacher, parent, or other service provider.

Related Services

Those services that a special needs student must receive in order to benefit from special education. These services may include, but are not limited to: language and

speech development and remediation, audiological services, adapted physical education, vision services, counseling and guidance, psychological, health and nursing services, social worker, specialized vocational services, recreational, transportation.

Special Education

Specially designed instruction, at no cost to the parents, to meet the unique needs of students with disabilities, whose educational needs cannot be met with modification of the regular instruction program to assist these individuals to benefit from specially designed instruction.

Specially Designed Instruction

A modification not regularly provided for students in the general education program.

MTA POLICY STATEMENT: INCLUSION & LEAST RESTRICTIVE ENVIRONMENT

INCLUSION describes the practice of integrating children with special needs into the regular education classroom and school community.

MTA policy is consistent with federal and state special education laws, * maintains the rights of the child to an education in the least restrictive environment, maximizes the educational potential of the child, and maintains the integrity of the regular and special education environments.

Inclusion practices and policies based on insufficient resources or the absence of special education services, or on staffing inadequacies or other needs of the agency are educationally unsound and out of compliance with state and federal law.

Requirements for Inclusion Placement Decisions

1. The prime responsibility for placement decisions rests with the evaluation team. The team must always include an appropriate regular education teacher.
2. Placement decisions must be based solely on the needs of the individual child; they must take into consideration evaluation results, knowledge of the available regular education classroom setting and current expectations, and familiarity with the academic, social, and emotional behavior of the child in a variety of settings.
3. Required services, both special and regular education, must be explicitly delineated in the child's individualized Education Plan (IEP).
4. Integrations that would cause a down-grading of curriculum or disruption of expected and normal progress of the non-disabled students in the classroom must be avoided.

5. The adjustment and progress of students with special needs who are integrated into the "regular classroom" must be frequently monitored. When a disabled child is not progressing in the regular education classroom, or there is an imbalance between the needs of the disabled child and his or her non-disabled classmates, either the regular educator or the special educator must call for a reconvening of the team.
6. Successful inclusion practices are dependent on critical "enabling conditions":
 - A full continuum of services;
 - Appropriately adjusted class size;
 - Appropriate, on-going staff development for all faculty;
 - Full involvement of staff in program design and decision-making;
 - Time for consultation, collaboration, planning, implementation and assessment;
 - Appropriate and adequate support services;
 - Effects on the working environment consistent with the mandates of Chapter 150E (subject to collective bargaining).

*M.G.L. Ch. 71:B; Federal Individuals with Disabilities Education Act

Adopted by MTA Board of Directors October 1987
Amended March 1995