



COMMUNICATION CONSIDERATIONS A-Z™

The IDEA

1. What is the IDEA?

The IDEA is the **Individuals with Disabilities Education Act**. It is a federal law of the United States of America. It was originally enacted in 1975 as the Education for All Handicapped Children Act (EAHCA). The title was changed to the IDEA in 1990. A revision process of the IDEA is begun every 5 years. The most recent revision was completed in 2004, with implementing regulations completed in 2006. The 2004 revision may be referenced as IDEA 2004, or IDEIA, the Individuals with Disabilities Education Improvement Act of 2004. A new revision process will begin in 2009. The IDEA is the primary law in the United States providing for the education of students with disabilities.

The IDEA is a federal funding statute. This means that if the states follow the IDEA, the federal government will provide some money to help pay for the costs of implementing the law.

2. What issues are at the forefront of the IDEA?

One issue is **the adequacy of federal funding** for implementing the IDEA. Many people believe that the federal government has never provided enough money to help states implement the law. The advocacy for increased federal funding is ongoing.

In applying the law to an individual student, the first issue is **whether the student qualifies** to be covered by the IDEA. In order to be covered, the student must have one of the disabilities covered by the law, and must need specially designed instruction as a result of his or her disability.

Assuming the student qualifies for coverage under the IDEA, the next issue is **what is required for the student to receive a FAPE in the LRE**. A FAPE is a free appropriate public education. The LRE is the least restrictive environment.

3. What should every parent and professional know about the IDEA?

If a parent and a school district disagree over whether a student qualifies for coverage under the IDEA, the parent is entitled to submit their own evaluation information about the student, and to request an IEE. An IEE is an Independent Educational Evaluation. It is to be provided at public expense.

The “free”, in free appropriate public education, FAPE, means at no cost to the student or parent. The “appropriate”, in free appropriate public education means, according to the United States Supreme Court in *Board of Education of Hendrick Hudson Central School District v. Rowley*, 458 U.S. 176 (1982):

First, has the State complied with the procedures set forth in the [IDEA]? And second, is the individualized educational program developed through the [IDEA’s] procedures reasonably calculated to enable the child to receive educational benefits? If these requirements are met, the State has complied with the obligations imposed by Congress and the courts can require no more (206-07).

The “public”, in free appropriate public education means public, not private. Charter schools are public schools. Whether home schools are public schools, or private schools, or neither, depends on state law. The only circumstance where a public school district can be required to pay for a private education for a student covered by the IDEA, is where it is determined that the public school district cannot provide the free appropriate public education to which the student is entitled. However, the IDEA does require that public school districts make available to private schools a proportionate share of the federal funds that public school districts receive under the IDEA.

The “education”, in free appropriate public education, means education, not medicine, although it may include health care services. In *Cedar Rapids Community School District v. Garrett F.*, 526 U.S. 66 (1999), the United States Supreme court adopted what is referred to as a “bright-line” rule, for determining what services a school district may be required to provide to a student who qualifies for services under the IDEA. A school district may not be legally required to provide medical services to a student – such services being defined as those services that can only be provided by a physician, except to the extent that such physician’s services may be required for diagnostic purposes. A school district may be required to provide health care services to a student – such services being defined as those services that can be provided by persons other than a physician, to the extent that such services are necessary in order for a student to receive a free appropriate public education in the least restrictive environment.

There is not yet any United States Supreme Court case defining LRE, least restrictive environment. Individuals wishing to know the federal court definition of least restrictive environment need to look to the decisions of the most recent, and highest, federal court in their federal court circuit. In general, least restrictive environment is understood to mean educating students with disabilities covered by the IDEA

in the same environment as students without disabilities, as much as possible.

Every student covered by the IDEA is to have their FAPE in the LRE provided according to an **IEP, individualized education program. Every parent and professional should know that the definition of a FAPE in the LRE is governed by the IEP.** The IEP is to be created based upon a fair and comprehensive evaluation, with parent participation, and student participation when appropriate, with procedural safeguards to protect the parent and student's right to a FAPE in the LRE as provided for through the IEP.

4. Where can I go to get more information about the IDEA?

- The Law and Special Education, Mitchell L. Yell (2nd ed. 2006)
- Special Education Dictionary, J.W. Norlin, J.J. Kline, A.E. Slater (2007 ed.) This text can only be obtained directly from the publisher, LRP, at www.shoplrp.com, or 1-800-341-7874.

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Communication Considerations A to Z™ is a series from Hands & Voices that's designed to help families and the professionals working with them access information and further resources to assist them in raising and educating children who are deaf or hard of hearing. We've recruited some of the best in the business to share their insights on the many diverse considerations that play into communication modes & methods, and so many other variables that are part of informed decision making. We hope you find the time to read them all!