

Neurobiology of Learning Differences

Session 1: Students with Learning Differences – Policy and Legal Issues

IDEA...NCLB...Section 504...the Gifted...Common Core

This first slide is not recorded.

Our first session's presentations end with this review of the mandates that surround the school. Schools that accept public funds, and that is the majority of schools in the United States, must be aware of the legal requirements for teaching and testing.

Learning Differences

- Students with learning differences are not always students with disabilities
- Teachers need to accommodate all student needs in learning



There are students with special needs who do not have IEPs. There are students with IEPs who may not actually need them. There are others whose differences place them on an accelerated path that complicates teaching by putting the student at risk for becoming bored. Teachers have to work with all of these students, and often in the same classroom.

Individuals with Disabilities Education Act - IDEA

- Originated in the 94th congress in 1975
- Original name was Education of All Children with Handicaps Act
- Autism and TBI not specified as disabilities originally
- Has been reauthorized twice
- Next reauthorization is within the next two years

As mentioned in our prior presentation, IDEA has been around now for nearly 40 years. Over time, it has been re-evaluated and streamlined to better recognize need, pace, and format for mastery for students with special learning needs. The law has been improved over time to specifically recognize students in the growing population of individuals identified as being on the spectrum of autism, and the ever-changing needs of students who are recovering from traumatic brain injury have needed to be recognized as a distinct group as they return to school.

Reauthorization is an ongoing process and IDEA is likely to be reviewed again within the next few years.

IDEA



Mandates

FAPE	Free appropriate public education
LRE	Least restrictive environment Inclusive settings where appropriate
Related Services	Provided to allow the student to derive benefit from the general education curriculum
Review of Program	Annually with Re-evaluation every three years.

The main provisions are these –

Offer services at no cost to the family.

Offer the services in the most inclusive setting, that is, the classroom with age and grade peers, to the greatest extent possible that still allows progress.

Provide the supportive related services, such as speech or mental health counseling or physical or occupational therapies, and transportation to school.

Review progress at least once a year.

“Free public education” does not necessarily mean in a public school, however. If a student needs services provided by an approved nonpublic school, that setting should be provided without cost to the family – the district and the state often have a formula for sharing such costs.

All services determined to be needed by the student must be provided and accounted for in periodic reports to the parent or guardian.

Although review of progress is done annually, a full assessment of the student’s

current needs for specialized educational interventions must be done every three years.

IDEA

Incidence

- The four largest disability groups served in special education are...
 - specific learning disabilities (47.2%)
 - speech/language impairments (18.8%)
 - mental retardation (9.6%)
 - emotional disturbance (8.1%)
- These students make up approximately 83% of the special education population

Source: NCES report, 2007 (new report coming soon)

Nearly half of the students receiving special educational services are struggling with basic skills, such as reading, writing, or math concepts. The next largest group need intervention either in speech production, such as articulation therapy, or language therapy, in which the pragmatic use of language for communication is developed. As the law is currently on the books, the old term “mental retardation” is used, but in future reauthorization, the term will be changed to “intellectual limitation” or “intellectual disability”. About one in ten students in special education are identified with this limitation.

Emotional disturbance, which embraces a range of psychological and psychiatric diagnoses, has slightly less than one in ten students as its representation in schools. This is perhaps one of the less understood categories of disability. It is often seen as the place for students who exhibit noncompliant behaviors. This is inaccurate. Students with diagnoses such as depression, anxiety disorder, PTSD, schizophrenia, as well as oppositional/defiant disorder are identified in this group.

These four categories are currently identified as addressing the greatest amount of specialized educational service. There is a growing number from another group, however.

IDEA

source: National Association of Special Education Teachers, 2007

Disability Category	# of children served	% of Spec Ed Population
Specific Learning Disabilities	2,816,361	47.2%
Speech and Language Impairment	1,118,543	18.8%
Mental Retardation	570,642	9.6%
Emotional Disturbance	482,597	8.1%
Other Health Impairments	449,093	7.5%
Autism	140,473	2.3%
Multiple Disabilities	131,225	2.2%
Hearing Impairments	71,118	1.2%
Orthopedic Impairments	67,772	1.1%
Developmental Delay*	65,878	1.1%
Visual Impairments	25,294	0.4%
Traumatic Brain Injury	22,459	0.4%
Deaf-Blindness	1,603	<0.1%
All disabilities	The recent increase in autism diagnoses will change this distribution.	

As you can see, autism spectrum disorder, which currently claims approximately one in 65 children, is on the rise as children are identified. This does not necessarily mean that there is more ASD among the population.

Two things contribute to this statistic: better and earlier identification, and code switching.

The stigma that might have existed in the past has diminished and not only are parents better able to hear and deal with the diagnosis of autism, they are accessing testing for their children earlier as they note differences in language development, skill learning, and social dimensions of their children. Because of this, preschools and early childhood programs are better able to serve these children. Autism is not necessarily a diagnosis that requires isolation into a restrictive school setting. Many high functioning individuals with autism go through school and into college with little trouble.

Code switching occurs when a prior designation from IDEA is switched from a code of intellectual disability, for instance, to autism. This might include prior identification with communication disorders, learning disabilities, emotional disturbance, or developmental disability. The numbers in categories change regularly and they must be viewed for what they are – just numbers.

IDEA

Alignment with NCLB

The mandates of the legislation known as No Child Left Behind apply to special education students as well

States and districts can create alternative assessment formats for students with special needs, but they are not released from their responsibility to provide research-based, regularly evaluated programs of instruction with rigorous standards

Because the demands for performance assessment and the standards for curriculum are the same for children at specific ages and grades, students in special education are sometimes at a disadvantage.

High stakes testing still applies to students in special education programs and there are limits on how much accommodation can be offered.

The provisions of IDEA do not accommodate the needs of students for whom English is not the first language, either, and so many newcomers to American schools will struggle with assessments.

No Child Left Behind Act of 2001

- Full Title: “An act to close the achievement gap with accountability, flexibility, and choice, so that no child is left behind”
- Enacted by the 107th Congress
- To be reauthorized in 2011 (has not occurred)

The actual name of this legislation says it all. The intent of the law is to close the gap created by poverty, and inequality of access, while providing families with choices to find schools that serve their children when the community school is failing.

Provisions

- Statewide assessments
- Annual Yearly Progress (AYP) standard
- Consequences for failing schools
- Provision of “highly qualified” teachers
- Common expectations for all students
- Increased accountability
- School choice

The requirement for ongoing high stakes testing in each state, with an indication of whether or not progress on goals set by the schools has been met, is the chief measuring stick of effectiveness. If schools do not demonstrate progress, funding can be lost, schools can be taken over by the district or state for corrective action or even closed, and teachers may be transferred or dismissed.

Teachers are supposed to be credentialed in the areas in which they teach, but with shortages in areas like mathematics and special education, that standard is not always met. Some teachers in areas with general teacher shortages, teach both in and out of their field of expertise.

A problem that exists for families is the fact that although they may have a choice to place their child in a school that is succeeding, the school might be too far away or in a different district.

Some complications for students with special needs and learning differences

- No provisions for students for whom English is not the first language.
- Narrow definition of “research” in identifying research-based practices
 - almost exclusively quantitative.
- Reduced time for arts and electives in order to provide time for instruction in core subjects that are assessed.

As mentioned, English language learners are in an especially bad spot during testing. A true indication of their capacity is not possible, and yet they are required to attempt the test.

Some complications for students with special needs and learning differences

- 100% of students required to meet the same standard.
- No special provisions for students in special education or who have other disadvantages – accommodations such as more time, typing instead of writing, or having problems read to the student do not count as “special.”
- Alternative assessments are permitted for only 1% of students with special needs.

Everyone must take the test, but only a very limited number of students are allowed an alternative path to demonstrating mastery. Usual accommodations that are permitted for other school work are not permitted in high stakes testing.

504 Plans

- Originated in 1973
- Section 504 of Rehabilitation Act, not education legislation
- Considered civil rights legislation
- May follow an individual into adulthood for higher education or employment accommodations

A common alternative document that teachers may be familiar with is the 504 Plan. This description of accommodations is part of civil rights legislation, linked to the Americans with Disabilities Act. It is not education legislation, and in fact, was authorized prior to IDEA. It covers the need for accommodation in an environment – this could be a school, a business, a public agency or building.

504 Plans

- Section 504 of the Rehabilitation Act of 1973 outlines the provisions that can be made for students who have [disabilities](#) or impairments that adversely affect their performance in the general education classroom.
- Children who are offered services under 504 plans are enrolled in their school districts as general education students, and therefore are not entitled to the IEP provisions granted to special education students.

The main thing of note in the use of 504 plans in school is that the students with these plans are considered general education students and not special education students.

Who is eligible for a 504 plan?

- To be covered under Section 504, a student must be “qualified ” (which roughly equates to being between 3 and 22 years of age, depending on the program, as well as state and federal law, and must have a disability)

[34 C.F.R. §104.3(k)(2)].

Although a parent or someone working with a student to address these needs can request the 504 plan for use in school, the school must agree that the child’s performance is somehow impeded without the plan. Otherwise, any parent who wanted some extra time for assignments or preferential seating or other accommodations for their child could ask for them.

The need must connect with school performance.

Who is disabled under 504?

As defined by federal law:

“An individual with a disability means any person who:

- (i) has a mental or physical impairment that substantially limits one or more major life activity;
- (ii) has a record of such an impairment; or
- (iii) is regarded as having such an impairment”

[34 C.F.R. §104.3(j)(1)].

Many times, students with ADHD have these plans, providing accommodation in schedules, seating or peer or teacher assistance for work. Some counseling services can be provided for students in need of structure or support to address specific behaviors.

Students with medical issues such as diabetes, asthma, sickle cell disorder, or other chronic conditions might require assistance from a nurse or health care provider in the school. They may have attendance issues that require someone providing work to them remotely when they are absent.

Gifted Students

- Each state defines differently
- No special provisions for state assessments for gifted
- Only 26 states require special programs for the gifted

The one group that is exceptional, but is not considered special in the world of special education is the gifted student. There is no law that protects them or guarantees that their special needs are met. There is no special test to determine giftedness. It is sometimes aligned with special talents in “gifted and talented” programs.

Only slightly more than half of the states even require that these students be recognized as needing special intervention.

Federal Definition

Students, children, or youth who give evidence of high achievement capability in areas such as intellectual, creative, artistic, or leadership capacity, or in specific academic fields, and who need services and activities not ordinarily provided by the school in order to fully develop those capabilities

Note: States and districts are not required to use the federal definition, although many states base their definitions on the federal definition.

Source: Maryland Report to Congress, 1972

Although there is a definition of gifted in at the federal level, there is no requirement that states use it. The definition is relatively vague, not specifying what “high capability” means or how leadership capacity connects to daily school programming.

Another factor that frequently impacts funding for the gifted student is funding. The development of these capacities requires extra dimension to a school’s program. This is not always available in schools that are struggling with budget issues.

Who is Gifted?

- Approximately 3 million children of school age are identified as being academically gifted
- This represents about 6% of the school population
- There is no official statistical report on gifted students – it is estimated that the numbers change as categories of “giftedness” expand

Because every community defines the term differently, any real numbers on how many students are actually in this category are not available. It is only when the students with exceptional ability in some areas are struggling in other areas and are served as “twice special” in category, that more is known about this dimension of function.

Risks

- Gifted students can be at risk in the same way that students with diagnosed special needs for an accurate and appropriate program of instruction.
- They may actually be at greater risk of not receiving appropriate programs due to the fact that there is no mandate for such programs.
- Students may be gifted in a specific area of functioning and have differences and special needs in another.

Some well known performers in sports and the arts have described struggles in school. Although gifted in creative areas or athletic endeavors, they might struggle with reading, writing or math. Although a great singer and actress, Cher has often described her struggles with dyslexia. Others, such as Thomas Edison, Winston Churchill, and Bill Gates struggled in school, and yet their gifts have been obvious.

Common Core

- A set of high-quality academic standards in mathematics and English language arts/literacy (ELA).
- Outline what a student should know and be able to do at the end of each grade.
- Intended to ensure that all students graduate from high school with the skills and knowledge necessary to succeed in college, career, and life, regardless of where they live.
- 45 states, the District of Columbia, four territories, and the Department of Defense Education Activity (DoDEA) have voluntarily adopted and are moving forward with the Common Core.

The most recent demand in the school setting is Common Core. These standards emerged from a meeting of the Nation's governors in 2009. The concern was that in the mobile population that is the United States in the twenty first century, there was no standard for what a student in 5th grade should know, or what math skills a student should have before graduating high school.

This unequal pool of future students and workers meant that the standards by which students were either admitted into college or hired for the workplace were all over the map. Many employers found new hires lacking in basic math and writing skills. Colleges had to offer remediation in writing so that freshmen could compete in the realm of reading and writing research papers that are part of college.

The Standards

Although there is much disagreement and conflict surrounding how the standards will be implemented, the difficulties seem to align around four things:

- Are the standards developmentally appropriate for each grade level?
- How is the curriculum for implementing the standards to be developed?
- How are teachers to be trained in the new curriculum applications?
- What assessment will be developed to determine mastery of the standards?

For more information on the Common Core, go to www.corestandards.org.

The Common Core Standards are one part of a three pronged concept. The standards are the first part, the curriculum to teach the skills to meet the standards is the second part, and the assessment of the standards is the third part. There are questions about all of this as this new design is embraced by the states. These questions have not been clearly answered at this time.

Because of this, applying standards, curriculum and assessment to students whose neurological development is not completely understood either, is a complication to education in this first generation of the century.