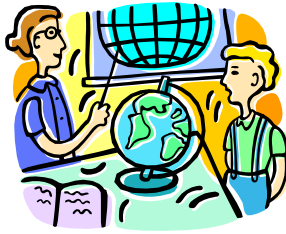


BASICS OF SPECIAL EDUCATION



WHAT LAWS ARE APPLICABLE IN SPECIAL EDUCATION?

- The Individuals with Disabilities Education Act (IDEA)
- Section 504 of the Rehabilitation Act of 1973 (Section 504)
- The Americans with Disabilities Act (ADA)

WHEN DOES SECTION 504 APPLY AND WHAT DOES IT REQUIRE?

- Section 504 applies when an agency or program receives federal funding
- Section 504 defines a person with a disability as an individual who has a physical or mental impairment that substantially limits one or more of the individual's major life activities
- A free appropriate education (FAPE) is required, but this is not the same FAPE as required by the IDEA
 - Equal access to educational services for students with disabilities is guaranteed
 - Accommodations and support services are generally determined during a meeting with the student's parents and appropriate general education staff
 - Services and accommodations are usually written into a student's 504 Plan
- Schools must evaluate students believed to have a 504 disability before placing in regular or special education
- Manifestation determination meetings must be held prior to disciplining or changing student's placement
- Assistive technology must be provided
- Students must be educated in the least restrictive environment (LRE)

WHEN DOES THE ADA APPLY AND WHAT DOES IT REQUIRE?

- The ADA applies to employment, state and local governmental services and transportation, to goods and services provided by public accommodations, and to telephone and telecommunication services regardless of whether or not the agency or program receives federal funding

- FAPE not specifically required in the ADA, but The Office for Civil Rights has interpreted the ADA to have the same FAPE requirements as Section 504
- The ADA requires that school districts provide auxiliary aids and services to ensure effective communication
- Private schools are included within the list of public accommodations, therefore they are prohibited from discriminating against qualified students with disabilities

WHEN DOES THE IDEA APPLY AND WHAT DOES IT REQUIRE?

- The IDEA applies only to schools; students qualify as having a disability if they have an impairment and need special education and related services
- The IDEA requires that students receive a free appropriate education (FAPE) (different than Section 504 FAPE); services must
 - be provided at public expense, under public supervision and direction, without charge
 - meet the standards of the state educational agency
 - include appropriate preschool, elementary, or secondary school education
 - be provided in conformity with the student's individualized education plan (IEP)
 - include any related supplementary aids and services that a child needs
- IDEA requires that students be educated in the least restrictive environment (see Disability Law Colorado's handout on LRE for additional information)
- Students may have an extended school year if their IEP team determines it is necessary (see the LRE handout for more information about the IEP team)

WHAT LAWS PROTECT MY CHILD FROM BEING HARASSED BECAUSE OF HIS/HER DISABILITY?

- Disability harassment violates both Section 504 and the ADA
- The laws also protect people against retaliation for trying to enforce or taking advantage of their rights or the rights of their children

***** DISCLAIMER: This is not intended as legal advice, but rather for informational purposes only. Always consult a lawyer if you have questions about your legal rights. *****

References:

The Everyday Guide to Special Education Law: A Handbook for Parents, Teachers, and Other Professionals, by Randy Chapman, Esq.
 Randy Chapman's Ability Law Blog, <http://randychapman.wordpress.com/>
 Disability Law Colorado – www.disabilitylawco.org
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