

## Introduction to Special Education Rights

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**Disability Rights IOWA**  
Law Center for Protection and Advocacy™

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## Child Find

▶ Schools have an affirmative duty to:

- Find (identify)
- Locate
- Evaluate

All children with a disability or who are suspected of having a disability

20 U.S.C. 1412(a)(3); 34 CFR 300.111; IAC 281-41.111

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## Evaluation

▶ Parental consent required

▶ 60 days to evaluate

▶ Eligibility

- Child has disability
- Needs specialized instruction to access general curriculum

20 U.S.C 1414(a); 34 CFR 300.301-306; IAC 281-41.301-306

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### Independent Educational Evaluation (IEE)

- ▶ If parent disagrees with any evaluation, then parent is entitled to :
  - IEE
  - At public expense
  - By qualified examiner
  - Results must be considered by the school

20 U.S.C. 1415(b)(1); 34 CFR 300.502; IAC 281-41.502

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### Free and Appropriate Public Ed.

- ▶ FAPE is available to all children with disabilities residing in the state between the ages of 3 and 21.

(20 U.S.C. § 1412(a)(1); 34 C.F.R. §300.101; 281-IAC 41.101)

- ▶ FAPE includes special education and related services that meet the standards of the State educational agency and are provided in conformity with the legal requirements for the IEP.

(20 U.S.C. §1401(9); 34 C.F.R. §300.17; 281-IAC 41.17)

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### Special Education

- ▶ Special education is defined by the IDEA, in part, as specially designed instruction that meets the unique needs of a child with a disability.

(20 U.S.C. §1401(28); 34 C.F.R. §300.39; 281-IAC 41.39)

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### Individual Education Program (IEP)

- ▶ Parents and child are an integral part of the IEP team
  - Surrogate parent
- ▶ Goals must be clear, achievable, and measureable
  - Academic and behavioral
  - Supports and services
- ▶ May include a Functional Behavior Assessment (FBA) and Behavior Intervention Plan (BIP)

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### Transition Services

- ▶ Strengths-based coordinated set of specialized instruction and services to prepare student for post-secondary life:
  - Living
  - Learning
  - Working
- ▶ Start at age 14 in Iowa (Age 16 federally)

20 U.S.C. 1401(34); 34 CFR 300.43; IAC 281-41.43  
20 U.S.C. 1414(d)(1)(A)(i)(VIII); 34 CFR 300.320(b); IAC 281-41.320(2)

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### Discipline

- ▶ A student on an IEP cannot be expelled from school
- ▶ Free and Appropriate Public Education (FAPE) requirement
  - FAPE free up to 10 days
  - After 10 days the student must receive some type of FAPE services

20 U.S.C. 1415(k); 34 CFR 300.530-536; IAC 281-41.530-536

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### Manifestation Determination

- ▶ Change of Placement
  - Over 10 consecutive days
  - Over 10 totals days in a school year with a pattern
- ▶ Notice
- ▶ If yes, return to previous placement
- ▶ If no, alternative educational placement to be decided by IEP

20 U.S.C. 1415(k); 34 CFR 300.530-536; IAC 281-41.530-536

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### No Manifestation Meeting

- ▶ Removal is for 10 or under days
- ▶ Over 10 days in a school year, no pattern
- ▶ Special Circumstances (up to 45 days in alternative educational placement)
  - Weapons
  - Controlled Substances
  - Serious Bodily injury

20 U.S.C. 1415(k); 34 CFR 300.530-536; IAC 281-41.530-536

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### Transfer of Rights

- ▶ Rights of parents transfer to student when the student reaches the "age of majority"  
(20 U.S.C. §1415(m); 34 C.F.R. §300.520; Iowa Admin. Code 281-41.520)
- ▶ In Iowa, age of majority is age 18
- ▶ Schools must provide notice to student and parents one year before age of majority and transfer rights to student on date of birthday  
(Iowa Admin. Code 281-41.320(3))

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### To Contact Us

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