

# Special Education Law :

## An Introduction for Parents



Children's Law Clinic  
Duke Law School

# Goal:

Provide a basic understanding of the special education process and some of its common vocabulary\*

\*Disclaimer: This presentation is not a comprehensive review of the federal and state laws, regulations and policies governing special education, and is not intended as legal advice.



# What is special education?

Special Education is a legal phrase used to describe a way of educating a child with a disability when that disability is getting in the way of their learning.

Special education is ...

- a way of teaching kids with disabilities who struggle to learn without special help
- not a place
- provided by the school and is free to parents
- given where the child needs it, whether in a regular classroom, a special classroom, or in a special school



# Does your child need Special Education?

- If your child isn't doing well in school, can't keep up with his classmates, can't complete his work, isn't passing his EOG tests, has failed or is failing in school ...
- If your child is having behaviors that are causing her to do poorly in school, either because she is getting in trouble in class, being suspended from school or just not paying attention and/or handing in her work ...
- If your child hates going to school or doesn't get along with the kids or adults at his school ...

... Your child may have a disability that is getting in the way of learning.

# Sound Familiar?

**\* While all of these warning signs may be normal if they occur just once or twice throughout a child's school years, or during a particularly difficult time in your child's or your family's life, repeated issues may be a cry for help.**

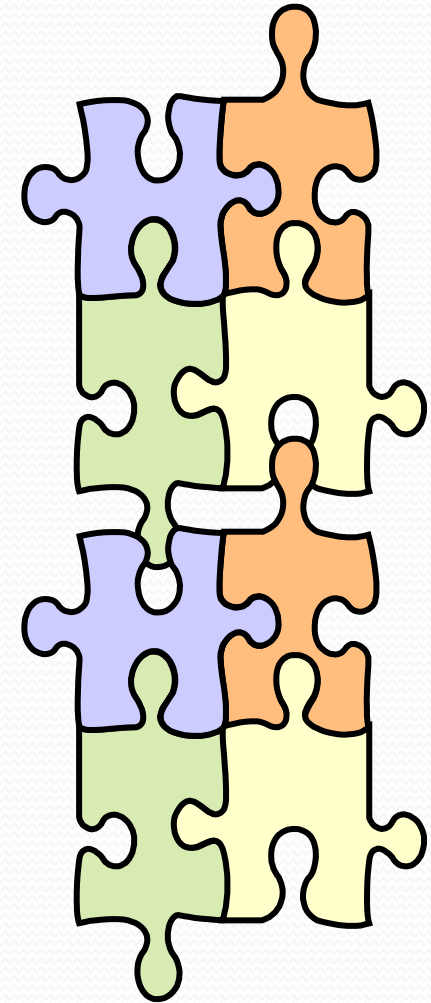
- If your child does have a disability that gets in the way of his learning, the school is required, by law, to find ways to help.
- This federal law is called the IDEA (Individuals with Disabilities Education Act).

# Types of diagnoses that may mean special education is needed

- Autism
- Hearing problems
- Vision problems
- Developmental delays
- Emotional disabilities
- Mental retardation or Intellectual disability
- Serious medical problems
- Serious physical problems
- Attention deficit hyperactivity disorder (ADHD)
- Specific learning disabilities
- Speech or language problems
- Brain injury

# The Special Education Puzzle: Terms You Should Know!

- The world of special education uses many key terms that may be unfamiliar to you
- But the general meanings of these words aren't hard to understand and knowing what they mean can be useful in trying to get help for your child!
- Let's review **4** frequently used phrases in Special Education, so that you will understand their basic meaning.



# Terms to Know

- The following **4 “special education”** terms are commonly used by teachers, principals, counselors and other people in the school system.
- We will discuss each of them:
  - 1) **Evaluation**
  - 2) **IEP**
  - 3) **FAPE**
  - 4) **Reasonable Progress**



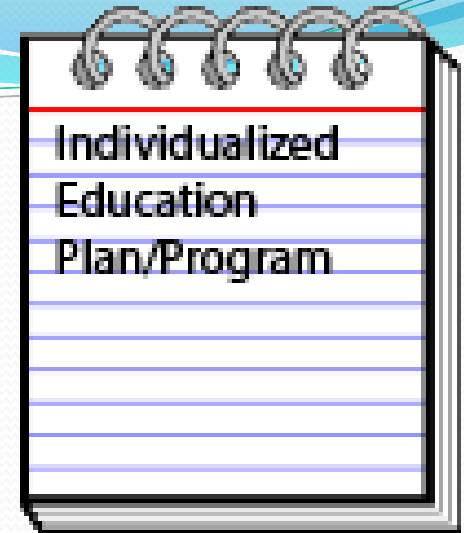
# 1. Evaluation --*To determine your child's right to special education services, he or she needs to be evaluated:*

- An **evaluation** is done by a school psychologist to determine if a child has a disability that is interfering with his learning.
- An evaluation might also be called a “**psychoeducational assessment**” or just “**testing.**”
- An evaluation is **FREE** & arranged by the school district.
- You have the right to have the psychologist or other knowledgeable person explain the results of the evaluation to you.

# Planning is key:

## 2. IEP

= Individualized Education Program.



- If your child is determined to be eligible for special education, the school must design an education program that is *specifically* designed to fit her particular needs.
- An IEP is a written document that sets out individualized goals for your child and how her education needs will be met.
  - It sets out goals for your child which must be reviewed at least yearly AND
  - Sets out a specific plan (of education and services) to achieve your child's educational goals.

### 3. FAPE =

**F**ree **A**ppropriate **P**ublic **E**ducation



- The special education laws entitle children with disabilities to education and services that are appropriate to meet their special learning needs.
- A FAPE should be given in the Least Restrictive Environment– which means that your child should be with non-disabled students as much as possible.
- A FAPE includes special education and services that are needed to help your child make PROGRESS in school.

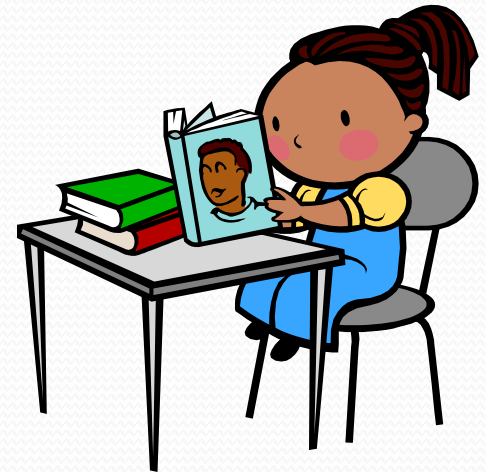
# Not Making Progress in School is NOT Okay:

## 4. Reasonable Progress

- Your child – by law – is entitled to make “reasonable progress” in school.
- Your child’s IEP keeps track of this progress.
  - It sets yearly goals and monitors how your child is doing on reaching the goals.
- You should be kept informed, through progress reports, about your child’s progress on his annual goals.
- Every year the IEP team comes back together to write goals for the next year.
- **If you have concerns that your child is not making progress on his IEP goals, you can always call a meeting before the end of the year. You do NOT have to wait for the annual meeting!**

If you think your child could benefit from having an **IEP**, Remember the **Three T's**:

- **Talk**
- **Testing**
- **Talk (Again)**



# Talk

## Remember...

**You are in the best position to help your child.**

**ONE teacher may have dozens of students each semester, so it may be difficult to notice problems in each individual student.**

**If you suspect a problem, SPEAK UP!**

## How to Get Help:

If your child is struggling and you think your child may have learning-related disability, take these steps:

- 1) Talk to your child's teacher -- the teacher may try some different teaching techniques for awhile to see if they help your child
- 2) If that doesn't work after about 6-8 weeks, ask for your child to be evaluated
  - Ask in WRITING: Write down what you think your child's problems are and ask that she be evaluated for a disability
  - Give this request, in writing, to the principal
  - Follow up with the principal

# Sample

DATE

Dear Ms. Principal,

My son, James is a 3<sup>rd</sup> grader in your school. Lately, he has really been struggling to keep up in reading and math. He also has a really hard time paying attention and completing his work.

I would like to have him tested to see if he needs an IEP.

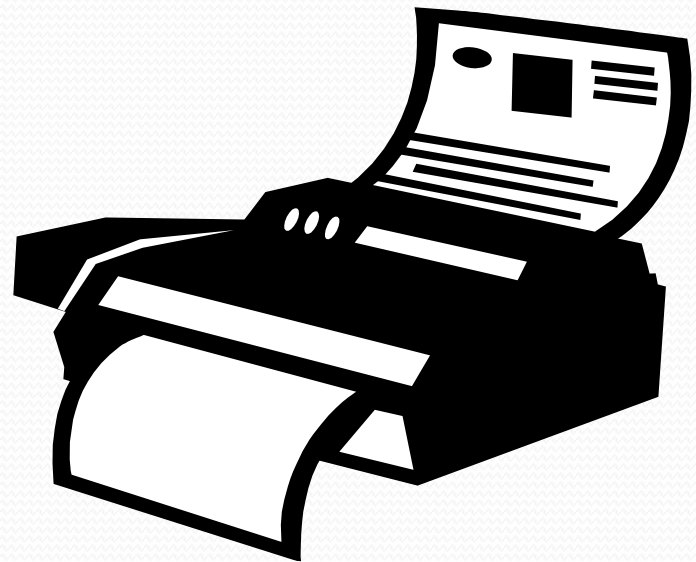
Thank you,

Ms. Smith



# Talk

- Keep a **DATED COPY** of the request for yourself.
  - Once a parent makes a written request for “evaluation”, NC law gives the school **90** days to complete testing for the child and have a meeting to decide if she is eligible for special education.
  - If you don't hear anything from the school in two months after requesting that your child be tested, follow up to make sure they haven't forgotten!



# Testing

During the **90 days** after you make a request to get your child tested, you can expect the school to do several things:

- Perform an **evaluation** of the child, especially in the area of the suspected disability
- Meet to present their **results** to the team, including parents or guardians
- Decide whether the child is **eligible** for special education services
- Complete an **IEP** if the child does have a disability
- Begin to provide special education **services**

# Testing

## The Testing Phase...

- Once you have made your request, be sure not to leave the most important person out of the process – your child!
- Your child may be occasionally taken out of classes to be tested. Keep your child in the loop so they aren't surprised. The process will go a lot more smoothly if your child knows what to expect and understands what the purpose of the testing is.
- Continue to communicate with your school and don't be afraid to ask questions. Your school knows all about IEPs and the process and has trained professionals who can guide you and your child through the process.

# Talk (Again)

## The Eligibility Meeting...

Once the evaluation of your child is complete, a team of people composed of you, your child's teachers, a school psychologist and other school faculty will meet to discuss the results of the evaluation.



# Talk (Again)

## The Eligibility Meeting...

At the meeting, the team of people will decide if the testing shows that your child has a disability and is eligible for special education services. If so, the team will write an **Individualized Education Plan (IEP)** describing the education and services your child will get either at the meeting or another meeting soon thereafter.



# IEP

- If a student is eligible, an IEP (Individualized education plan) is written for the student.
- You are a member of the IEP team!
- The IEP describes the child's current strengths and weaknesses and sets out goals for the child's learning
- The IEP also describes the special education services which will be given to the child to help him reach these goals
- The IEP is revised and updated at least once a year by the IEP team. This is called the "annual review."
- You are an important member of the IEP team, and as a member of the team, may request a meeting before the annual review date if you have concerns, or feel the goals or services in the IEP need to be changed.

# Talk (Again)

## What if my child is not found eligible?

- Other options:
  - A Personal Education Plan – no disability needed to qualify
  - A 504 Plan – a plan for children with disabilities that do not qualify for an IEP.
    - Provides classroom modifications & accommodations (sit near teacher, extra time on tests, teacher checks planner)
    - Does not provide special instruction from a special education teacher
  - After school tutoring programs

# Talk (again)

- If you disagree with the decision that your child is not eligible for special education services, you have the right to try to resolve this dispute
- There are a number of ways in NC to help resolve these disputes:
  - You can contact and try to involve higher level special education staff at the school district
  - You can request Mediation (through the NC Department of Public Instruction, DPI)
  - You can file a formal due process appeal with the Office of Administrative Hearings (last resort!)



# Helpful resources

- Exceptional Children's Assistance Center (ECAC) ~ *ECAC is a resource center for parents of children with disabilities. They provide parent trainings, host a call-in hotline to answer parent questions and have a helpful website*
  - Parent Info Line: 800-962-6817
  - <http://www.ecac-parentcenter.org/>
- Department of Public Instruction - Exceptional Children's Division ~ *publishes the NC policies on children with disabilities and makes sure that school districts are following the policies. They can receive complaints about school districts not following the law, and have resources available to help parents and school districts resolve their disagreements*
  - <http://ec.ncpublicschools.gov/>
- Legal Aid of North Carolina
  - Know Your Rights in NC Public Schools can be downloaded from <http://www.legalaidnc.org/acsoffline.aspx>

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