

SPECIAL EDUCATION ADVOCACY

OVERVIEW

Students in foster care are disproportionately likely to be eligible for special education supports and services. Federal law requires that students with disabilities receive individualized educational plans. These take the form of either an Individualized Education Program (IEP) under IDEA or a Section 504 Plan under the Rehabilitation Act of 1973. Both must include a Free and Appropriate Public Education (FAPE) in the least restrictive environment (LRE).

Frequent school setting changes and variations in parental involvement compound these students' vulnerability to gaps in services and lost documentation. CASA's role is essential to facilitate parent/caregiver/surrogate involvement at each stage of the IEP or 504 Plan process, monitor educational progress, provide individualized attention to safeguard educational rights, and ensure the student has the opportunity to obtain a meaningful education.

- ▶ See also the ***Education Advocacy*** guide for general educational advocacy information.

CHILD FIND AND EVALUATION FOR SPECIAL EDUCATION ELIGIBILITY

The Child Find mandate requires schools to actively seek out and evaluate students who may have disabilities and need special education services. Any student, regardless of whether concerns have been formally raised, may be referred for evaluation under IDEA or Section 504 for special education services.



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PRACTICE POINTS

- Understand that the Child Find mandate (34 C.F.R. § 300.111) applies to every school district. Schools must actively identify, locate, and refer students with suspected disabilities for evaluation.
- Know that parents/caregivers, surrogates, and school staff can initiate an evaluation request. Request in writing that the student be evaluated in all areas of suspected disability.
- For IDEA eligibility, the student must have a disability in one of 13 eligibility categories that adversely affects their educational performance. Refer to the Georgia Department of Education's list of eligibility categories — Autism (ASD), Deaf-blindness, Deafness, Emotional Disturbance (ED), Hearing Impairment, Intellectual Disability, Multiple Disabilities, Orthopedic Impairment, Other Health Impairment (OHI), Specific Learning Disability, Speech or Language Impairment, Traumatic Brain Injury, and Visual Impairment.
- For Section 504 eligibility, a student is considered to have a disability if they have a physical or mental impairment that substantially limits one or more major life activities, such as learning or behavior.
- Once an evaluation is requested, ensure it is completed promptly and in all areas of suspected disability. Review evaluation results and participate in the eligibility determination meeting.



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UNDERSTANDING IEPs AND 504 PLANS

An Individualized Education Program (IEP) under IDEA and a Section 504 Plan under the Rehabilitation Act of 1973 are legal documents that outline how schools will support students with disabilities.

An IEP specifies the student's disability, eligibility for special education services, current levels of performance, annual goals, supports and accommodations, and placement. A 504 Plan outlines how the school will remove barriers to learning and provide equal access to the general education experience.

All students who are eligible for an IEP are eligible for a 504 Plan, but not all students with a 504 plan are eligible for an IEP. Both require regular review, current information, and demonstrated educational progress consistent with the student's abilities.



PRACTICE POINTS

- Ensure that an educational surrogate has been requested or appointed to advocate for the student if a parent/caregiver is unavailable. A CASA volunteer may serve in this role but needs an additional appointment order.
- Obtain and review the student's complete educational records, including current IEP or 504 Plan, previous evaluations, and documentation of services and progress. This is of critical importance.
- Verify that the IEP or 504 Plan is reviewed and updated at least annually, or more frequently if the student is struggling or if circumstances change.
- Request an IEP or 504 Plan meeting if services outlined in the plan are not resulting in educational progress consistent with the student's abilities. Ask to re-examine the plan, identify missing services, and determine how to provide better supports.
- Remember that parent/caregiver/surrogate can request IEP or 504 Plan meetings as often as needed to address emerging concerns.
- At every IEP or 504 Plan meeting, seek and clarify information specific to the student's needs and ensure corresponding supports (such as tutoring or accommodations) are written into the plan. Ask questions about the effectiveness and implementation of individualized supports from the student, teacher, and caregiver perspectives.
- Bring the student to meetings for their input, or at minimum, ensure the student's perspective is represented.
- Verify that the student is educated in the least restrictive environment (LRE). This means students are educated with nondisabled peers to the maximum extent appropriate and removed from regular classes only when supplemental aids and services cannot achieve satisfactory education in the regular setting.
- Confirm that the student is re-evaluated at least every three years. If the parent/caregiver/surrogate disagrees with the school's evaluation, request an Independent Education Evaluation (IEE) at no cost to the family.
- Share relevant educational information with the court, including progress updates, identification of unmet educational needs, and recommendations for supports and services.

SCHOOL TRANSITIONS AND IEP/504 PLAN CONTINUITY

When students change schools, their IEPs or 504 Plans must move with them. Advocates must ensure that records transfer promptly, plans are reviewed in the new setting, and services continue without interruption.



PRACTICE POINTS

- When a student is placed at a new school, ensure that the previous IEP or 504 Plan and all associated records arrive at the new school without delay.
- Request a meeting at the new school to examine and review the IEP or 504 Plan in light of the new placement and any changed circumstances.
- Remember that if a service is not documented in the IEP or 504 Plan, there is no legal basis to enforce that the student receives it at the new school. Verify all services are in writing before the student transitions.

BEHAVIORAL SUPPORTS FOR STUDENTS WITH DISABILITIES

Students with disabilities whose disability impacts behavior cannot be denied support services or academic instruction because of behavioral concerns. A Functional Behavioral Assessment (FBA) and Behavior Intervention Plan (BIP) should address the root causes of problematic behavior and support the student's ability to access their education.



PRACTICE POINTS

- Understand that students eligible for IDEA or a 504 Plan who have behavior-related needs are legally protected from losing access to academic instruction, FAPE, or educational progress due to their disability.
- Request that an FBA be conducted to examine problematic behaviors and understand their underlying causes. The FBA should inform the development of BIP.
- Ensure that the BIP addresses the most problematic or frequent behaviors and is tailored to the individual student's needs.
- If a student experiences in-school or out-of-school suspension, restraint, or loss of academic instruction, recognize this as a sign that the behavior support plan is ineffective. Call an IEP or 504 Plan meeting immediately to re-examine and revise the support plan.
- Verify that behavior-related disciplinary action does not result in loss of services or FAPE. Ensure ongoing academic instruction and support services continue.