

Extraordinary Cost Fund of Special Education 2018 Interim Study

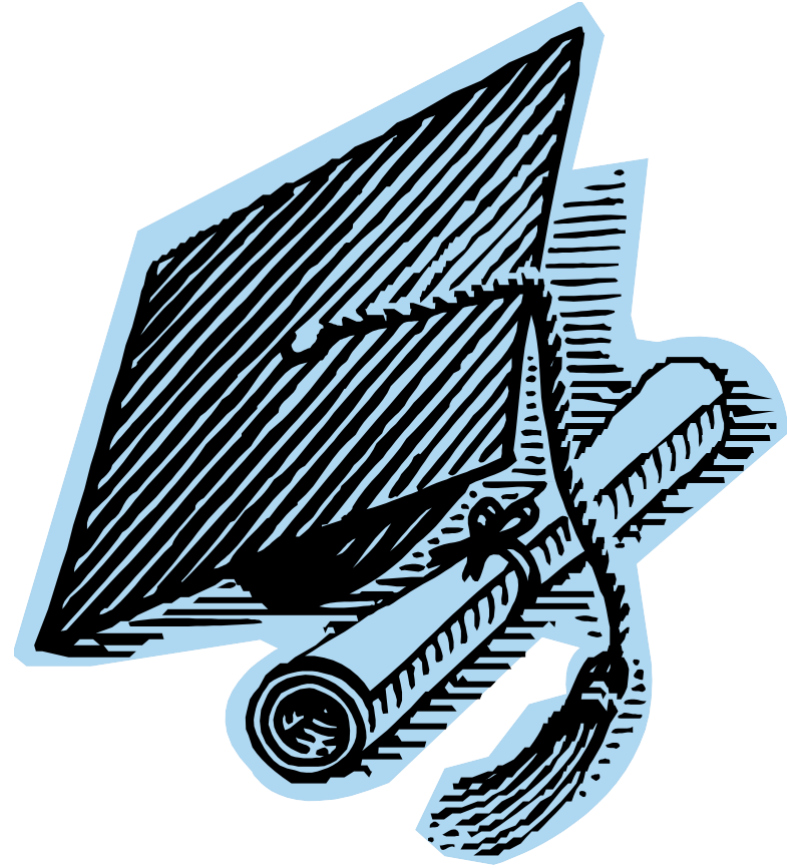
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THE HISTORY OF SPECIAL EDUCATION

CIVIL RIGHTS ACT OF 1866

- By declaring that all persons born in the US are citizens, this act provides that it was illegal to discriminate against individuals on the basis of color, race or whether they were a slave.
- This in turn would help in future litigation and provide remedy for those effected in the education system.



PLESSY V. FERGUSON – JANUARY, 1896



- The supreme court ordered that it was legal to segregate individuals and have separate facilities as long as they were equal.

EARLY IMPACT ON EDUCATION FOR CHILDREN WITH DISABILITIES

- In 1948, only 12 percent of all children with disabilities received some form of special education.
- By the early 1950s, special education services and programs were available in school districts.
- Students were in separate special classes that focused on learning manual skills such as weaving and cleaning and were not taught academic skills.
- Discrimination was evident for children with disabilities in schools.

BROWN VS. BOARD OF EDUCATION, 1954

- We discovered separate was not equal.
- This decision changed Plessy v. Ferguson from 58 years earlier.
- This was a consolidated case fought for desegregation of all public school systems in the US.
- The case was fought on the grounds of discrimination.



BROWN VS. BOARD OF EDUCATION, 1954

- Brown set the precedent for future discrimination cases in special education.
- People with disabilities were recognized as another group whose rights had been violated because of arbitrary discrimination.
 - For children, the discrimination occurred because they were denied access to schools because of their disabilities.
- If Brown could not segregate by race, then schools should not be able to segregate or otherwise discriminate by ability and disability under the 14th amendment of the US constitution-The Equal Protection Clause.

CHANGES IN THE 1960s

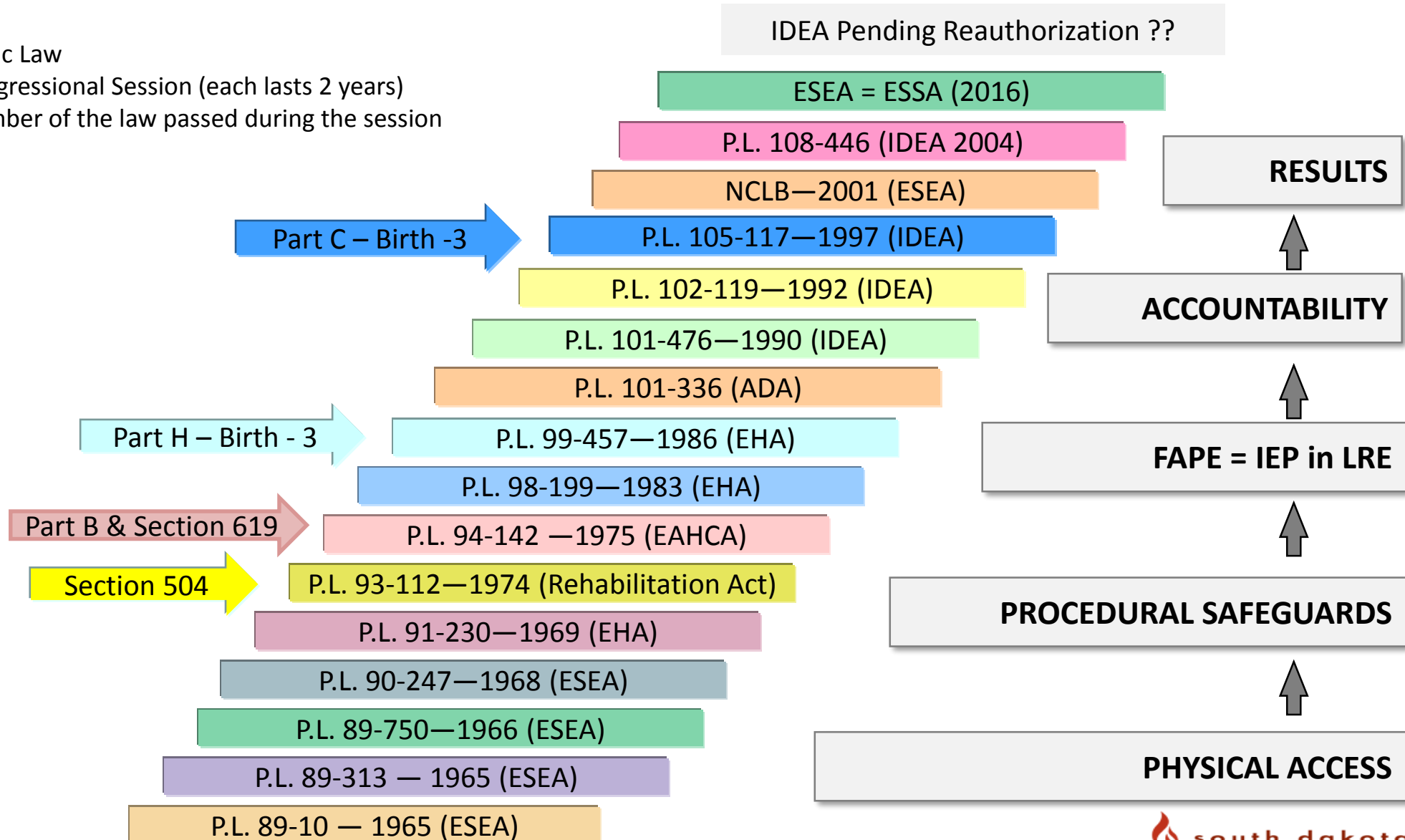
- In the 1960s, parents began to become advocates for educational opportunities for their children.
- By the end of the 1960s, landmark court cases set the stage for enactment of federal laws to protect the rights of children with disabilities and their parents.

The Legislative History of Special Education

P.L. = Public Law

108 = Congressional Session (each lasts 2 years)

446 = Number of the law passed during the session



CHANGES IN THE 1970s

“During the early part of the 1970’s, forces came together to create the perfect storm. Groups that did not talk to each other or didn’t have much in common all of a sudden had a common interest for a national set of policies and national funding for special education.”

Fred Weintraub,

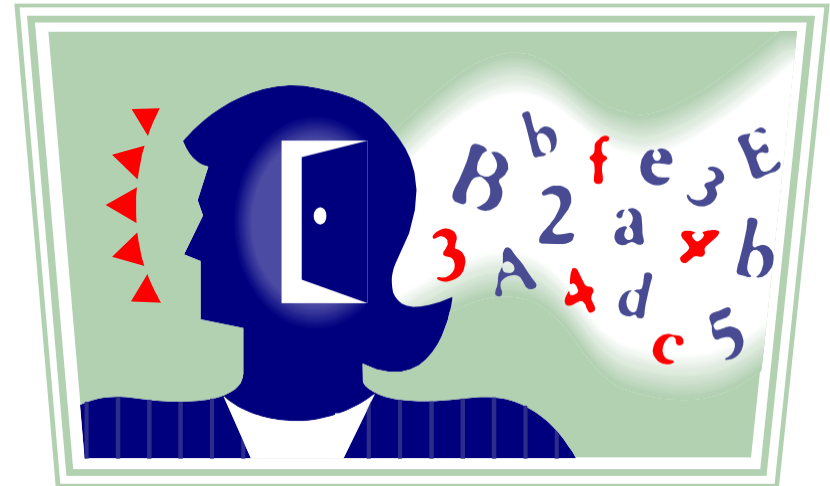
Former CEC Assistant Executive Director
for Governmental Relations

LANDMARK COURT DECISIONS

- Court decisions affirmed the right of every child with a disability to be educated, are grounded in the equal protection clause of the 14th Amendment to the U.S. Constitution
 - Pennsylvania Association for Retarded Citizens v. Commonwealth (1971)
 - Mills v. Board of Education of the District of Columbia (1972)

PENNSYLVANIA ASSOCIATION FOR RETARDED CITIZENS V. PENNSYLVANIA, 1971

- The federal court decided that children with mental disabilities would be provided with free and appropriate public education.



MILLS V. BOARD OF EDUCATION OF THE DISTRICT OF COLUMBIA, 1972



This case involved the court establishing due process procedures to ensure all students had equal rights. This was a procedural law that was later included in Public Law 94-142. The Board of the District of Columbia denied access to education for students with disabilities. The court found that free public educational services, or a suitable private alternative paid for by the Board of Education, must be delivered based on the students' individual needs, regardless of cost.

SECTION 504 OF THE REHABILITATION ACT, 1974



- This civil rights law signed by President Nixon prohibits discrimination in the workplace and schools and any entity receiving federal funding. This plan mandates individualized plans for eligible disabled students who need accommodations or modifications. Least restrictive education was an essential element as far as the learning environment.

SECTION 504 OF THE REHABILITATION ACT, 1974

- Section 504 ensures students of equal opportunity to all school activities.
- Individuals with disabilities cannot be excluded from participation in, denied benefits of, or subjected to discrimination under any program or activity receiving federal financial assistance.

P.L. 94-142

Education for All Handicapped Children Act (EHA), 1975

- Because of victories being won for students with disabilities in the early 1970s, parents and student advocates began to lobby Congress for federal laws and money that would ensure students with disabilities got an education that would meet their needs.
- Congress recognized the necessity of special education for children with disabilities and was concerned about the widespread discrimination.

P.L. 94-142

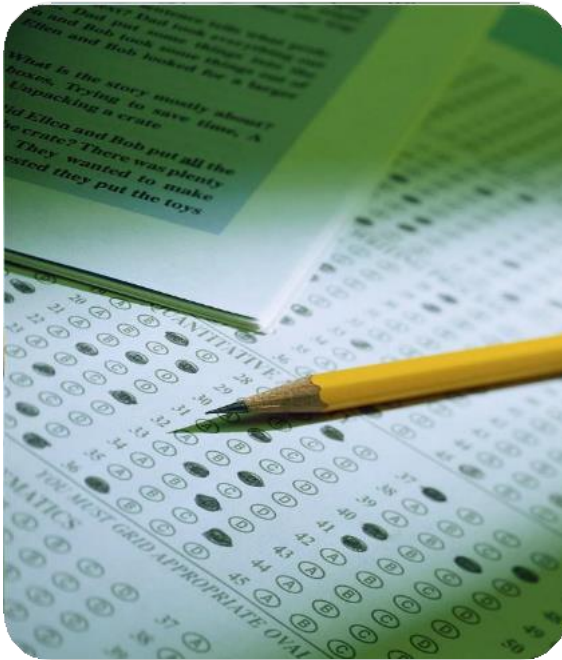
Education for All Handicapped Children Act (EHA), 1975

- In response, Congress enacted into federal law *The Education for All Handicapped Children Act (EHA)*, Public Law (PL) 94-142.
- It was signed into law by President Gerald Ford
- Since 94-142 was enacted in 1975, the number of students receiving special education has increased by 75%
- Public Law 94-142 set forth federal procedural safeguards for children with disabilities and their parents.
- This law outlined the entire foundation upon which current special education practices rest.

FOUR PURPOSES OF P.L. 94-142

- Assure free appropriate public education (FAPE), special education and related services designed to meet their unique needs
- Assure rights of children with disabilities and their parents are protected
- Assist states and localities to provide for the education of all children with disabilities
- Assess and assure the effectiveness of efforts to educate all children with disabilities

BOARD OF EDUCATION OF HENDRICK HUDSON SCHOOL DISTRICT V. ROWLEY - 1982



- The U.S. Supreme court's first interpretation of what was then called the Education for All Handicapped Children Act (now the Individuals with Disabilities Education Act). Overturned a court of Appeals decision ruling EHA required schools to proportionally maximize potential. Instead they must provide a “basic floor of opportunity” and “some educational benefit”. Resulted in a two part test applied to cases:
 1. Did the school provide a FAPE according to IDEA?
 2. Was the IEP developed to enable to child to receive educational benefit?

TECHNOLOGY-RELATED ASSISTANCE, 1988

- Technology-Related Assistance for Individuals with Disabilities Act passed in 1988
- Includes both assistive technology devices and services
- Provision of assistive technology mandated
 - If necessary for provision of FAPE
 - Must be considered for all students with disabilities

THE AMERICANS WITH DISABILITIES ACT, 1990

- The ADA is a civil rights law that prohibits discrimination against individuals with disabilities in all areas of public life, including jobs, schools, transportation, and all public and private places that are open to the general public.



IDEA Amendments of 1997

- IEP must include statement of measurable annual goals to determine student's progress
- IEP team includes general education teacher and special education teacher
- Students with disabilities must be included in state- and district-wide assessments with modifications and accommodations

IDEA Amendments of 1997

- Requires inclusion of behavior intervention plan based on functional assessment in IEP
- May use same discipline as used for student without disability
 - ✓ Suspension should not exceed 10 days
 - ✓ 45 days in alternative educational setting for weapons, drugs, or injurious behavior
- Manifest determination for change of placement of 10+ days

NO CHILD LEFT BEHIND, 2001

- The goal of NCLB was to "level the playing field" in education. There are several standards such as adequate yearly progress, use of "scientifically based research", teachers who are "highly qualified", evaluations and minimum standards for paraprofessionals. Sanctions apply to some of the above if standards were not met.



INDIVIDUALS WITH DISABILITIES EDUCATION IMPROVEMENT ACT, 2004

- Aligned expectations to NCLD including highly qualified teacher requirements and participation and progress in state assessments.
- Six Core Principles
 1. Free Appropriate Public Education
 2. Appropriate Evaluation
 3. Individualized Education Plan
 4. Least Restrictive Environment
 5. Parent Participation
 6. Procedural Safeguards

FREE APPROPRIATE PUBLIC EDUCATION (FAPE)

- Provision of special education and related services
 - At no cost
 - Meet or exceed IDEA standards
 - In conformity with IEP

ZERO REJECT

- All students with disabilities eligible under the IDEA must receive a free appropriate public education (FAPE)
 - No exceptions based on disability type or severity
- All states must establish a child find system
 - Identify, locate, and evaluate all students suspected of having a disability
 - Applies to all children from birth to age 21

EVALUATION

- Allows parents, school personnel, or state personnel to initiate an evaluation
- Schools must use nonbiased, multifactored methods of evaluation to determine whether a child has a disability.
- Testing and evaluation procedures must not discriminate on the basis of race, culture, or native language.
- All tests must be administered in the child's native language, and identification and placement decisions cannot be made on the basis of a single test score.

INDIVIDUAL EDUCATION PLAN (IEP)

- The IEP is a written document, developed by a team, which draws upon existing evaluation information in order to meet a student's unique educational needs.
- An IEP account for the planning concerns of the parents and child, the strengths of a particular child
- An IEP requires measurable annual goals; progress reports at least every 9 weeks

LEAST RESTRICTIVE ENVIRONMENT (LRE)

- Students with disabilities must be educated in general education settings to maximum extent possible
- Segregation is allowed only if supplementary aid and services in general education settings are not sufficient & opportunities to interact with peers without disabilities are provided
- Continuum of services must be available

PARENT PARTICIPATION

- IDEA explicitly establishes a role for the parent as equal participant and decision maker.
- Schools must ensure that the parents of a child with a disability are members of any group that makes decisions regarding the placement and LRE of their child.
- Parents are entitled to notification of evaluation, access to planning and evaluation materials, and involvement in all meetings regarding their child's placement.
- Both students (when appropriate or beginning at age 16) and parents must be invited to IEP meetings.

PROCEDURAL SAFEGUARDS

- Notice must be given to parents within a reasonable amount of time prior to:
 - Changes in educational placement, evaluation, or identification
 - Conducting an evaluation for identification
 - Initial placement in special education
- Independent evaluations may be obtained at public expense
- Parents have rights to dispute resolution options to resolve disputes

EVERY STUDENT SUCCEEDS ACT, 2015

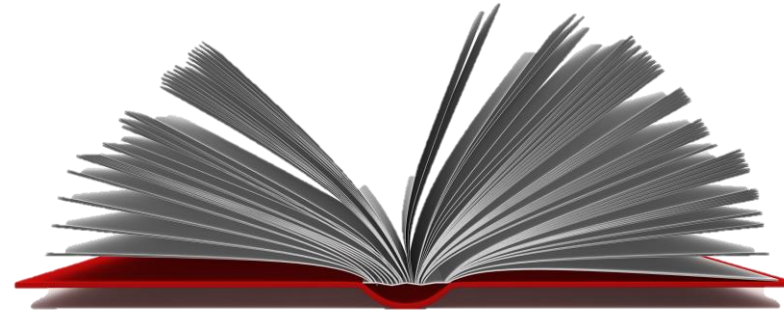
- ESSA includes provisions that will help to ensure success for students and schools and amended relevant sections of IDEA
 - Upholds protections for disadvantaged and high-need students.
 - Requires that all students be taught to high academic standards that will prepare them to succeed in college and careers.
 - Defined regular high school diploma
 - Changed highly qualified requirements

ENDREW F. V. DOUGLAS COUNTY SCHOOL DISTRICT, 2017

- Overturned a 10th Circuit ruling that IEPs must give students with disabilities “merely more than a *de minimis*” benefit.
- Reminder that in Rowley, the IDEA did not require that school systems provide students with disabilities an equal educational opportunity relative to students without disabilities. Instead, only needed to provide services “sufficient to confer some educational benefit.”
- Under Endrew, a school must offer an IEP that is “reasonably calculated to enable a child to make progress appropriate in light of the child’s circumstances” and that “every child should have the chance to meet challenging objectives.”

IMPACT OF SPECIAL EDUCATION MOVEMENTS

- Exclusion
- Institutionalism
- Parents' Movement
- ESEA
- Civil Rights – 504/ADA
- Zero Reject
- IDEA
- Inclusion
- Access-Results



IMPACT OF SPECIAL EDUCATION LAWS

- More young children with disabilities receive early intervention that prevents or reduces the future need for services.
- Children with disabilities are attending neighborhood schools and are receiving access to the general education curriculum.
- More youths with disabilities graduate from high school.
- More youths with disabilities are enrolled in postsecondary programs.
- More young adults with disabilities are employed.

Questions?

THE SPECIAL EDUCATION PROCESS

RECOGNITION

- Teacher, parent, administrator, counselor or other caregiver recognizes a consistent need or problem exhibited by the student.
- This problem can be in the student's academic, social, emotional, behavioral, and/or physical ability.
- Family members and educational professionals meet to discuss the appropriate support system for the child.

PARENT/TEACHER COLLABORATION

- Three primary factors to be considered:
 - Is the issue recurrent or new?
 - Is the issue constant or only present at certain times in certain settings?
 - Is the issue appropriate for children of this age?
- These issues may be resolved by a shared plan of action between the parents and the teachers. If the issue persists, the teacher may have to begin the pre-referral process.

PRE-REFERRAL

Pre-referral intervention process designed to:

- Identify
- Develop
- Implement alternative education strategies for the student before a formal referral to special education

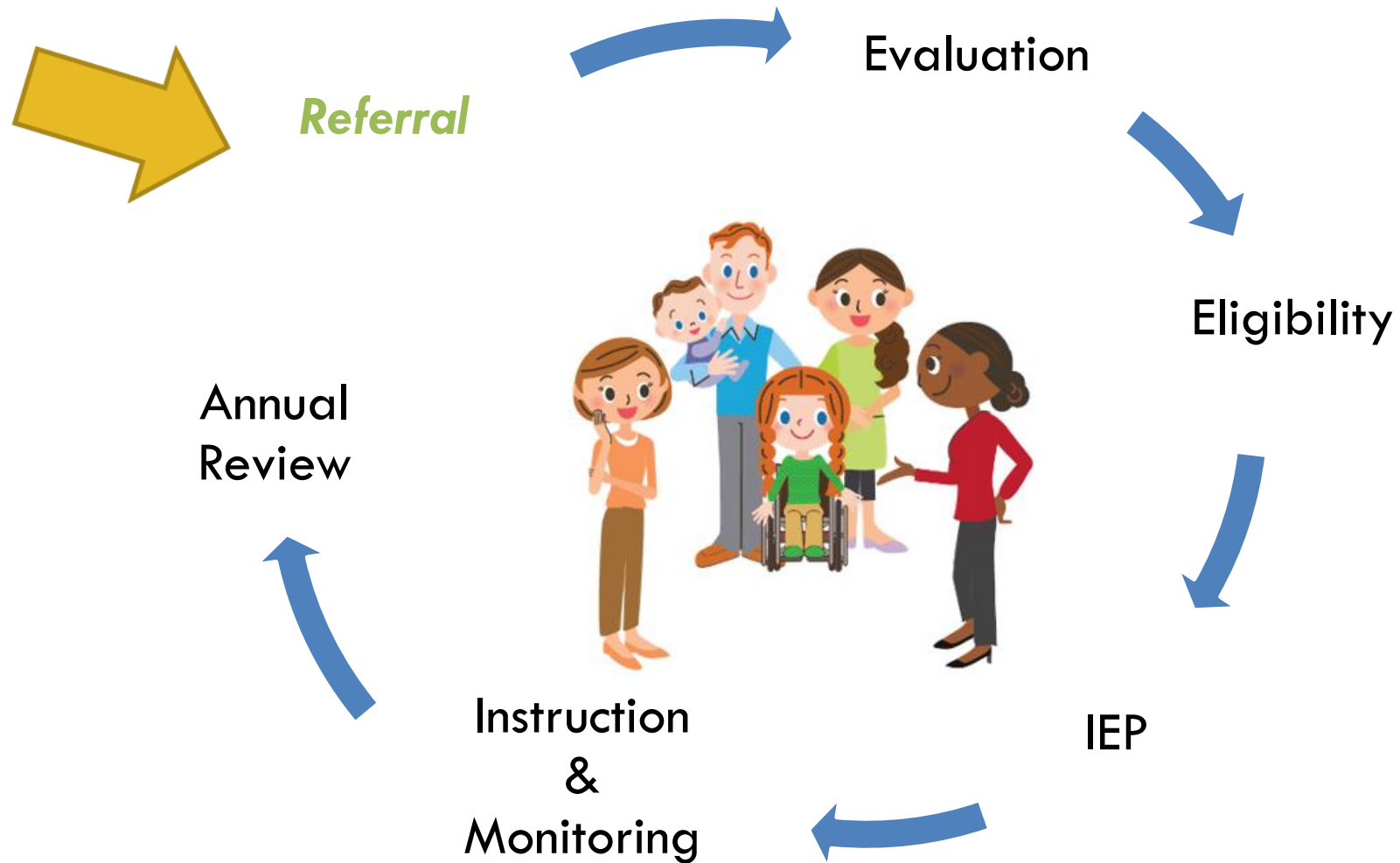
Pre-referral intervention team may consist of:

- Teachers: Special Ed and General Ed
- Parents/Guardians
- Administrator
- Nurse
- Guidance counselor
- Any other involved caregiver

PRE-REFERRAL

- If the interventions and strategies implemented in the general education classroom do not improve the student's performance, the student will be referred for a special education evaluation.

REFERRAL



REFERRAL

- The **referral** is a formal (oral or written) notification to the local school system that a child is experiencing difficulties and may require an evaluation for special education and related services.
- A referral may be made by a family member, teacher or other individual.



REVIEW OF EXISTING DATA

- Qualified team of professionals meet
- Team reviews all relevant existing child data
- Determine whether to conduct evaluation or provide data and reason in prior notice of their documentation that supports their decision not to evaluate

CONSENT

- The school must obtain the consent of the parents to begin the evaluation phase of the process.
- SD rule require evaluations be completed in 25 school days.

NOTICE OF PROCEDURAL SAFEGUARDS

The LEA must provide procedural safeguards to parents.

These explain the parent/guardian's rights under IDEA in regards to:

- Written Notice and Consent
- Independent Educational Evaluation
- Access to Records, Confidentiality of Information & Destruction of Records
- Parent Participation
- Discipline
- Private School placement by Parents
- Dispute Resolution (Mediation, Compliant, Due Process, or Civil Action)

EVALUATION

- An **evaluation** is the process of collecting information about a referred student's needs through a series of individual tests, observations, and discussion with the student, the family and others.
- This information is used to determine whether the child has a disability as well as the nature and extent of the special education and related services that the child needs.
- The evaluation is conducted at no cost to parents.
- Parents are members of the team reviewing the evaluation data and deciding whether more information is needed.



EVALUATION

Formal evaluations may include documentation of the following:

- Intelligence
- Achievement
- Behavior
- Disability-specific evaluations
- Medical evaluations

MULTIDISCIPLINARY TEAM MEETING

After evaluations are conducted a team of individuals who can bring different perspectives and expertise to the process meet to determine eligibility:

- Educational diagnosticians
- Special educators
- General educators
- Parents
- Related service providers
- Medical professionals

ELIGIBILITY

The student is eligible for special education services if:

- The student has a disability as defined by IDEA which negatively impacts his/her educational performance, and
- The student needs special education services in order to benefit from education.

WHO ARE ELIGIBLE?

Children with:

- Autism
- Cognitive disability
- Deafness
- Deaf-blindness
- Development delay
- Emotional disturbance
- Hearing loss
- Multiple disabilities
- Orthopedic impairment
- Other health impaired
- Specific learning disabilities
- Speech/language impairments
- Traumatic brain injury
- Vision loss



STUDENTS WITH DISABILITIES IN SD 2017-2018

Disabling Condition	December
Specific Learning Disabilities	6,978
Speech/Language Impairments	4,499
Other Health Impaired	2,767
Cognitive Disability	1,900
Autism	1,503
Developmental Delay (3-5)	1,384
Emotionally Disturbance	1,165
Multiple Disabilities	578
Hearing Loss	85
Orthopedic Impairment	68
Deafness	54
Traumatic Brain Injury	53
Vision Loss	51
Deaf/Blindness	3

Total Ages 3-21	21,088
Total Ages 3-5	2,940
Total Ages 6-21	18,148

INDEPENDENT EDUCATIONAL EVALUATION

- If parents disagree with a test given during their child's evaluation process, they have the right to request an **independent evaluation (IEE)** conducted by a qualified person who does not work for the school.
- Parents may request that the school pay for the IEE. However, the school may ask for a due process hearing to show that its initial evaluation is appropriate.
- Even if it is decided that the school does not have to pay for it, parents have the right to an IEE.
- If parents pay for the IEE, they determine whether or not to share the information in the IEE with the school.

INDIVIDUALIZED EDUCATIONAL PROGRAM (IEP)

- The **IEP** is a legal document describing the specially designed program developed to meet the needs of the individual child written on an annual basis.
- Parents are to be members of the IEP team and participate with school personnel in the development of the IEP.
- The child should also participate in the IEP decision making process as early as possible.



THE IEP TEAM

The IEP team is composed of the following:

- The parents or legal guardians
- At least one general education teacher
- At least one special education teacher
- A representative of the local educational agency (LEA)
- An individual who can interpret the instructional implications of the evaluations
- The student, when appropriate
- Other involved individuals (related service providers) and/or family members or family friends maintaining a close relationship with the student.

WHAT IS ON THE IEP?

- Present levels of academic achievement and functional performance
- Measurable annual goals
- Plans for measuring progress
- Participation in state and division-wide assessments
- Special education, modifications and related services to be provided including dates and locations
- Participation with children without disabilities
- Secondary transition services including rights at age of majority



PRESENT LEVELS OF ACADEMIC ACHEIVEMENT AND FUNCTIONAL PERFORMANCE (PLAAFP)

The IEP includes a statement of the child's PLAAFP that:

- Considers the results of the initial or most recent evaluation of the child.
- Reflects changes in current functioning of the child since the initial/prior IEP.
- Addresses how the child's disability affects her/his involvement and progress in the general education curriculum.
- Addresses the strengths of the child and the concerns of the parent for enhancing the education of their child.
- Addresses the academic, developmental and functional needs of the child.

IEP GOALS

Measurable Annual Goals

- To meet INDIVIDUALIZED needs so the student can be involved & make progress in the General Education curriculum.
- To meet other INDIVIDUALIZED education-related needs that result from disability.
- For students participating in Alternate Assessments, IEP goals must include benchmarks or short-term objectives.

SERVICES AND SUPPORTS

Special Education AND related services, and any other individualized supports are provided to the child in order to:

- Make progress toward annual goals.
- Make progress in the General Ed curriculum
- Participate in extracurricular and non-academic activities.

It's not enough to *benefit* from a service. It must be **needed to provide **FAPE**.**

SERVICES AND SUPPORTS

Accommodations

- individual support
- creates equal access and equal opportunity
- reduces discriminatory barriers

Examples of Accommodations:

Grading Text Lectures
Environment Assignments Pacing
Reinforcement Tests

RELATED SERVICES

Partial list of developmental, corrective, or supportive services required for the child to benefit from special education, including:

- Occupational therapy
- Physical therapy
- Transportation
- Counseling
- Speech and language therapy
- Audiology services
- Interpreting services
- Early identification
- Diagnostic services
- School health/nurse services
- Social work services
- Crisis Intervention
- Assistive technology
- Non-academic services
- Extra curricular activities
- Orientation/mobility training
- Rehabilitation counseling
- Psychological services
- Parent counseling and training



PLACEMENT IN THE “LEAST RESTRICTIVE ENVIRONMENT”

- A **placement** decision is made at the IEP meeting – identifying the location of the appropriate school program and services needed to meet the child’s educational goals on the IEP statement.
- Students with disabilities are to be educated, to the maximum extent possible, with children who are not disabled. This is called the **“least restrictive environment” or LRE.**
- The IEP team must consider placement closest to the child’s home, where he or she would attend if not disabled, unless the IEP indicates that another school is appropriate.
- If the student is not receiving services with nondisabled peers, the school should consider extra-curricular activities or other ways for the student to interact.

TRANSITION PLANNING

- Transition planning is careful preparation by the student, parents, educators, and other service providers, for the time when the student leaves high school.
- Required before the age of 16 – or younger if appropriate
- It must take into account a student's strengths, preferences and interests.
- The IEP Transition goals should relate to:
 - Education
 - Training
 - Employment
 - Independent living skills (if appropriate)



IEP IMPLEMENTATION

Once the IEP is developed, it is the responsibility of the IEP team to ensure:

- The IEP is being implemented,
- Documentation of progress towards annual goals is taking place,
- The IEP is altered as necessary to meet student need, and
- A good faith effort is being made to achieve mastery in all benchmarks and annual goals.

INSTRUCTION & MONITORING PROGRESS

- Work together with parents
- Keep parents regularly informed
- Communicate student progress on IEP goals with regular progress reports



ANNUAL REVIEW

The purpose of the Annual Review is to make decisions about changes in the IEP, review the placement, and develop a new IEP for the year ahead.



THREE YEAR RE-EVALUATION

- A full and comprehensive reevaluation of a disabled child held every three years. This reevaluation may include educational, psychological, and medical or any evaluation deemed necessary by in order to determine the child's continuing eligibility for special education.

END OF SPECIAL EDUCATION SERVICES

- When the re-evaluation takes place, it may determine that the student no longer needs special education services.
 - For example, a child provided speech & language services who later develops the ability to produce speech sounds without error.
- If this is the case, the IEP team will need to file appropriate documentation that the student no longer is eligible for services.

AGING OUT

- Aging out is the date upon which the disabled child will no longer be eligible for tuition free educational services.
- In SD students age out on June 30 of the fiscal year(July 1 to June 30) in which they turn 21.

Questions?