



## The Federal Law

1. Individuals with Disabilities Education Act (IDEA)
2. Section 504 of the Rehabilitation Act of 1973 (§504)
3. Title II of the Americans with Disabilities Act (ADA)



## What schools must follow the IDEA, 504, & the ADA?

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- All public elementary schools, middle schools, junior high schools, and high schools, including alternative schools.
- This includes charter schools.
- There are some rights and responsibilities for students in private schools but generally they are more limited



## Regulations in Louisiana

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- **Louisiana Act 754:** Louisiana Children with Exceptionalities Act
- **Bulletin 1706:** Subpart 1 is Regulations for Students with Disabilities
- **Bulletin 1508:** Pupil Appraisal Handbook, Ch. 7 is Disabilities
- **Bulletin 1530:** Louisiana's IEP Handbook for Students with exceptionalities



## Charter Schools

- Charter schools the have the same obligations as traditional public schools under the IDEA, Section 504 and the Americans with Disabilities Act, Title II.





## IDEA Evaluations

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- School districts must complete a comprehensive evaluation before determining whether a student is eligible for special education.
- School districts must obtain informed consent prior to evaluating a student.
- Evaluations must be completed within 60 business days of parental consent.
- There must be re-evaluations at least every 3 years



## RESPONSE TO INTERVENTIONS (RTI) & IDEA Evaluations

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- RTI = general education changes and interventions made for struggling students
- **A Special Education evaluation cannot be delayed or denied due to RTI implementation**



## Independent Evaluation

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- If the parent does not agree with the evaluation, the parent may request an independent evaluation at the school district's expense.



## 504 Evaluations

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- School districts must complete a evaluation before determining whether a student is eligible for accommodations and related services under Section 504.
- Unlike the IDEA, there is no specific timeline for the evaluation.
- There must be periodic reevaluations but unlike the IDEA triennial evaluations are not required.
- There must be a re-evaluation completed before any significant change in placement.



## Free Appropriate Public Education (FAPE)

- Under the IDEA and Section 504, a student with a disability is entitled to a free appropriate public education.
- education is appropriate if the child is receiving “educational benefit” –US Supreme Court (1982)  
What this means is currently being reviewed by US Supreme Court in a new case.



## LEAST RESTRICTIVE ENVIRONMENT (LRE)

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- Under the IDEA and Section 504 a student has a right to be educated with regular education peers as much as is appropriate for that particular child
- The purpose is to discourage segregation of students with disabilities



## Communication

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- Under the ADA, schools must ensure that students with hearing, vision and speech disabilities receive communication that is as effective as communication with others through the provision of appropriate auxiliary aids and services



## Related Services

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- Under the IDEA and Section 504, a student should receive all supports and services necessary for a child to receive FAPE.
- This can include therapies and services such as occupational therapy, physical therapy, speech therapy, behavioral services, nursing, etc.



## Extracurricular Activities

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- Students with disabilities (under 504 or the IDEA) have the right to accommodations in extracurricular activities



## Bullying in Louisiana

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- Louisiana law (LSA-R.S. 17:416.13) specifically addresses bullying in school and outlines school procedures for bullying.
- Reports of bullying are confidential and the school cannot retaliate against anyone for reporting bullying.
- Any school staff who sees bullying or is told about it has to report it to a school official that day and turn in a written report no later than two days after.
- The investigation has to start the next school day after the bullying is reported and it has to be finished ten school days after the written report of the bullying.



## Bullying under disability law

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- The federal government has said that bullying can show that a child with a disability is being denied his right to a free appropriate public education (FAPE) under Section 504 or the IDEA.
- If a student with a disability is bullied the school should have an IEP team meeting.
- If a student with a disability is bullying another student, they should also have an IEP meeting to see what services are needed.



## Transition

- IDEA requires school districts to assist special education students make the transition from high school to life after school in the post-school world.
- Transition planning determines what services, education, employment, and life skill activities will best help students meet their distinctive needs.
- IDEA requires transition services to begin no later than the students 16<sup>th</sup> birthday. Transition planning takes place as a part of the IEP meeting. IEPs must provide a transition plan for meeting the student's post-school goals.





## Functional Behavioral Assessment (FBA)

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- Trying to find the “why” behind the behavior
- Usually identifies:
  - what is occurring when the behavior happens,
  - what the behavior is, and
  - what benefit the student gets from the behavior (for example: escape, attention)



## Behavior Intervention Plan

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- This is a plan for teachers and staff, giving them a roadmap on how to address, minimize, and track behaviors related to the student’s disability.
- It is not a Behavior Contract or a punishment.



## Restraint & Seclusion

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- Starting in 2012, Louisiana law has limited the use of restraint and seclusion for students with disabilities.
  - Seclusion and physical restraint shall not be used as a form of discipline or punishment, as a threat to control, bully, or obtain behavioral compliance, or for the convenience of school personnel.
- In 2016, Louisiana changed the definition of restraint in Act 522 eliminating the 5 minute provision.



## Discipline Protections

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- Under the IDEA and Section 504, students with disabilities are entitled to significant protections not available to regular education students.
- The purpose of these protections is so that students are not punished for disability related behaviors.



## Manifestation Determination

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- Under the IDEA a manifestation determination review (MDR) must be held for all disciplinary changes in placement.
- It is a change in placement if the student is expelled, suspended for more than ten days total in a school year, or there is a pattern of removals.



## The Manifestation

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- It is a “manifestation” if the team finds that the conduct in question was
  - 1) caused by or had a direct and substantial relationship to the child's disability; or
  - 2) the conduct in question was the direct result of the school failure to implement the IEP



## If it is a Manifestation

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- If it is found to be a manifestation then:
  - A Functional Behavioral Analysis should be developed and/or reviewed, and
  - A Behavior Intervention Plan should be developed and/or reviewed, and
  - THE STUDENT RETURNS TO/STAYS IN THEIR PLACEMENT
  - Unless...



## The Exception

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- Even if it is a manifestation, school personnel may remove a student to an interim alternative educational setting for not more than 45 school days for:
  - Weapons
  - Drugs
  - Serious bodily injury



## Students who are not identified as eligible for Special Education

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- If a school attempts to expel a student who is not in special education the student still has discipline protections, **IF the school had knowledge that the child had a disability before the conduct occurred.**



## What does “knowledge” mean?

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- Parent expressed concern in writing to school personnel that child needs special education services; OR
- Parent requested an evaluation; OR
- Teacher or other personnel expressed specific concerns about a pattern of behavior directly to the director of special education.



## Informal Removals

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- Includes shortened school days & asking parents to come get their child
- Could be considered a disciplinary exclusion causing a change in placement.

2/2/17



## Suspensions and Expulsions under 504

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- Before an expulsion or other significant change in placement a student with a disability under Section 504 must be:
  - 1) re-evaluated by the school or school district AND
  - 2) placement cannot be changed if the action causing the change in placement was a manifestation of the student's disability.



Questions?

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