Mission: To Mentor and Empower Families through Advocacy and Training to Improve the Quality of Life and Opportunities for Children and Young Adults with Disabilities
The material in this workshop is based on our understanding and interpretation of the legal requirements of IDEA. The source of our training and expertise collectively, has been provided by MO. Department of Elementary & Secondary Education (DESE)-Division of Special Education and the Office of Special Education Programs (OSEP).

Advocacy training is updated at least annually through training and workshops provided by, Reed Martin, Esq., Matt Cohen, Esq., LRP-Special Education Law Division, DESE, OSEP, NAPAS and COPPA. F.A.C.T. advocates collectively have 34 years experience in providing direct educational advocacy to families.

If you believe that you need the assistance of an attorney with your issue, your advocate can provide you with a list of practicing Special Education attorneys.
The Basics of Special Education
This workshop looks at:

IDEA

...10 Steps in the special education process

And

... Your Procedural Safeguards: an overview
What is IDEA?

Individuals with Disabilities Education Act

Our nation’s special education law
What does it provide?

Free Appropriate Public Education (FAPE)

What States must make available to all children residing in the state between ages 3 through 21 with disabilities.
How does it work?
Step 1. Child is identified as possibly needing special education and related services
A parent or a public agency can ask for an initial evaluation of a child.

Public agency must obtain parent consent before conducting initial evaluation of the child.

Public agency must determine the need to evaluate within 30 days of the request to evaluate.
Purposes of Initial Evaluation

- To see if the child is a “child with a disability,” as defined by IDEA
- To gather information that will help determine child’s educational needs
- To guide decision making about appropriate educational programming for the child
Before Any Initial Evaluation

Public agency must:

- Provide parent with prior written notice
- Provide parent with procedural safeguards notice
- Obtain parent’s informed written consent
Step 1. Child is identified as possibly needing special education and related services

Step 2. Child is evaluated
Key Points about Initial Evaluation

- Must be conducted within 60 days of parental consent for evaluation
- Must be individual
- Must evaluate in the native language or mode of communication
The Key Points of Evaluation Continued:

• Must be nondiscriminatory (on a racial, cultural or disability basis)

• Use standardized tests validated for the purpose that they’re being used.

• Must be administered by trained and knowledgeable personnel
The Key Points of Evaluation Continued:

• Must use technically sound instruments that assess the relative contribution of cognitive and behavioral factors in addition to physical or developmental factors

• Must not use any single procedure as the sole criterion for determining eligibility

• Must be administered in accordance with the instructions provided by the producer of such tests
And assess the student in all areas related to the suspected disability, including *(if appropriate)*:

- vision
- hearing
- health/motor
- speech/language (communication)
- intellectual/cognitive
- adaptive behavior (functional)
- social/emotional/behavioral
- academic achievement
- assistive technology
- transition
10 Steps: The Basics of Special Education Process under IDEA

Step 3. Eligibility is decided

Parents are part of the group that decides eligibility
Child with a disability means a child evaluated in accordance with §§300.304 through 300.311 as having...

- autism
- deaf-blindness
- deafness
- emotional disturbance
- hearing impairment
- intellectually impaired
- multiple disabilities
- orthopedic impairment
- other health impairment
- specific learning disability
Child with a disability continued

• speech or language impairment
• traumatic brain injury
• visual impairment (including blindness) or:
• young child with a developmental delay for ages 3 through 5 in Missouri

…and therefore needs specialized instruction in order to progress in the general education curriculum.
10 Steps: The Basics of Special Education Process under IDEA

Step 3. Eligibility is decided

Yes

Step 4. Child is found eligible for services
Step 5. IEP meeting is scheduled to be held on a mutually agreed upon date.
What is an IEP?

**Individualized Education Program**

Every public school child with disabilities receiving IDEA-funded special education must have one.
Step 6. IEP meeting is held, and the IEP is written within 30 days of eligibility determination
Basics about the IEP

- **Individualized**
- Written plan for a child’s education
- Written by parents and school staff together
- Lists the special education the child will receive, and more
- Is both a document and a process
And Includes Related Services

**Related services** means transportation and such developmental, corrective, and other supportive services...

...as are required to assist a child with a disability to benefit from special education...
Including, but not limited to . . .

- speech-language pathology and audiology services
- interpreting services
- psychological services
- physical and occupational therapy
- recreation, including therapeutic recreation
- counseling services, including rehabilitation counseling
- orientation and mobility services
- medical services for diagnostic or evaluation purposes
- school health services and school nurse services
- social work services in schools
- parent counseling and training
Related services do not include:

- a medical device that is surgically implanted;
- the optimization of that device’s functioning (e.g., mapping);
- maintenance of that device; or
- the replacement of that device…

including cochlear implants
Supplementary aids and services means aids, services, and other supports that are provided in regular education classes, other education-related settings, and in extracurricular and nonacademic settings, to enable children with disabilities to be educated with nondisabled children to the maximum extent appropriate.
Transition services are intended to help youth with disabilities make the transition from the world of secondary school to the world of adulthood.
Transition Services

(a) Transition services means a coordinated set of activities for a child with a disability that—

1) Is designed to be within a results-oriented process, that is focused on improving the academic and functional achievement of the child with a disability to facilitate the child’s movement from school to post-school activities, including postsecondary education, vocational education, integrated employment (including supported employment), continuing and adult education, adult services, independent living, and/or community participation;
Transition Services continued

(2) Is based on the individual child’s needs

…and includes—

(i) Instruction;
(ii) Related services;
(iii) Community experiences;
(iv) The development of employment and other post-school adult living objectives;
(v) And, if appropriate, acquisition of daily living skills and provision of a functional vocational evaluation.
Step 7. Services are provided

Services must be initiated as soon as possible following the development of the IEP.
Where are the services provided?

**Least Restrictive Environment (LRE)**

Children with disabilities are to be educated with children who do not have disabilities, to the maximum extent appropriate.
Step 8. Progress is measured and reported to parents, at least as often as regular education students.
Step 9. IEP is reviewed

Step 10. Child is reevaluated

- At least every three years unless the parents and LEA agree not to
- Requirements for re-evaluation are the same as for initial evaluation
Tired yet?
Procedural Safeguards Notice

Is a comprehensive written explanation of procedures in the special education process

Must be provided to parents once per school year and with other specific actions

Must be written in understandable language

Produced by NICHCY, 2007
Procedural Safeguards Notice

When?

Once a school year
Upon initial referral or parent request for evaluation, including reevaluation
On date of decision to make disciplinary change of placement for violation of code of student conduct
Upon the occurrence of filing a due process hearing request or child complaint at which time DESE provides the procedural safeguard statement
When a copy is requested by a parent
The Missouri legislature passed a bill in 2009 (Senate Bill 291) that created a new state requirement for the Parent’s Bill of Rights.

The Parent’s Bill of Rights is much shorter than the procedural safeguard statement and only highlights certain special education rights. The Parent’s Bill of Rights is an informational document and does not confer any right or rights beyond existing state or federal law.

Beginning January 1, 2010, schools must provide the Bill of Rights to parents upon determination a student qualifies for an IEP and any time IDEA requires provision of procedural safeguards.
Procedural Safeguards Notice

**Must explain:**
- Independent educational evaluations (IEE)
- Prior written notice
- Parental consent
- Access to education records
- Availability of mediation
- Child’s placement during pendency of any due process hearing

**Opportunity to present and resolve complaints through due process complaint and State complaint procedures including certain specific information**

*And there’s more…*
Procedural Safeguards Notice

Must explain:

- Procedures when disciplining children with disabilities
- What’s required if parents are seeking private school placement at public expense
- Hearings on due process complaints, including required disclosures
- State-level appeals (if applicable in the State)
- Civil actions
- Attorney’s fees
## Independent Educational Evaluations

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<tr>
<th>Parents who disagree with the school’s evaluation may request an IEE at public expense</th>
<th>School must either:</th>
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<tr>
<td>• agree to pay for an IEE; or</td>
<td>If school successfully defends its evaluation, IEE may not be at public expense</td>
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<td>• request a due process hearing to defend its evaluation</td>
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Upon an IEE request, school must inform parents of where one may be obtained and any applicable agency criteria.
Independent Educational Evaluations

Results of an IEE that meets agency criteria whether at public or private expense must be considered when making any decisions about the provision of FAPE to the child.
Prior Written Notice

Written notice must be:

- written in language understandable to general public
- provided in native language of parent or other mode of communication used by parent
Written Notices

And include ...

- Description of the action that the school district proposes or refuses to take:
- Explanation of why the school district is proposing or refusing to take that action:
- Description of each evaluation procedure, assessment, record, or report school district used in deciding to propose or refuse the action:
- Description of any other choices IEP Team considered and the reason why these choices were rejected:
- Description of other reasons why school district proposed or refused the action:
- Resources for the parents to contact for help in understanding Part B of the IDEA:
- If this notice is not an initial referral for evaluation, how the parent can obtain a copy of a description of the procedural safeguards:
NOTICE OF ACTION

In accordance with Part B of the IDEA, Written Notice must be given before our district takes certain actions. The following is to describe the action(s) □ Proposed or □ Refused by our district.

- Initial evaluation
- Reevaluation
- Ineligibility for services
- Change in Eligibility
- Initial placement
- Change of placement
- Change of services
- Other: (Specify) ___________

Explanation of Action: (The reason(s) for the proposal or refusal) ______________________
______________________________________________________________________________
______________________________________________________________________________
______________________________________________________________________________

Options Considered and Why Rejected:

- Option(s) that was/were considered by the IEP team: ______________________
______________________________________________________________________________

- The reason(s) why each option was rejected: ______________________
______________________________________________________________________________

Basis for the Action: (A listing or attached description of each evaluation procedure, assessment, record, or report used as a basis for the action)
______________________________________________________________________________
______________________________________________________________________________
______________________________________________________________________________

Other Factors Relevant to the Action:  ______________________
______________________________________________________________________________
______________________________________________________________________________

Procedural Safeguards Statement

Parents of a child with a disability have protection under the procedural safeguards of Part B of the Individuals with Disabilities Education Act (IDEA). A copy of The Procedural Safeguards Statement for Parents and Children may be obtained from <insert name and address of local district special education contact>.

If you need assistance in understanding the provisions of the procedural safeguards, you may contact <insert name, address and telephone number of local district special education contact> or the Special Education Compliance Section at the Department of Elementary and Secondary Education at (573) 751-0699 or via e-mail at webreplyspeco@dese.mo.gov.

*When seeking consent for evaluation, a description of the areas to be assessed and the tests to be used [if known] must be provided with this Notice.

If you have any questions or object to this action, contact me immediately.

Name __________________________ Title __________________________ Phone Number __________________________
Access to educational records

Parents must have opportunity to inspect and review all education records related to:

- their child’s identification, evaluation, and educational placement; and
- the provision of FAPE to their child

Access to records must be made available within 45 days of request
Closer Look at Parent Participation

Parents have the **right to participate in meetings** related to the:

- identification, evaluation, and educational placement of their child; and

- the provision of FAPE to their child, including IEP meetings
Closer Look at Parent Participation

Parents are members of:

• the group that determines whether their child is a “child with a disability”

• the IEP Team of their child

• any group that makes educational placement decisions for their child
Public agencies must:

- provide parents with appropriate notice of a meeting
- use other methods to ensure parent participation in IEP meetings and placement meetings
Appropriate Notice of Meetings to Parents

- Must be early enough to ensure parents have opportunity to attend (at least ten days) and at a mutually agreeable time
- Must include the purpose, time and location of the meeting
- Must include who will attend meeting
- Must explain the parents’ right to invite individuals with knowledge or special expertise about the child
Complaint Procedures

- IEP meeting
- Mediation
- Due process hearing
- Resolution meeting
- State Child Complaint
Discipline Procedures

Come into play when a student with a disability violates a school code of student conduct and is subject to disciplinary action.
Overview of IDEA’s Discipline Provisions

- Authority of school personnel
- Manifestation determination
- Services provisions
- Interim alternative educational setting (IAES)
- Appeals
- Child’s placement during appeals
- Protections for children not determined eligible for special education and related services
- Change of placement because of disciplinary removals
You’ve just consumed practically the entire platter of special education and IDEA’s most essential concepts and principles.
Thanks for coming and for your advocacy efforts on behalf of children and youth with disabilities.