



IDEA REAUTHORIZATION

The GOOD

The BAD

AND

THE UGLY



2004 IDEA - The Good

- Strongly encourages pre-in service & professional development for all individuals working with the student
- Includes words “*Functional*” & “*Developmental*” re: evaluations; when writing an IEP; and for Professional Development



The Good (cont'd)

- Emphasizes FBA with positive behavior interventions which significantly reduce likelihood that behaviors will be a chronic problem
- Not Necessary that student Fail to be eligible for Special Education Support
- Strong emphases on early identification (RTI)



The BEST

Tourette Syndrome
Listed
Under

Other

Health

Impaired!!!!





Other Health Impairment

- (9) Other health impairment means having limited strength, vitality, or alertness, including a heightened alertness to environmental stimuli, that results in limited alertness with respect to the educational environment, that--
- (i) Is due to chronic or acute health problems such as asthma, attention deficit disorder or attention deficit hyperactivity disorder, diabetes, epilepsy, a heart condition, hemophilia, lead poisoning, leukemia, nephritis, rheumatic fever, sickle cell anemia, and Tourette syndrome; and
 - (ii) Adversely affects a child's educational performance.**



Comments as written on page 46550 of the Federal Register

“...we do believe that Tourette syndrome is commonly misunderstood to be a behavioral or emotional condition, rather than a neurological condition. Therefore, including Tourette syndrome in the definition of other health impairment may help correct the misperception of Tourette syndrome as a behavioral or conduct disorder and prevent the misdiagnosis of their needs.

Changes: We have added Tourette syndrome as an example of an acute or chronic health problem in Sec. 300.8(c)(9)(i).”



THE BAD & ????

- **Removed Short Term Goals on IEP's (states may decide to retain them)**
- **Minor changes may be made on IEP without an official IEP meeting involving the entire "team"**
 - **Parent's must give prior permission**
 - ❖ **Parent's may be talked into a very BAD change**

HOWEVER:

- ❖ **Parent's have ability to make minor changes to keep IEP accurate**



The UGLY

Manifestation

Determination

(VERY UGLY)



Purposes of IDEA

Section 1400(d)

- . . . to ensure that all children with disabilities have available to them a free appropriate public education that
- emphasizes special education and related services designed to meet their unique needs and prepare them
- for further education, employment and independent living” and “to ensure that the rights of children
- with disabilities and parents of such children are protected . . .



§ 300.304 Evaluation procedures

(b) *Conduct of evaluation.* In conducting the evaluation, the public agency must—

(1) Use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the child, including information provided by the parent



Sec. 300.304(c)(4)

(4) The child is assessed in all areas related to the suspected disability, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities;



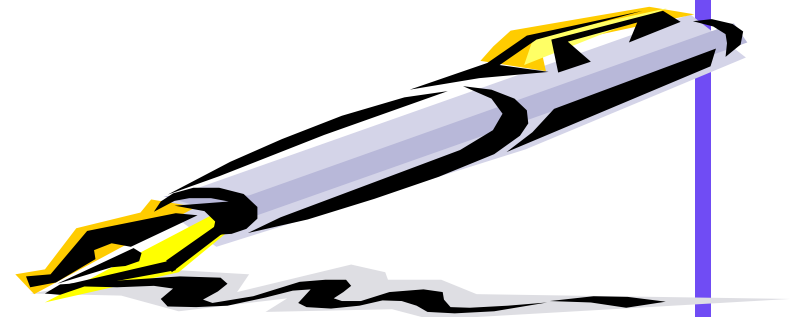
300.8 Child with a Disability

(a) *General.* (1) ***Child with a disability*** means a **child evaluated.....** as having mental retardation, a hearing impairment (including deafness), a speech or language impairment, a visual impairment (including blindness), a serious emotional disturbance (referred to in this part as “emotional disturbance”), an orthopedic impairment, autism, traumatic brain injury, an other health impairment, a specific learning disability, deaf blindness, or multiple disabilities, **and who, by reason thereof, needs special education and related services.**



Special Education

...specially designed instruction
at no cost to parents, to meet
the unique needs of a child
with a disability,





Development of IEP

§ 300.324 Development, review, and revision of IEP.

(a) Development of IEP—(1) General. In developing each child's IEP, the IEP Team must consider—

- (i) The strengths of the child;
- (ii) The concerns of the parents for enhancing the education of their child;
- (iii) The results of the initial or most recent evaluation of the child; and
- (iv) The academic, developmental, and functional needs of the child.



Do Not Have to Fail Section 300.101(c)

Revised to clarify that a free appropriate public education (FAPE) must be available to any individual child with a disability who needs special education and related services, even though the child has not failed or been retained in a course, and is advancing from grade to grade.



§ 300.111 Child find

Child find also must include—

- (1) Children who are suspected of being a child with a disability and in need of special education, even though they are advancing from grade to grade;



Does not qualify for IEP

(2)(i) Subject to paragraph (a)(2)(ii) that a child has one of the disabilities identified in paragraph (a)(1) of this section, but only needs a related service and not special education, the child is not a child with a disability under this part.

(Might Consider a 504 Plan instead)



State Regulations

- Every state must develop Regulations that follow Federal Guidelines per IDEA and the Federal Regulations
- They may exceed Federal guidelines but cannot be more restrictive
- IMPORTANT - Obtain a copy of your state regulations & additional publications of your State Dept. of Education (Parent guide, behavior, IEP guidelines, etc.)



§ 300.116 Placements

(b) The child's placement—

- (1) Is determined at least annually;
- (2) Is based on the child's IEP;
and
- (3) Is as close as possible to the child's home;



Placement (cont'd)

- (c) Unless the IEP of a child with a disability requires some other arrangement, the child is educated in the school that he or she would attend if not disabled;
- (d) In selecting the LRE, consideration is given to any potential harmful effect on the child or on the quality of services that he or she needs;



Placement (cont'd)

(e) A child with a disability is not removed from education in age appropriate regular classrooms solely because of needed modifications in the general education curriculum.



300.117 Nonacademic Settings

...each public agency must ensure that each child with a disability participates with nondisabled children in the extracurricular services and activities to the maximum extent appropriate to the needs of that child.

Non-academic support

The public agency must ensure that each child with a disability has the supplementary aids and services determined by the child's IEP Team to be appropriate and necessary for the child to participate in nonacademic settings.



Medication

Sec. 612(a)(25)(A)

- (A) In general.--The State educational agency shall prohibit State and local educational agency personnel from requiring a child to obtain a prescription ...as a condition of attending school, receiving an evaluation under subsection (a) or (c) of section 614, or receiving services under this title.
- Does not prohibit school from sharing important student observations regarding student's academic and functional performance either on or off medications.



Professional Development & Preservice Preparation

- Sec. 601(c)(5)(E)
 - supporting high-quality, intensive preservice preparation and professional development for all personnel who work with children with disabilities in order to ensure that such personnel have the skills and knowledge necessary to improve the academic achievement and functional performance of children with disabilities, including the use of scientifically based instructional practices, to the maximum extent possible;



Manifestation Determination

- Determining whether the behavior that results in a suspension or a change of placement is a manifestation of the child's disability





Manifestation Determination

Must take place:

- when a school is considering a change of placement or suspension due to violation of a school's code of behavior.
- When the student has been removed from school for 10 days during one school year



2004 IDEA Requirements for Manifestation Determination

- “caused by, or had a direct and substantial relationship to the child's disability”
- a result of the child's IEP not being implemented



EXCELLENT WEBSITE

<http://idea.ed.gov/explore/home>

- Complete Federal Regulations
- Complete statute (IDEA)
- You can:
 - Search under Federal Regulations or Statute
 - Brings up Section and Quote
 - Also connects with State Regulations





Evaluation request

Tips for parents:

- ask for evaluation in writing; keep a copy of your request
 - explain your child's specific problems and why you think evaluation is needed
 - be sure to share important information with school staff about your child's performance, and your concerns
 - you must give informed consent for the initial evaluation to take place
- Pacer Center, Inc.