

Education for Children with Disabilities

Federal laws obligate Minnesota to provide a free appropriate public education to disabled children

The Individuals with Disabilities Education Act (IDEA) provides federal funding to states and local school districts for expenses incurred in providing federally mandated special education and related services to those disabled children covered by the act. To be eligible to receive federal special education funding, Minnesota and other states must provide a “free appropriate public education” (FAPE) in the least restrictive environment (LRE) and guarantee related procedural safeguards for all children with certain disabilities.

Section 504 of the Rehabilitation Act of 1973 (Section 504) is a broader, less prescriptive federal civil rights statute that covers some disabled children not served under IDEA. States and local school districts must serve eligible disabled children regardless of the cost or severity of the disability, although IDEA requires only that children benefit from an education, not that they receive the best possible instruction. Minnesota has enacted statutes and rules to comply with the federal law and in some cases goes beyond what the federal government requires for serving children with disabilities.

Serving disabled students can be complex and costly

State and federal laws and regulations, combined with court decisions interpreting the laws, make serving disabled students complex and costly for Minnesota and local school districts. Compounding the difficulty of ensuring that disabled students receive FAPE is the federal government’s failure to fulfill its commitment to fund 40 percent of the costs of certain IDEA services. The federal government currently contributes only 17 percent of such costs, and the state and school districts must reallocate existing funds or allocate new funds in order to provide the programs and services to which eligible disabled children are entitled.

Special education law guarantees due process procedures and procedural safeguards

Federal and state special education law guarantees due process procedures and procedural safeguards, including parents’ participation in the assessment and educational placement of disabled children from birth until age 21. To receive special education services, a child must be found

- eligible for special education services according to statewide eligibility criteria
- in need of such services.

A lack of progress in reading or math or limited English proficiency is not a disability. After a comprehensive evaluation, a team that includes the child’s parents and trained school personnel will develop an individualized education plan (IEP) that contains, among other things, annual educational goals for the child. Under IDEA, it is important to have disabled children participate in the general

curriculum to the extent appropriate and to involve regular education teachers in the IEP process. The child's IEP team may authorize certain Medical Assistance services for the child.

Disabled students must participate in state and district-wide assessments

Federal and state special education law requires school officials to include disabled children in state and district-wide assessment programs, with appropriate accommodations where needed. Accommodations may include variations in the setting, timing, response, and scheduling that take into account a child's disabilities. Title I of the 2001 Elementary and Secondary Education Act requires states, school districts, and schools to assess all public school students for accountability purposes. Title I also allows alternative assessments only for those disabled students with the most significant cognitive disabilities who are unable to participate in a regular assessment even with accommodations or modifications. Under a current federal Title I proposal, no more than 0.5 percent of all students in a state or school district should be assessed using an alternative assessment.

Disabled children must be educated in the least restrictive environment

Disabled children must be educated in the least restrictive environment (LRE) to the maximum extent appropriate. School districts bear the burden of showing that a disabled child should not participate in the regular education program. Criteria for determining whether the regular classroom is the LRE include the potential benefits to the child, the potential disruption to the classroom, and the cost of aids and services.

School officials can't cut off educational services to a disabled child for disciplinary reasons

When a child with an IEP is suspended from school for more than ten days for misbehavior that is unrelated to the child's disabilities, the district must continue to provide the child with special education and related services. A district must begin reviewing a child's IEP and the relationship between the child's disability and behavior, and determine the appropriateness of the child's IEP before dismissing the child. A district must review a child's IEP after five days of suspension at the parents' request or within ten days if the child is cumulatively suspended for ten or more days. A district may unilaterally place a disabled child in an alternative setting for up to 45 days if the child brings firearms or illegal drugs into the school.

In certain circumstances, children who are in the regular education classroom and have not been determined to need special education may still be covered by IDEA procedural protections relating to suspensions and expulsions.

School districts must provide disabled children with related services

School districts must provide disabled children with related services, which encompass supportive services that may be required to assist a disabled child to benefit from special education. Services provided by a physician that are not provided for diagnostic or evaluation purposes are subject to a medical services exclusion, but services that can be provided by a nurse or qualified layperson are not. For example, a district may be obligated to pay for a residential treatment setting as a related service in order to ensure that an emotionally disturbed child receives the educational benefit to which the child is entitled under IDEA.

For more information: See the House Research publication *Youth and the Law*, January 2002.

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