

## LIST OF KEY TERMS USED IN SPECIAL EDUCATION ADVOCACY

### **Child Find**

The Individuals with Disabilities Education Act (IDEA) requires that the state school system actively identify, locate and evaluate children who have disabilities. 34 C.F.R. §§ 300.111(a), 300.11(a) (2006). The process for identifying and referring students for evaluation is known as “Child Find.” 20 U.S.C. § 1412(a)(3) (2005); 34 C.F.R. § 300.111. Failure to comply with Child Find guidelines may result in a due process challenge, and relief would be awarded to the child and his or her parents.

### **Disability**

Under the Individuals with Disabilities Education Act (IDEA), it is not enough for a child to have a disability to receive special education services. The disability must adversely affect a youth’s education performance for entitlements under the IDEA to apply. Disabilities defined under the IDEA are: intellectual disabilities; hearing impairments; speech or language impairment; visual impairment; serious emotional disturbance (emotional disturbance); orthopedic impairments; autism; traumatic brain injury; specific learning disability; other health impairment (“catch-all” category). 20 U.S.C. § 1401(3) (2010).

### **Free and Appropriate Public Education (FAPE)**

Under the Individuals with Disabilities Education Act (IDEA), youth with disabilities are entitled to FAPE that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment and independent living. *Id.* at § 1400(d)(1)(A) (2010).

### **Individuals with Disabilities Education Act (IDEA)**

The IDEA ensures that youth with qualifying disabilities receive special education services through their school system. To qualify for special education services under the IDEA, the child must be between the ages of three and 21 (inclusive), have an identifiable disability and be in need of special education. *Id.* at §§ 1412(a)(1)(A), 1401(3)(i)-(ii). The IDEA gives parents the right to bring a legal challenge if the school system is not providing appropriate special education services to a qualifying child.

### **Individual Education Program/Plan (IEP)**

The IEP is a plan that determines the particular special education services and placement a child should be receiving. The IEP must be developed in compliance with the IDEA and state law. *Id.* at § 1401(9).

# JTIP Handout: Lesson 39 – Advocacy in Special Education Cases

## **Least Restrictive Environment**

A special education student must be educated with children who are not disabled to the maximum extent appropriate through the use of supplemental aids and services. *Id.* at § 1412(1)(5).

## **Local Education Agency (LEA)**

The school district, also known as the LEA, must reevaluate the child if it is determined that educational or related service needs of the child warrant a reevaluation OR if the child’s parent or teacher requests a reevaluation. 34 C.F.R. § 300.303.

## **Manifestation Hearing**

Any suspension of a special education student that exceeds 10 days is considered a change in placement, and procedural protections under the Individuals with Disabilities Education Act are triggered, including a manifestation hearing in which school officials must determine if the misbehavior is a manifestation of the student’s disability. 20 U.S.C. § 1415(k)(1)(E)(i) (2005); 34 C.F.R. §§ 300.530(e), 300.536(a)(1) (2006).

## **Positive Behavioral Interventions and Supports (PBIS)**

The Individuals with Disabilities Education Act requires schools to use positive behavior interventions and supports to address a special education student’s behavior rather than follow strict zero tolerance policies.

## **“Stay Put” Provision**

A special education student being considered for suspension or expulsion must remain in their current placement while any hearing is pending, including the disciplinary removal hearing, unless the parents and school officials come to some other agreement. 20 U.S.C. § 1415(j). This is known as the “Stay Put” provision.