

WHAT EVERY CASEWORKER NEEDS TO KNOW ABOUT EDUCATION AND SPECIAL EDUCATION

NEW JERSEY CHILD WELFARE TRAINING PARTNERSHIP



DEPARTMENT OF
CHILDREN AND FAMILIES



MONTCLAIR STATE
UNIVERSITY



RUTGERS
Institute for Families



SCHOOL OF GRADUATE
AND CONTINUING STUDIES
THE RICHARD STOCKTON COLLEGE OF NEW JERSEY

DAY TWO MORNING SESSION

Special Education (Part II)

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OBJECTIVES: DAY TWO MORNING

- Describe the special education child find and referral processes and alternatives to referral
- Describe the special education evaluation and independent evaluation processes
- Discuss the pros and cons of accessing different systems for evaluations
- Define special education eligibility and classification of students

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SPECIAL EDUCATION - PROCESS

- Child Find
- Referral
- Evaluation
- Eligibility and Classification
- Individual Education Plan (IEP)
- Placement
- Reevaluation

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CHILD FIND

- Duty of state and local school districts to identify, locate, and evaluate students who may be in need of special education, including:
 - Children in private schools
 - Children in youth detention facilities
 - "Highly mobile" children, e.g., migrant and homeless children
 - Children who are wards of the State
- Public awareness campaign

N.J.A.C. 6A:14-3.3, 34 C.F.R. 300.111

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HOW DOES A CHILD GET EVALUATED FOR SPECIAL EDUCATION?

The Referral

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WHO MAY REFER A CHILD TO SPED?

The following may request a child be evaluated for SPED:

- Parent
- Teacher
- Professional
- Administrator
- Agency
- Court Order

20 U.S.C. 1414(a)(1); N.J.A.C. 6A:14-3.3

HOW IS A CHILD REFERRED TO SPED?

- Written request to school principal, school administrator, or Child Study Team (CST)

PRACTICE TIPS

- REQUEST IN WRITING
- DATE
- INCLUDE PARENTAL CONSENT TO EVALUATE
- SEND COPY OF LETTER TO DISTRICT'S DIRECTOR OF SPECIAL SERVICES
- MAINTAIN COPY FOR RECORDS

REFERRAL - NEXT STEPS

- CST convenes referral meeting within 20 calendar days of receipt of request, *including summer*
 - Child Study Team
 - Parent
 - Teacher
- Decision made regarding whether evaluation needed and, if yes, nature and scope

N.J.A.C. 6A:14-3.3

CHILD STUDY TEAM

- Child Study Team MUST include:
 - School Psychologist
 - Learning Disabilities Teacher-Consultant (LDT-C)
 - School Social Worker
 - If child is preschool age, must also include Speech and Language Specialist (SLS)
- At least one CST member must be employee of school district

N.J.A.C. 6A:14-3.1, 3.3

REFERRAL - NEXT STEPS (CONT.)

- Within 15 days of meeting, CST must give parent written notice of decision to evaluate
- Notice must include:
 - If decide to evaluate, nature and scope of evaluations
 - If decide not to evaluate, basis for decision and right to appeal
 - Request for parental consent
 - Triggers 90-day timeline to conduct evaluation, determine eligibility, and develop IEP

N.J.A.C. 6A:14-2.3

CONSENT TO EVALUATE

- Consent of "parent" required to evaluate child with a disability
- District must make reasonable efforts to obtain parental consent where child is ward of State and not living with parent

N.J.A.C. 6A:14-2.2

CONSENT TO EVALUATE

- Parent's informed consent for an *initial* evaluation *not* required if:
 - Parent cannot be located despite reasonable efforts;
 - Parent's rights have been terminated; or
 - Rights to make educational decisions have been subrogated by a judge

NOTE: If child ward of state, judge overseeing child's care may appoint person to consent to *initial* CST evaluation if parent cannot be located after reasonable efforts

N.J.A.C. 6A:14-2.3(b); 34 C.F.R. 300.300(a)(2)

TAKE NOTE



Alternatives to special education referral exist:

- Parent does not want child referred for special education but still wants help for child
- School district determines no need to evaluate child for special education

ALTERNATIVES TO SPECIAL EDUCATION

Remember...

Not every child with a disability needs, or is eligible for, special education

BRAINSTORM...

- Pros of special education
- Cons of special education

INTERVENTION AND REFERRAL SERVICES

THE GATEKEEPER



I&RS

- Intervention and Referral Services (I&RS)
 - Services for students with learning, behavior, health, or other difficulties
 - Available in general or special education program
 - If student receiving special education, I&RS services to be coordinated with IEP
 - Emphasis on early identification of concerns and implementation of interventions

N.J.A.C. 6A:16-8

I&RS (cont.)

- Services may include
 - Tutoring
 - Remedial programs
 - Behavioral interventions
- Parental participation in I&RS Plan Development
- Plans to be monitored to assess effectiveness of interventions (i.e. data collection)

N.J.A.C. 6A:16-8

NOTE: PARENT CAN INSIST ON CST REFERRAL WITHOUT HAVING TO PARTICIPATE IN I&RS FIRST (N.J.A.C. 6A:14-3.3)

SECTION 504 OF THE REHABILITATION ACT

- Anti-discrimination statute
- Applies to recipients of federal funds (e.g. public schools, charter schools, some private schools)
- Broader definition of disability
- Fewer protections

29 U.S.C. 794; 34 C.F.R. 104.100 et seq.

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SECTION 504

- Protects qualified individual (e.g. school-age) with physical or mental impairment that substantially limits one or more major life activities (e.g. breathing, walking, learning, self-care)
 - Record of having impairment
 - Perceived as having impairment
- "Substantially limits" – definition does not consider mitigating measures (other than eye glasses for routine vision problems)

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SECTION 504

Requires:

- Child find
- FAPE
- LRE
- Reasonable accommodations and services needed to provide meaningful access to education

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AMERICANS WITH DISABILITIES ACT (ADA)

- Anti-discrimination statute
- Persons with disabilities must have equal opportunity to benefit from programs / services (Title II)
- Reasonable modifications and accommodations necessary to avoid discrimination (unless show that doing so would fundamentally alter nature of service, program, or activity being provided)

42 U.S.C. § 12101 et seq.

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ALTERNATIVES TO SPECIAL EDUCATION

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CASE STUDY OF KARIMA

Karima is in the third grade and struggling with reading grade-appropriate material, spelling, and writing. Her parent requests assistance from the school district, and the district refers her to the I&RS team.

What are your thoughts, questions, concerns?
What additional information, if any, do you want to know?

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WHAT WILL YOU DO/SAY IF...?

- The school district says Karima cannot be referred to the CST without trying I&RS first
- The school district says it never received a request to do a CST evaluation
- The school district insists DCP&P should sign consent to the evaluation paperwork
- The school district says there is nothing it can do since the biological parent is not involved/responding

EVALUATION

- If the school district decides child should be evaluated for special education, must provide a *multi-disciplinary evaluation at no cost*
- Must evaluate within 90 days of parent's consent
 - Exceptions
 - Parent does not cooperate
 - Child moves to another district during evaluation process and parent and district agree to specific modified timeframe for completing evaluation

CASE STUDY OF CHARLIE

Charlie, age 10, is removed from his home in Edison and placed by DCP&P in a resource home in Elizabeth. Charlie was being evaluated for SPED by the Edison district. The evaluation process commenced 40 days earlier. The resource parent is told Charlie must stay at home until he undergoes a full Child Study Team evaluation by Elizabeth district.

WHAT QUESTIONS/CONCERNS DO YOU HAVE?

EVALUATION REQUIREMENTS

- Free/at no cost
- Multidisciplinary
 - Two CST members at minimum
 - Other specialists as needed
- Test in ALL areas of suspected disability
- Native language or form most likely to yield accurate information
 - District cannot require family member to translate
- One structured observation plus teacher and parent interviews
- Written report(s) detailing findings
 - Provided 10 days prior to eligibility meeting

EVALUATION MATCH GAME

GAME RULES:

- Three minutes on the clock
- Match names of evaluations to descriptions
- When you think you are done, ring bell and you will learn the number of answers you have correct
- If time remains, keep going!
- Tag-team hand-off permitted but there is only one winner!

TYPES OF EVALUATIONS BY SCHOOL DISTRICT

- Hearing and Vision
- Psychological*
- Educational*
- Social History*
- Speech & Language
- Occupational Therapy
- Physical Therapy
- Psychiatric
- Neurological
- Neuropsychological
- Neuropsychiatric
- Central Auditory Processing
- Assistive Technology
- Vocational
- Functional Behavioral

NOTE: List is NOT exhaustive

KEY SPECIAL EDUCATION EVALUATIONS

- **Educational evaluation** assesses educational performance and achievement as well as educational and developmental progress to identify learning problems and measure effectiveness of interventions
- **School Psychological evaluation** assesses cognitive abilities, achievement, social and emotional functioning, and developmental status to identify learning, behavior and social-emotional problems
- **Social history** examines person in situation or person in environment to understand the child's network of relationships, systemic involvement and their effects on the child's functioning and development

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CASE STUDY OF CHRISTOPHER

Christopher is four years old and has a history of disruptive behavior in his preschool, including kicking, spitting, and throwing objects. His parent asks that he be evaluated for special education. The school district conducts a psychological evaluation, and a social history, and finds him ineligible because there are no cognitive issues.

WHAT CONCERNS DO YOU HAVE?

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WHAT WOULD YOU SAY IF...?

- The school district said Christopher does not need special education; he needs better parenting
- The school district said Christopher's IQ is average so he does not need special education
- The school district said Christopher needs to go to a "therapeutic" or "behavioral program" instead of preschool, and DCP&P or Medicaid should be responsible

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EVALUATION RED FLAGS

- Single assessment/procedure sole basis for eligibility
- Child not assessed in all areas of suspected disability
- Assessment not in language/form most likely to yield accurate information
- Identifying information in report incorrect
- No observation performed outside of testing
- Evaluators not properly qualified
- Parent doesn't receive initial evaluation reports at least 10 calendar days prior to eligibility meeting

N.J.A.C. 6A:14-3.4, 3.5

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INDEPENDENT EVALUATIONS

- "Parent" has right to request independent evaluation if:
 - disagrees with results of district evaluation **OR**
 - district decides not to perform evaluation
- Written request
 - 20 days for district to file for due process
- If district does not file for due process within 20 days, must pay for independent evaluation
 - Parent selects evaluator, NOT district (must be reasonable)
 - District may provide parent with list of qualified evaluators but parent not bound to choose from list

N.J.A.C. 6A:14-2.5(c)

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INDEPENDENT EVALUATIONS



DISTRICT HAS **DUTY TO CONSIDER** INDEPENDENT EVALUATION RESULTS—
DOES NOT HAVE TO FOLLOW THEM

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OTHER SOURCES OF EVALUATIONS

At DCP&P's initiative or by court order:

- Psychological
- Psychiatric
- Medical
- Neurological/Neurodevelopmental/Neuropsychiatric
- Occupational/Physical/Speech-Language Therapy
- Basic Life Skills and Ansell-Casey Strengths and Needs (at age 14)

USING EVALUATIONS ACROSS SYSTEMS

- Does the child need additional evaluations?
- Through which system can/should evaluation(s) be obtained?
 - System dictates purpose of evaluation
 - Timing issues
- What are limits on sharing/using results across systems?
 - Confidentiality and need for redaction
 - Educational versus other benefit

CASE STUDY OF JOSEPH

Joseph is nine years old and in regular education programming. His mother is arrested and incarcerated, and he is placed with his maternal grandmother. Joseph's behavior is challenging, and it is hard for his grandmother to control his behaviors and ensure his safety.

WHAT QUESTIONS/THOUGHTS DO YOU HAVE?

CASE STUDY OF JOSEPH

- Should a referral be made for a CST evaluation?
 - Why or why not?
- Who can serve as Joseph's special education "parent?"
- Do you want to obtain any outside evaluations before referral, either from DCP&P or independent evaluators?
 - Why or why not?
- How will you refer Joseph for a CST evaluation?
- Who can consent to the CST evaluation?
- What evaluations do you want to have performed?
 - Why?

ELIGIBILITY

Meeting participants:

- Parent
- Teacher knowledgeable about student's performance or district's programs
- Student, where appropriate
- At least one CST member who participated in eval.
- Case manager
- Certified school personnel referring student or school principal/designee (for initial eligibility meeting only)

N.J.A.C. 6A:14-2.3(k)

ELIGIBILITY

Child is eligible for special education if:

- Has one or more disabilities that meets at least one of 14 classification definitions;
- Disability adversely affects educational performance; AND
- Needs special education and related services

N.J.A.C. 6A:14-3.5

SPECIAL EDUCATION CLASSIFICATIONS

- Auditorily Impaired
- Autistic (ASD)
- Cognitively Impaired
- Communication Impaired (CI)
- Emotionally Disturbed (ED)
- Deaf/Blindness
- Multiply Disabled (MD)
- Orthopedically Impaired
- Other Health Impaired (OHI)
- Preschool Disabled (PSD)
- Social Maladjustment
- Specific Learning Disability (SLD)
- Traumatic Brain Injury (TBI)
- Visually Impaired

N.J.A.C. 6A:14-3.5

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REEVALUATION OF ELIGIBILITY

- Multidisciplinary reevaluation required for all classified students every three years
 - May be sooner if parent or teacher so requests
 - Must be at least one year since last evaluation unless district and parent otherwise agree
- 60-day timeline
- **BEWARE**
 - Request to waive reevaluation
 - Reevaluation without assessments

N.J.A.C. 6A:14-3.8

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DAY TWO AFTERNOON SESSION

IEPs, Additional Special Education Rights and Wrap-Up

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OBJECTIVES: DAY TWO AFTERNOON

- Identify and decipher key elements of the Individualized Education Program (IEP)
- Discuss relationship between IEP and program/placement and Least Restrictive Environment (LRE)
- Review additional special education rights and protections
- Identify many roles of DCP&P in ensuring children in care receive appropriate educational programs, services, and protections
- Review and wrap up

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SPECIAL EDUCATION PROCESS

Evaluation

↓

Eligibility

↓

Classification

↓

Individualized Education Program (IEP)

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INDIVIDUALIZED EDUCATION PROGRAM (IEP)

- Written plan
 - Developed collaboratively
 - Designed to meet a child's unique needs
 - Lasts for one year
 - Reviewed annually or more often if requested
 - School district to provide all services and programs specified in the IEP

N.J.A.C. 6A:14-3.7

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WHO PARTICIPATES IN AN IEP MEETING?

- Parent
 - At least one special education teacher and one general education teacher (if applicable)
 - At least one CST member
 - Case manager
 - District representative
 - Student (if 18 or as appropriate); and
 - Any person, parent or district, who wants to attend who has knowledge or expertise regarding child
- N.J.A.C. 6A:14-2.3

HOW TO READ AN IEP

- Background information
 - Current levels of academic achievement and functional performance
 - *Measurable* annual goals and short-term objectives tailored to meet unique needs of child
 - Must be individually tailored
 - G&O ≠ Core Curriculum Content Standards
 - Statement of programs, services, accommodations, and modifications to be provided (includes rate, frequency, duration)
- N.J.A.C. 6A:14-3.7

HOW TO READ AN IEP

If needed, IEP also shall include:

- Behavioral plan
 - Target behaviors, including baseline
 - Intervention strategies
 - ✓ Alter antecedent events
 - ✓ Provide consequences
 - Methods to measure effectiveness
- Extended school day or school year
 - Individualized
 - Continue G&O in IEP
 - Need not be in classroom or school setting

N.J.A.C. 6A:14-3.7

HOW TO READ AN IEP

- Transition plan/transition services
 - 14+
 - ✓ student's interests/preferences
 - ✓ post-secondary goals
 - ✓ high school plans to meet goals
 - 16+
 - ✓ Need for interagency linkages
 - ✓ post-secondary goals based on assessments
 - ✓ transition services
- Assistive technology

N.J.A.C. 6A:14-3.7

WHAT ARE RELATED SERVICES?

Services that may be required to help a child with a disability to benefit from special education

- Determined by IEP team
- Set forth in IEP

34 C.F.R. 300.34

TYPES OF RELATED SERVICES

- Transportation
- Speech & language services
- Audiology services
- Psychological services
- Physical therapy
- Occupational therapy
- Recreation services
- Counseling services
- Mobility & orientation services
- Medical services for diagnostic or evaluation purposes
- Social skills
- Personal aide

34 C.F.R. 300.34

OTHER SOURCES OF SERVICES

At DCP&P's initiative or by court order:

- Medical care
 - Mental health services
 - Behavioral health assistant
- N.J.A.C. 10:122D-2.5
- Transitional or aging-out services
 - Tutoring
 - Mentor
 - Recreational activities or summer camp

QUESTIONS TO ASK REGARDING SERVICES

- Does the child need additional services?
 - From which system can they be accessed?
 - School district
 - DCP&P
 - Insurance (Medicaid)
 - From which system should they be accessed?
 - Purpose of service
 - Education-related
 - Family-related
 - Other



IEPs RED FLAGS

- Failure to schedule IEP meeting at time/date convenient for parent
- Improper make-up of IEP team
- IEP outdated (more than one year old)
- IEPs repeat (cut and paste) year after year
- Present levels outdated or minimal info/data
- Goals and objectives not appropriate for child and/or measurable
- Failure to state specific rate, frequency, and duration of services



IEPs #1 RED FLAG

IEP must be written for the CHILD and not for the disability

NO COOKIE CUTTER IEPs

IMPLEMENTATION OF IEPs – BEWARE

- Parent has right to refuse consent to IEP
 - If parent refuses consent to *initial* IEP, no special education services provided or protections available
 - Parent may refuse some services and agree to others
- If parent disagrees with annual review IEP, IEP GOES INTO EFFECT IN 15 DAYS UNLESS parent files for due process within 15 days
 - Invokes "stay-put"

ADDITIONAL IEP RIGHTS

- Right to tape record meeting (advance written notice)
- Right to meet via telephone or videoconference
- Right to be EQUAL member of IEP team
- Right to consider IEP prior to signing consent
- Right to have IEP reviewed and updated *annually*, or more often if needed
- Right to triennial re-evaluation of eligibility
- Right to request IEP meeting at any time

N.J.A.C. 6A:14-2.3, 3.7

SCHOOL DISTRICT TRANSFERS AND IEPs

If child transferring between districts has IEP:

- New district CST must conduct immediate review of evaluation information and IEP **and**
- Without delay provide *comparable* program until previous IEP adopted or new IEP implemented

N.J.A.C. 6A:14-4.1

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SCHOOL DISTRICT TRANSFERS AND IEPs

In-state transfer:

- If parent and district agree, prior IEP implemented
- If parent and district disagree, district must conduct all needed assessments and, within 30 days of enrollment, develop and implement new IEP

Out-of-state transfer:

- District has 30 days to assess, develop, and implement new IEP

N.J.A.C. 6A:14-4.1

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THE CHICKEN OR THE EGG

Which comes first?



IEP?

Program/placement?

IEP

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SPECIAL EDUCATION PROGRAMS & LRE

- Programs may include:
 - An aide in the classroom
 - Special services—e.g., speech and language
 - Assistive devices—e.g., tape recorder
 - Special classes—e.g., resource room, self-contained
 - Placement in specialized private/public day school
 - Placement in residential program
- Environment must be the least restrictive in which a child's educational needs are appropriately met

20 U.S.C. 1412(a)(5); N.J.A.C. 6A:14-4.2

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OTHER SOURCES OF PROGRAM/PLACEMENT

DCP&P placement can influence school placement and vice versa

- Residential DCP&P placement can result in child going to school on premises even if not necessary or appropriate (N.J.A.C. 10:127-6.7(f))
- Inappropriate school program/placement can result in DCP&P involvement

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QUESTIONS TO ASK REGARDING PROGRAMS/PLACEMENTS

- What type of program/placement does child need?
 - For educational purposes?
 - For other purposes?
- If child placed in residential program or group home by DCP&P, must the child attend the affiliated school?
- When should a child in out-of-home placement be required to change schools?

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RIGHT TO DISAGREE

Disagreement may occur at any stage

- Decision to evaluate
- Quality/type/results of evaluations
- Request for Independent Evaluations
- Eligibility
- Classification
- IEP development (program & services)
- IEP implementation
- IEP annual review/3-year reevaluation

METHODS FOR RESOLVING COMPLAINTS

- Complaint Investigation – state investigates concerns
- Mediation – impartial mediator helps parties resolve disagreement
- Due Process Hearing – administrative law judge hears case and issues decision
 - Emergency Relief
 - Expedited Hearing (e.g. discipline)

EARLY INTERVENTION PROGRAM (EIP)

- Children ages 0-3 with developmental delay(s), or diagnosed with condition that is highly likely to result in developmental delay(s), and their families are entitled to services (IDEA Part C)
- N.J. Dept. of Health
- To refer a child to the EIP, call **1-888-653-4463**
- When making referral, must provide:
 - Name and age of child
 - Address
 - Primary concerns, including how you know child & reason you think child may need EI services

EIP – MANDATORY REFERRAL

State must refer **ALL** children under age 3 if:

- Involved in substantiated* case of child abuse or neglect **or**
- Identified as affected by illegal substance abuse or withdrawal symptoms due to prenatal drug exposure

*DCF defines "substantiated" as substantiated or established
20 U.S.C. §1437(a)(6)(A)-(B)

BRAINSTORM

What are the roles of DCP&P workers in meeting the educational needs of children in care?



RELEVANT LAWS

- Individuals with Disabilities Education Improvement Act, 20 U.S.C. 1400 et seq.
- 34 C.F.R. 300 et seq.
- N.J.A.C. 6A:14-1.1 et seq.

