

Marietta City Schools

Department of Special Services



Federal protection for Students with Disabilities

- IDE(I)A – Individuals with Disabilities Education (Improvement) Act of 2004
- 504 – Section 504 of the Rehabilitation Act of 1973
- ADA – Americans with Disabilities Act of 1990



IDE(I)A 2004

- Originally signed into law in 1975 by President Gerald Ford to guarantee SWD access to a Free, Appropriate, Public Education (FAPE).
- In 2004 President Bush signed IDE(I)A into law, reauthorizing the IDEA and aligning the federal law with the goals and purposes of No Child Left Behind.



What constitutes FAPE?

- Equal access to education at NO cost to parents
- Accommodations, modifications, and related supports and services
- Access to education in the Least Restrictive Environment (LRE)
- Equal access to extra-curricular activities



What might FAPE look like?

- Equal access to education at NO cost to parents
 - Special transportation, Extended School Year (ESY), an extra set of text books for use at home



What might FAPE look like?

- Accommodations, modifications, and related supports and services
 - Testing in a different format or with extended time limits; use of a hearing aid; access to assistive technology (AT) beyond that which is offered typical peers (laptop with special software; special microscope), occupational or physical therapy; orientation/mobility training



What might FAPE look like?

- Access to education in the Least Restrictive Environment (LRE)
 - Federally funded access to a residential treatment facility; small group instruction; one-on-one paraprofessional in a general education classroom; a second (team) teacher in a classroom; or a modified school day



What might FAPE look like?

- Equal access to extra-curricular activities (and school events)
 - Ramps and wheelchair accessible restrooms at our stadium and track; specially designed instrument harness to facilitate participation in marching band; more frequent rest breaks during basketball practice (if the student meets other requirements for eligibility)



IDEA Funding

- Federal funds are available for public schools serving students ages 5-21 (Part B) and 3-5 (Part C) based on students' eligibility in one of 13 different categories.
- Funding can be withheld and compensatory services can be mandated for failure to comply.



What constitutes denial?

- A student found eligible for special services under IDE(I)A or Section 504 of the Vocational Rehabilitation Act cannot be denied access to FAPE, regardless of school or bus discipline



Rehabilitation Act of 1973

- Section 504 of civil rights law prohibits discrimination on the basis of disability in programs and activities, public and private, that receive federal funds
- ‘...physical or mental impairment that substantially limits major life activities.’
- Typically requested due to testing accommodations
- IDE(I)A funds may not be used



Section 504 and IDE(I)A

- A Section 504 Plan is a legal document, but offers fewer student and parent safeguards
- As a result, if a student is eligible for an Individualized Education Plan (IEP) under IDE(I)A there is no need for them to have a Section 504 Plan



Example

- IDE(I)A safeguards not available through a Section 504 Plan
 - a Free Appropriate Public Education (FAPE) for students starting on their third birthday and extending through their 22nd
 - a manifestation determination may protect a child with an IEP from certain disciplinary consequences



Parental Concerns

- Parents who suspect their child may have a disability should talk to their child's teacher
- Usually, students will need to proceed through a pre-referral process known as RtI (Response to Intervention) prior to being evaluated formally for eligibility



Parental Request for Eval and Prior Written Notice

- Parents have the right to make a formal (written) request for evaluation
- Even if the school determines there is not enough evidence of a 'suspected disability' and denies the parent's request for evaluation, written notice of the decision must be provided (Prior Written Notice)



Prior Written Notice (cont)

- The written response to parents must include the following
 - A description of the action proposed or refused by the district
 - An explanation of why denied and a description of all student information used to make the determination
 - A disclosure of protection under Procedural Safeguards



Procedural Safeguards

- Procedural Safeguards are the rights and protections afforded to both parents and the child suspected of having a disability
- Procedural Safeguards can vary by state
- Procedural Safeguards Notice must be provided at specified times



Procedural Safeguards

- Some examples of procedural safeguards for parents include (but are not limited to) the right to
 - obtain an independent evaluation
 - receive Prior Written Notice
 - consent to evaluations
 - access to a child's educational records
 - due process hearings



Procedural Safeguards

- In addition to parents' rights, students are entitled to certain rights under IDE(I)A
- If a student with a 504 Plan or IEP violates MCS Discipline Code and a tribunal hearing recommends an alternative setting, special education services may still be required



Procedural Safeguards

- If a student with a Section 504 Plan or IEP violates MCS Bus Discipline code and removal from the bus equates to denial of access to education (FAPE), special transportation arrangements must be made



Use of IDEA Funds

IDE(I)A funds should supplement (not supplant) services available to all students

Local Education Agencies may not use Federal funds to provide services that it is required to make available under other Federal, State or local laws



Resolution

- Parents and students should always attempt to resolve issues related to special services at the school level
 - Every student with special needs has a case manager
 - Every school has a special education lead teacher
 - Every school has an SST Coordinator



Questions or Concerns?

- The Department of Special Services and Assessment
- 250-B Howard Street

(770) 427-4631 ext 238 or 300

