



1.800.695.0285

(Voice/TTY)

[nichcy@aed.org](mailto:nichcy@aed.org)

[www.nichcy.org](http://www.nichcy.org)

# Questions and Answers about IDEA:

## Purposes and Key Definitions

More than 6.8 million children with disabilities in our public schools receive special education and related services as part of their publicly funded education.<sup>1</sup> But what *is* special education? What are related services? Who's considered a child with a disability? This Q&A is designed to answer these questions—looking in detail at the mandates and requirements of our nation's special education law, the Individuals with Disabilities Education Act (IDEA), as amended in 2004.

Read on, if you'd like to find out the purposes of IDEA, as established by Congress in Public Law 108-446, as well as how four of IDEA's key terms are defined in the final Part B regulations published in 2006. Those terms are:

- free appropriate public education (FAPE);
- child with a disability;
- special education; and
- related services.

The Q&A series presents components of IDEA separately to lighten the reading load. However, it's critical to understand that the law itself is one integrated whole of interweaving requirements. No one part exists without the influence and reinforcement of the other parts. Taken together, IDEA's provisions offer comprehensive guidelines that States and school systems use to determine how special education and related services are made

available to eligible children with disabilities. You'll find the Q&As on *IDEA* series on NICHCY's website, at: [www.nichcy.org/schoolage/qa-series-on-idea](http://www.nichcy.org/schoolage/qa-series-on-idea)



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We've used the word "you" to speak directly to parents and families in this Q&A, but the details will also be useful to professionals who work with children and youth with disabilities and their families.

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## ★ A—IDEA’s Purposes

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We’d like to start our Q&A series on IDEA by taking a brief look at IDEA’s purposes, for they underpin and guide its many detailed requirements. Those purposes have their roots in the past, when children with disabilities were often excluded from schools. This history can be clearly seen in the *Findings* that Congress states at the very beginning of the law, as most recently amended in 2004. Public Law 108-446 states:

FINDINGS.—Congress finds the following:

(1) Disability is a natural part of the human experience and in no way diminishes the right of individuals to participate in or contribute to society. Improving educational results for children with disabilities is an essential element of our national policy of ensuring equality of opportunity, full participation, independent living, and economic self-sufficiency for individuals with disabilities.

(2) Before the date of enactment of the Education for All Handicapped Children Act of 1975 (Public Law 94-142), the educational needs of millions of children with disabilities were not being fully met because—

(A) the children did not receive appropriate educational services;

(B) the children were excluded entirely from the public school system and from being educated with their peers;

(C) undiagnosed disabilities prevented the children from having a successful educational experience; or

(D) a lack of adequate resources within the public school system forced families to find services outside the public school system.<sup>2</sup>

These words reveal why IDEA was originally passed in 1975 as Public Law 94-142. Then, it was called the Education for All Handicapped Children Act and gave grants to States for the education of children with disabilities. Since then, it has been amended many times, while always maintaining its original purpose—to ensure that children with disabilities have access to a free appropriate public education.



In August 2006, the U.S. Department of Education released final regulations for the amended IDEA passed by Congress in 2004. The regulations officially state that the major purposes of IDEA are:

- 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;
- to ensure that the rights of children with disabilities and their parents are protected;
- to help States, localities, educational service agencies, and Federal agencies provide for the education of all children with disabilities; and
- to assess and ensure the effectiveness of efforts to educate children with disabilities.<sup>3</sup>

Within these purposes, you can see several key terms—children with disabilities, free appropriate public education, special education, related services—all of which are defined within the regulations. This Q&A will share those definitions with you. They’re important to know, because they

drive how States design their own special education policies and procedures, including their governing legislation.

## ★ **B—Key Definitions**

As we've said, IDEA requires that a free appropriate public education—which includes special education and related services—be made available to each eligible child with a disability. This is a sweeping mandate that contains four key terms frequently used in IDEA:

- a free appropriate public education, or FAPE;
- child with a disability;
- special education; and
- related services.

Understanding what each of these terms means is a crucial part of implementing IDEA. For parents, these terms will be central in determining their child's eligibility for special education and related services and what those services may include.

Accordingly, the remainder of the Q&A will focus on how IDEA defines these four terms.



- <sup>1</sup> U.S. Department of Education. (2009). *28th annual report to Congress on the implementation of the Individuals with Disabilities Education Act, 2006* [Vol. 2]. Washington, DC: Author. (Available online at <http://www.ed.gov/about/reports/annual/osep/2006/parts-b-c/index.html>)
- <sup>2</sup> Public Law 108-446, Section 601(c)(1) and (2).
- <sup>3</sup> 34 CFR §300.1—Purposes.
- <sup>4</sup> 34 CFR §300.17—Free appropriate public education.

### 1. What is a free appropriate public education?

In IDEA, a free appropriate public education (FAPE) means special education and related services that:

- are provided to children and youth with disabilities at public expense, under public supervision and direction, and without charge;
- meet the standards of the State educational agency (SEA), including the requirements of IDEA;
- include preschool, elementary school, or secondary school education in the State involved; and
- are provided in keeping with an individualized education program (IEP) that meets the requirements of IDEA.<sup>4</sup>

Those are practically IDEA's exact words. Note that they make direct reference to what FAPE itself stands for, word by word:

- *Free*—"without charge" to parents or children;
- *Appropriate*—"in keeping with an individualized education program"

### § Special Symbols in This Issue §

As you read the explanations about IDEA, you will find footnotes referencing specific sections of the Federal regulations, such as §300.1. You can use these references to locate the precise sections in the Federal regulations that address the issue being discussed. For example, in the discussion of IDEA's purposes, you are given the reference 34 CFR §300.1. (The § symbol means "section.") This reference tells you that, to read the exact words the regulations use to define IDEA's purposes, you would look under Section 300.1 of the *Code of Federal Regulations* (CFR) for Title 34 (sometimes referred to as 34 CFR).

- *Public*—“at public expense, under public supervision and direction”
- *Education*—“preschool, elementary.. .or secondary school...”



We’d like to elaborate for a moment on “appropriate,” because it is a highly influential term in IDEA. You’ll see it a lot, used in different contexts but generally meaning the same thing. It means whatever’s suitable, fitting, or right *for a specific child*, given that child’s specific needs, specific strengths, established goals, and the supports and services that will be provided to help the child reach those goals.

Thus, an “appropriate” education differs for each child with a disability because it is based on his or her individual needs. IDEA specifies in some detail how school systems and parents are to plan the education that each child receives so that it is appropriate—meaning, responsive to the child’s needs.<sup>5</sup> The plan that parents and school staff develop is documented in writing through the individualized education program (IEP), which the school is then responsible for carrying out.<sup>6</sup>

## 2. How does IDEA define “child with a disability”?

“Child with a disability” is definitely one of the most important terms in IDEA, because it shapes whether or not a specific child is eligible for special education and related services (which we’ll define in a moment).

Every time IDEA uses the term “child with a disability,” it means the same thing—the definition we’re about to provide. That definition is long, so we’ll break it down, factor by factor.

### Factor A: Evaluation

IDEA’s definition of a “child with a disability” begins like this:

- (a) *General.* (1) *Child with a disability* means a child evaluated in accordance with §§300.304 through 300.311...<sup>7</sup>

Thus, in order for your child to be considered a “child with a disability” in IDEA, he or she must first receive a full and individual evaluation as described within IDEA. (To learn more about what the evaluation process involves, you may wish to read NICHCY’s *Your Child’s Evaluation*, available online at: [www.nichcy.org/docs/bp1.pdf](http://www.nichcy.org/docs/bp1.pdf))

### Factor B: The Disabilities

IDEA’s definition goes on to say that, through the evaluation we just mentioned, the child is found to have one or more of the following disabilities:

- mental retardation;
- a hearing impairment, including deafness;
- a speech or language impairment;
- a visual impairment, including blindness;

<sup>5</sup> Drawn from page 1-51 of Küpper, L. (2007, July). The top 10 basics of special education (Module 1). *Building the legacy: IDEA 2004 training curriculum*. Washington, DC: National Dissemination Center for Children with Disabilities. Available online at: [www.nichcy.org/docs/legacy/1B-Slides13-end.pdf](http://www.nichcy.org/docs/legacy/1B-Slides13-end.pdf)

<sup>6</sup> IDEA’s requirements for an IEP are discussed in detail at: [www.nichcy.org/schoolage/iep/](http://www.nichcy.org/schoolage/iep/)

<sup>7</sup> 34 CFR §300.8(a)(1)—Child with a disability: General.

- a serious emotional disturbance (hereafter referred to as emotional disturbance);
- an orthopedic impairment;
- autism;
- traumatic brain injury;
- other health impairment;
- a specific learning disability;
- deaf-blindness; or
- multiple disabilities.<sup>8</sup>



Each of these disabilities is also individually defined in the regulations for IDEA. These are important to know, because they add substantive detail to the meaning of “child with a disability.” If you would like to know the precise definition of any of these disability categories, please refer to NICHCY’s publication *Categories of Disability under IDEA*, available online at: <http://www.nichcy.org/disability/categories/>

### Factor C: State Definitions

It’s also important to understand that State definitions of individual disabilities can play a critical role in whether or not a child meets the definition of a “child with a disability.” As long as State definitions are consistent with IDEA’s, States may establish additional criteria in the disability areas and frequently do, setting policies that explain each of the 13 disabilities in their own terms.<sup>9</sup>

*Specific learning disability* is an excellent example. States differ in how they define this term; in one State a child may be considered to have a specific learning disability, while in another State the child will not.<sup>10</sup>

Thus, while the term “child with a disability” is defined within IDEA 2004, the term also has an operational definition at the State level. So what the term really means, and whether or not a group of people decide that a child has a particular disability, is a matter of how IDEA’s definition intersects with State definitions and policies.

### Factor D: “By Reason Thereof”

Another influential part of IDEA’s definition of a “child with a disability” is found in how the general definition *ends*, which is:

...and who, by reason thereof, needs special education and related services.<sup>11</sup>

It’s the “by reason thereof” that sometimes causes confusion and even gets forgotten in IDEA’s definition of “child with a disability.” This short phrase adds another level to what it means for a child with a disability to be eligible for special education and related services under IDEA 2004. It’s not enough for a child to be evaluated in keeping with IDEA’s requirements and found to have one of the disabilities listed in IDEA. “By reason thereof” is also a condition to be met—in other words, *because* of the disability, the child needs special education and related services. Many disabilities don’t result in

<sup>8</sup> 34 CFR §300.8(a)(1)—Child with a disability: General.

<sup>9</sup> Adapted from pages 1-26 through 1-28 of Küpper, L. (2007, July). The top 10 basics of special education (Module 1). *Building the legacy: IDEA 2004 training curriculum*. Washington, DC: National Dissemination Center for Children with Disabilities. Available online at: [www.nichcy.org/docs/legacy/1A-Slides1-12.pdf](http://www.nichcy.org/docs/legacy/1A-Slides1-12.pdf)

<sup>10</sup> *Ibid.*

<sup>11</sup> 34 CFR §300.8(a)(1)—Child with a disability: General.

the need for special education. If a child is found to only need a related service and not special education, then he or she does not meet the definition of a “child with a disability.”<sup>12</sup>

### Factor E: Use of “Developmental Delays”

IDEA allows States, at their discretion, to adopt a definition of “child with a disability” that includes children aged 3 through 9 (or any subset of that age range) who are experiencing “developmental delays” and “who, by reason thereof,” need special education and related services.<sup>13</sup>



can’t force any of its LEAs to do so. If the State does not adopt the term, its LEAs may not independently decide they *will* use the term. It’s only an option for LEAs if the State adopts the term—and then, the LEA must use the State’s definition, including the age range specified by the State.<sup>16</sup>

As you can see, the definition of “child with a disability” is intricate. Several factors must be met before a child can be considered to meet IDEA’s definition—and you must also consider the specifics of your State’s policies and definitions.

### 3. What is special education?

This provision allows States to find three through nine-year-olds (or any subset of that age range) with developmental delays to be eligible children with a disability and to provide them with special education and related services without having to classify them under a specific disability category. This provision of law is intended to address the often difficult process of determining the precise nature of a child’s disability in the early years of his or her development.<sup>14</sup>

According to IDEA, as measured by appropriate diagnostic instruments and procedures, “developmental delays” must be in one or more of the following areas:

- physical development;
- cognitive development;
- communication development;
- social or emotional development; or
- adaptive development.<sup>15</sup>

States do not *have* to adopt use of the term “developmental delay” in their definitions of “child with a disability.” It’s an option for States. Even if the State adopts the term (which includes defining the age range of children to which it applies), it

Special education is defined as instruction that is specially designed, at no cost to you as parents, to meet your child’s unique needs.<sup>17</sup> *Specially designed instruction* means adapting the content, methodology, or delivery of instruction:

- to address the unique needs of your child that result from his or her disability, and

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<sup>12</sup> 34 CFR §300.8(a)(2)—Child with a disability: General.

*Additional Note:* If the related service the child needs is defined by the State as special education (and not as a related service, as within IDEA), then the child *would* be considered as a “child with a disability” after all.

<sup>13</sup> 34 CFR §300.8(b)—Child with a disability: Children aged three through nine experiencing developmental delays.

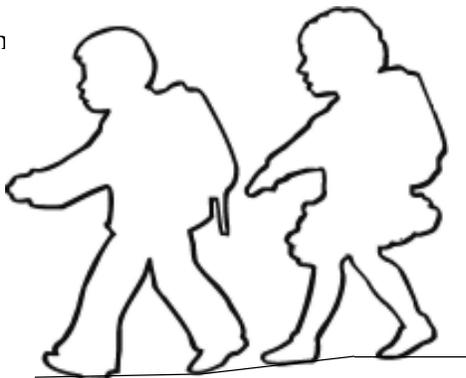
<sup>14</sup> Same as footnote 9. Adapted from page 1-28.

<sup>15</sup> 34 CFR §300.8(b)—Child with a disability: Children aged three through nine experiencing developmental delays.

<sup>16</sup> 34 CFR §300.111(b)—Child find: Use of the term developmental delay.

<sup>17</sup> 34 CFR §300.39(a)—Special education: General.

- to ensure your child’s access to the general education curriculum so that he or she can meet the educational standards that apply to all children within the jurisdiction of the school system.<sup>18</sup>



Special education can include instruction conducted in the classroom, in the home, in hospitals and institutions, and in other settings. It can include instruction in physical education as well. Speech-language pathology services or any other related service can be considered special education rather than a related service under State standards if the instruction is specially designed, at no cost to the parents, to meet the unique needs of a child with a disability. Travel training and vocational education also can be considered special education if these standards are met.<sup>19</sup>

#### 4. Where is special education instruction provided?

As listed above, special education instruction can be provided in a number of settings, such as: in the classroom, in the home, in hospitals and institutions, and in other settings.<sup>20</sup> School systems must ensure that a continuum of alternative placements is available to meet the needs of children with disabilities.<sup>21</sup> This continuum must include the placements just mentioned (instruction in regular classes, special classes, special schools, home instruction, and instruction in hospitals and institutions) and make provision for supplementary services (such as resource room or itinerant instruction) to be provided in conjunction with regular class placement.<sup>22</sup> Unless a child’s IEP requires some other arrangement, the child must be educated in the school he or she would attend if he or she did not have a disability.<sup>23</sup>

Special education instruction must be provided to students with disabilities in what is known as the **least restrictive environment**, or **LRE**.<sup>24</sup> IDEA’s LRE provisions ensure that children with disabilities are

educated with children who do not have disabilities, to the maximum extent appropriate. IDEA’s LRE requirements apply to students in public or private institutions or other care facilities.<sup>25</sup> Each State must further ensure that special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only if the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.<sup>26</sup>

#### 5 What are related services?

Related services are defined in IDEA’s regulations as transportation and such developmental, corrective, and other supportive services as are required to assist a child with a disability to benefit from special education.<sup>27</sup> Related services may include:

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<sup>18</sup> 34 CFR §300.39(b)(3)—Special education: Individual special education terms defined: Specially designed instruction.

<sup>19</sup> 34 CFR §300.39—Special education.

<sup>20</sup> *Ibid.*

<sup>21</sup> 34 CFR §300.115—Continuum of alternative placements.

<sup>22</sup> 34 CFR §300.115(b)(2)—Continuum of alternative placements.

<sup>23</sup> 34 CFR §300.116(c)—Placements.

<sup>24</sup> 34 CFR §§300.114-300.120—Least Restrictive Environment (LRE).

<sup>25</sup> 34 CFR §300.114(a)(2)(i)—LRE requirements.

<sup>26</sup> 34 CFR §300.114(a)(2)(ii)—LRE requirements.

<sup>27</sup> 34 CFR §300.34—Related services.

- speech-language pathology and audiology services;
- interpreting services;
- psychological services;
- physical therapy and occupational therapy;
- recreation, including therapeutic recreation;
- early identification and assessment of disabilities in children;
- counseling services, including rehabilitation counseling;
- orientation and mobility services;
- medical services for diagnostic or evaluation purposes only;
- school health services and school nurse services;
- social work services in schools; and
- parent counseling and training.<sup>28</sup>

The list of related services in IDEA is not intended to be exhaustive, which means that other developmental, corrective, or support services can be provided as “related services” if they are required to help a child benefit from special education. However, related services may *not* include a medical device (such as a cochlear implant) that is surgically implanted, optimizing how the device functions, maintaining the device, or replacing it.<sup>29</sup> The public agency *does* remain responsible for appropriately monitoring and maintaining medical devices that

are needed to maintain your child’s health and safety, including breathing, nutrition, or operation of other bodily functions, while your child is at school or being transported to and from school.<sup>30</sup> The public agency is also responsible for routinely checking children’s hearing aids and the external component of a surgically implanted device to make sure they are functioning properly.<sup>31</sup>

For more details about related services, including how each individual service listed above is defined, please visit NICHCY’s webpage devoted to related services, beginning at: [www.nichcy.org/schoolage/iep/iepcontents/relatedservices/](http://www.nichcy.org/schoolage/iep/iepcontents/relatedservices/)

## Concluding Words

IDEA is a very important law, especially in the lives of children with disabilities and their families. To learn more, we invite you to read our other Q&As on IDEA and visit NICHCY’s website, where still more information on educating children with disabilities can be found, downloaded, and freely shared with others.

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<sup>28</sup> *Ibid.*

<sup>29</sup> 34 CFR §300.34(b)—Related services: Exception.

<sup>30</sup> 34 CFR §300.34(b)(2)(ii)—Related services: Exception.

<sup>31</sup> 34 CFR §300.113—Routine checking of hearing aids and external components of surgically implanted medical devices.

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### Q&A about IDEA: Purposes and Key Definitions, April 2009



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