



Office of Children's Services
Empowering communities to serve youth



Special Education and the Children's Services Act

What CSA Personnel Need to Know About Special Education

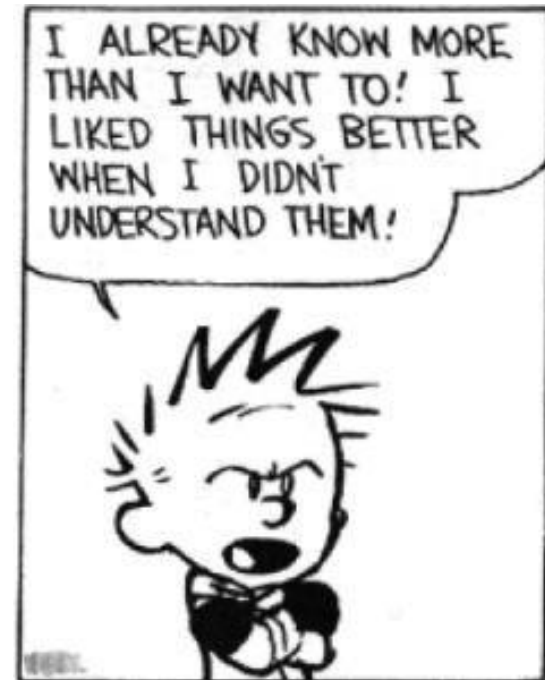
New CSA Coordinator's Academy
March 27, 2019

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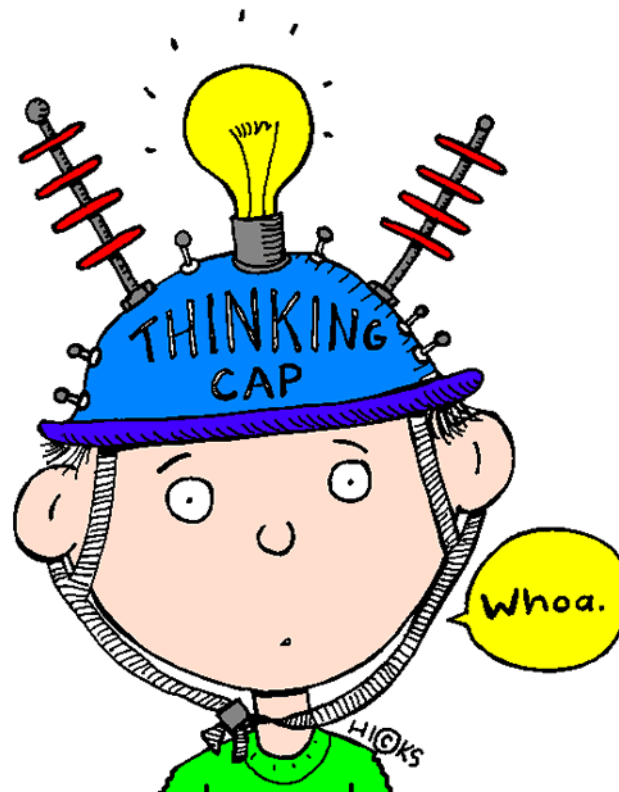
Objective

- Provide CSA personnel with information pertaining to special education and its relationship with the CSA program.



Pretest

What do you already know about Special Education?



Federal and State Regulations

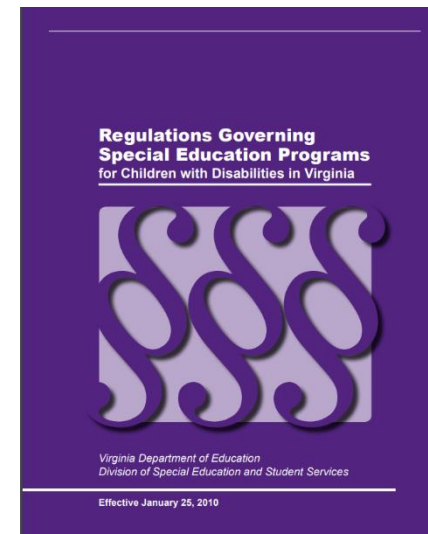
Federal Law

- Individuals with Disabilities Education Improvement Act (IDEA)



State Administrative Code

- Regulations Governing Special Education Programs for Children with Disabilities in Virginia, January 25, 2010 (Virginia Regulations)

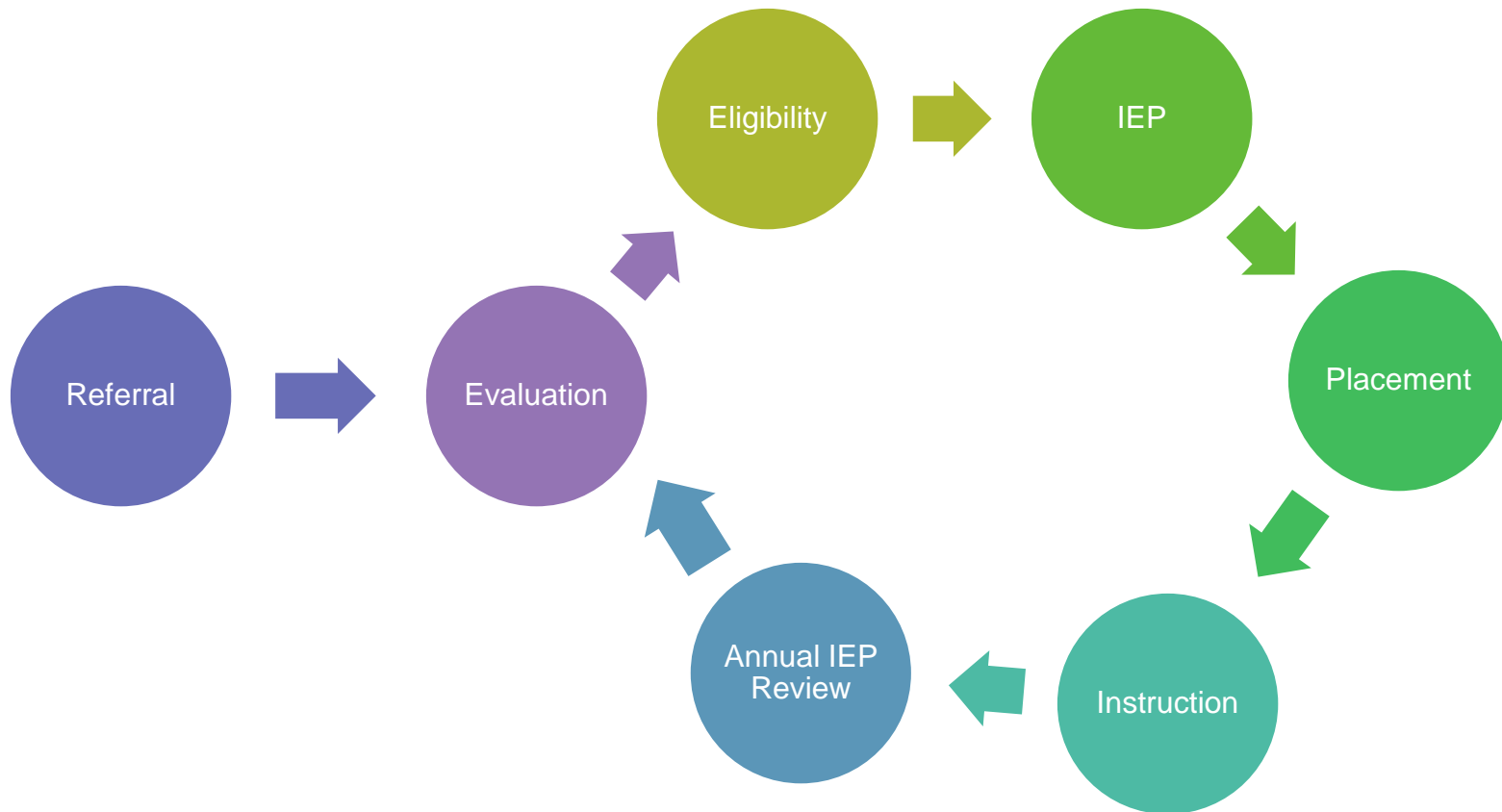


What is Special Education?

- Specially designed instruction
- No cost to the parent
- Meets the unique needs of a child with a disability in all settings (classroom, home, hospitals, institutions, etc.)
- Age of eligibility (special education and CSA)



Special Education is a Process



Key Components of Special Education



IEP

Individualized
Education Program



LRE

Least Restrictive
Environment

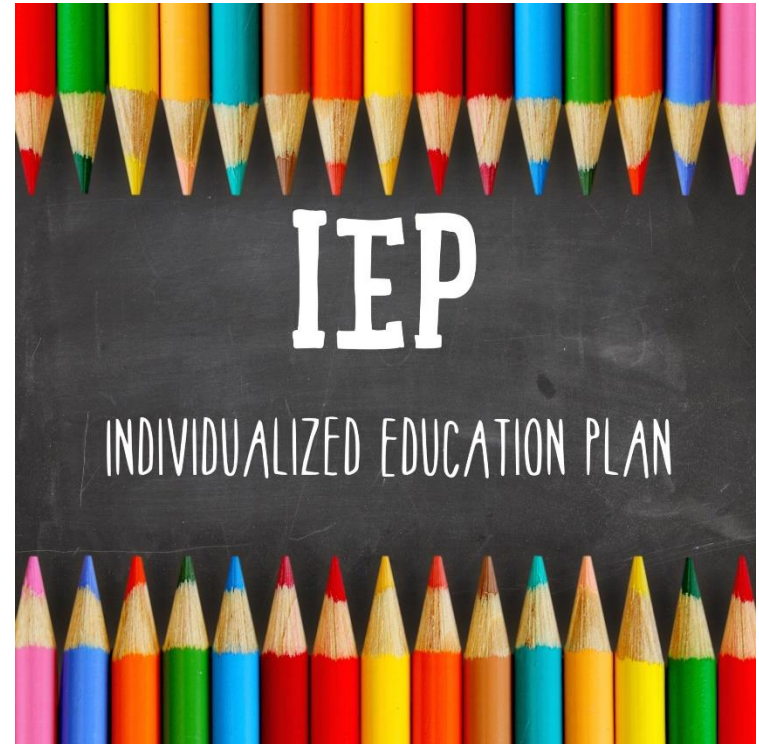


FAPE

Free Appropriate
Public Education

IEP

- Written educational plan for a child with a disability
- Developed, reviewed, revised in a team meeting
- Identifies needs
- Develops goals
- Includes accommodations
- Specifies special education and related services
- Requires parent consent



IEP Elements

- Present Levels of Academic and Functional Performance (PLOP)
- Required Considerations
- Measurable Annual Goals
- Progress Reporting
- Participation in State Assessments
- Accommodations and Modifications
- Services
- Transition Services, where applicable
- Determination of LRE
- Informed Consent


Continuum of Placements/LRE

- As the final matter in IEP development, the team must look at a continuum of educational placements and select the placement that constitutes the student's least restrictive environment (LRE)
- Removed only from public school when nature or severity of disability cannot be achieved satisfactorily in public school.



LRE

Continuum of Educational Placements

Level	Setting
<p style="text-align: center;">Least Restrictive</p> <div style="text-align: center;">  </div> <p style="text-align: center;">Most Restrictive</p>	<ul style="list-style-type: none"> Regular school building: regular classroom with accommodations and/or support services
	<ul style="list-style-type: none"> Regular school building: regular classroom with itinerant services or resource room services (pull-out)
	<ul style="list-style-type: none"> Regular school building: full-time self-contained special education class
	<ul style="list-style-type: none"> Full-time self-contained class in a separate public facility
	<ul style="list-style-type: none"> Private day school
	<ul style="list-style-type: none"> Home based
	<ul style="list-style-type: none"> Public or private residential program

This Process Should Lead to FAPE

- Provided at public expense, public supervision and direction, without cost to parent;
- Meets the standards of the Virginia Board of Education;
- Appropriate preschool, elementary, middle or secondary school
- Provided in conformity with an IEP
- FAPE is not a privilege, it's a right



FAPE

- Rowley standard – some educational benefit
- Endrew F. Supreme Court Decision an education reasonably calculated to enable a child to make progress in light of the child's circumstances



FAPE

- Andrew F-
 - Student with Autism with severely disruptive classroom behaviors
 - Parents were felt that his IEP was not calculated to provide FAPE as he made no progress on goals
 - Parents placed student in a private day, student made both behavioral and educational progress in the school immediately
 - Parents filed for due process asking for tuition reimbursement.
 - School division developed a new IEP, parents felt it was the same as previous plans
 - Hearing officer denied the request, parent's appealed to federal court. Court held that there was minimal progress, but not immense growth and denied tuition.
 - 10th circuit affirmed. Parents appealed to Supreme Court.
 - Issue before the Supreme Court: De minimus standard or guarantee of a particular of a particular outcome.

Targeted Population for CSA

- § 2.2-5212. Eligibility for state pool of funds.
 - “The child or youth requires placement for purposes of special education in approved private school educational programs.”

**Includes all children whose IEPs include placement in private day school or private residential facilities*



What is Needed to Determine Eligibility

- IEP (can be used as an alternative to an IFSP)
 - LRE Determination
 - Written Consent to Implement the IEP
 - Services
 - Accommodations

- AG's ruling on consent to exchange information
 - Administrative Memo #18-01
 - CSA requires parental consent
 - Without consent CSA cannot open case or verify eligibility



Responsibility of School Division

- Conducts evaluations for eligibility
- Ensures IEPs are implemented (public & private)
- Pays for:
 - IEP services and supports (public)
 - Homebound/Home-based services
 - Regional special education programs
 - Tuition to another public school
 - Transportation to implement IEP (private setting)
 - Services necessary for FAPE (parentally placed in residential facility)



Responsibilities of CSA/FAPT

- When IEP calls for private day or residential:
 - Recommends funding/payment for IEP services (not transportation)
 - Collects data required for reporting
 - Considers child/family needs beyond IEP
 - Assures coordination of services
 - Cannot request or suggest changes to IEP
 - Parental contribution policies do not apply

****CPMT policies may NOT interfere with the implementation of the IEP.**

****No FAPT/IFSP requirement unless non-IEP services are being provided**

Out of Jurisdiction Educational IEP Placements Through CSA

- Placing school division maintains its role as LEA (activity and cost)
 - Ensure IEP Compliance
 - Eligibility/Evaluation
 - State Testing Requirements
 - Transportation
- Interstate Compact on the Placement of Children (ICPC) for out of state placements
(8VAC20-81-150-A.9)

JURISDICTION



Out of Jurisdiction **Non-Educational** Placements Through CSA

Youth in Foster Care

- If the IEP specifies public school...
 - receiving school division IEP team determines if they can implement IEP as written; OR makes appropriate changes to implement IEP.
- If receiving division determines child's needs cannot be met in their division (and writes a private day IEP)
 - school division on placing CPMT team becomes the responsible LEA.
- Best Interest Determination process applies

Youth NOT in Foster Care

- School division that sits on the CSA Team that places the student is the LEA and is responsible for (activity and associated costs):
 - Ensure IEP Compliance
 - Eligibility/Evaluation
 - State Testing Requirements
 - Transportation

JURISDICTION



Non-Educational Residential Placements by Parents (Outside of CSA)

- Local School Division convenes IEP*

Child needs placement for educational reasons

- LRE is declared residential or private day
- IEP team determines services (FAPE)
- Child is eligible for CSA
- CSA funds the educational/residential services indicated in the IEP

This is a residential IEP

Child does NOT need placement for educational reasons

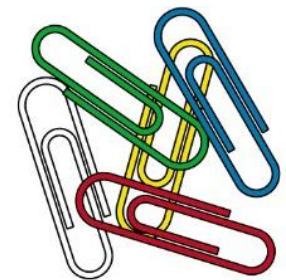
- LRE is functionally unavailable
- IEP team determines services (FAPE)
- Child is NOT eligible for CSA
- CSA does not fund the educational/residential services indicated in the IEP
- **This is not a residential IEP**

CSA pays education services for students who have a private day school IEP prior to being residentially placed by their parents.

*Source VDOE 014-11

Residential Placements Through Adoption Assistance

- DSS Broadcast 9091 (April 15, 2015)
- CSA pays for education if youth has a private day IEP
- Process similar to non-educational placement by parents
- CSA can pay for education if youth is CHINS eligible
- Adoption Assistance can pay general education costs
- Schools monitor IEP and progress



Special Education Wraparound Funds

- Funded per Appropriation Act
 - *Special education mandate cited in COV § 2.2-5211(B)(1) may be utilized to fund "non-residential services in the home and community for a student with a disability when the needs associated with his/her disability extend beyond the school setting and threaten the student's ability to be maintained in the home, community, or school setting."*
- Tied to keeping a child in the least restrictive environment (home, school, community)
- Services driven by IFSP (not IEP)
- Child must be eligible for special education services
- Must be used for community based services (not in schools)
- Can be used by children in private placements
- Money is capped at \$2.2 million – can request reallocation

IEP vs 504



IEP

- Individuals with Disabilities Education Improvement Act (IDEA)
- Eligibility-a child who has one of the 13 specific disabilities listed in IDEA
- Provides specially designed instruction and related services to meet the unique needs of a child.

504

- Section 504 of the Rehabilitation Act of 1973
- Eligibility-any child with a disability (broader definition) that substantially limits one or more major life activities
- Provides services and changes to the learning environment to meet the needs of the child as adequately as other students.

Eligibility for a 504 Plan IS NOT the same as eligibility for special education services

Questions



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