

# A School Board Member's Guide to Special Education



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## About the Authors

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# Introduction

School board members encounter a range of challenging issues as they provide oversight and strategic guidance for the school districts they represent. Some of the most daunting challenges can involve the education of students with disabilities.

Federal regulations and numerous federal court decisions have strengthened the laws for students with disabilities and the need to provide these students appropriate services. All children eligible for special education must be provided with a free and appropriate public education. There are no exceptions, even for students with severe and profound disabilities and even if budgets are tight. The courts have repeatedly held there are no exceptions to the law. All means all.

Teaching environments and staff assignments must be customized to meet the individual educational needs of students with disabilities. To provide guidance for policy and budget decisions in this area, it is important school board members have a working knowledge of special education laws and regulations as well as the process of educating students with disabilities.

School board members are likely to field parent complaints about their child's special education program. Budget hearings also often include questions from the public about the "excessive costs" of special education.

The field of special education is by far the biggest area of litigation in education, and school board members are often asked to offer guidance on policy and budget questions related to litigation involving a special education matter.

In short, educating students who have disabilities is more complicated than educating students without disabilities. Laws

and regulations are complex and specific – a small inadvertent violation can quickly escalate into a larger problem. Teachers and administrators need guidance and support.

This book provides an essential overview of special education. It will help you understand special education and the basics of the federal laws governing this process. After reading this book, you will have a better understanding of requirements around discipline, assessments, grading, graduation and the dispute resolution process used for students with disabilities. You will learn what you can do in your role as a school board member to learn more about the special education programs in your district and how to support staff and family to ensure students with disability are appropriately served.

After reading this book, you will have a stronger understanding of the complex field of special education, its laws and regulations, teaching practices, areas of risk for school districts, schools, teachers, administrators, and students. In your role as a school board member, you will have more confidence in providing oversight and guidance in this important area.

## Chapter 1

# Understanding Special Education

There are many misconceptions and misunderstandings about special education. The purpose of special education is to ensure a student with a disability can access and make progress in general education to the maximum extent possible. In addition, it protects students with disabilities from being discriminated against due to their disability.

Not until the 1970s were the educational needs of children with disabilities addressed. Generally, prior to 1975, students with disabilities were either not served at all or were served sporadically in separate facilities, and only in certain places where philanthropists or foundations stepped forward with funds for facilities and staff.

Various disabilities were regarded quite differently and not all children were given equal opportunities to succeed. There were few specialists available to school district who were knowledgeable about the appropriate learning environment for a child with cerebral palsy, for example, where communication difficulties prevented the student from conveying their thoughts and ideas to others. In cases of severe intellectual disabilities, few educators were trained to provide the appropriate services for students.

After years of appeals by many parents of children with disabilities, along with some legislators, the U.S. Congress passed landmark legislation in 1975 originally called the “Education of All Handicapped Children Act” – PL 94-142. Today it is known as the “Individuals with Disabilities Education Act” (IDEA). The law guarantees a free appropriate public education to each student

## Chapter 2

# Special Education Law Basics

We provided broad context for special education in Chapter 1. This chapter reviews the core principles of the law and the responsibility of school districts. Special education is defined by a federal law, which supersedes state and local laws and regulations as well as local policies and practices. There are eight core principles of special education:

- Child Find/Zero Reject
- Nondiscriminatory Evaluation
- Free Appropriate Public Education (FAPE)
- Individualized Education Program (IEP)
- Least Restrictive Environment (LRE)
- Related Services
- Parent Participation
- Confidentiality

Understanding these principles makes clear how special education is meant to be provided.

**Child Find/Zero Reject.** School districts are required to proactively seek out and identify every eligible student with a disability living within their jurisdiction. This component applies to students who are enrolled in private schools and/or who have committed a serious offense and may be involved in court proceedings.

**Nondiscriminatory Evaluation.** To be eligible for special education and related services, students must first be identified as



## Chapter 3

# Student Discipline

In your role as a school board member, you may hear complaints that the schools are not safe, or that dangerous students are roaming the halls. Most schools now have a discipline process and procedures outlined in district policy. However, when it comes to discipline and students with disabilities, IDEA sets out specific processes and procedures to be followed to ensure a student is not being disciplined for a behavior that is a manifestation of their disability. Processes outside of school district policy may need to be used in some cases. It is important that as a school board member you are aware of these processes and protections.

Discipline procedures for students with disabilities are addressed in IDEA. The regulations provide schools the authority to discipline a student with a disability the same as they would a student without a disability, but with some caveats. When a student with a disability violates a school code of conduct, he or she may experience the same consequences and the withholding of educational services for up to 10 days.

Schools are not required to provide special education services during these 10 days, as long as educational services would likewise not be provided to a student without disabilities. However, once special education services have been withheld from the student by the school district for 10 days it may constitute a “change in placement.” The “placement” for a student with an IEP is more than just the location of where services are provided; it includes all the services outlined in the IEP. When the offer of FAPE in the IEP is significantly altered, it is considered a “change

## Chapter 4

# Assessment, Grades, and Graduation

Students with disabilities bring unique challenges related to grading, report cards, graduation, and state and district assessments. Assessment of students is an important component of any educational program. They are used to plan instruction, determine student progress, determine eligibility for services, and are increasingly tied to teacher and school effectiveness. Understanding the differences and addressing the needs of students with disabilities will help districts maximize performance evaluate student performance more accurately.

### Accommodations for Statewide Assessments

Federal mandates require that all students receiving special education services must be assessed as a part of the state assessment process. Some students who have more severe disabilities take an alternative exam. Typically, the determining factor for an alternative assessment is that the nature of the student's disability is so severe the student is not receiving instruction in the knowledge and skills measured by the general statewide assessment.

Guidelines for accommodations for state assessment:

- Accommodations used must be consistent with the process for instruction and assessment used in the classroom for the student with a disability.
- Only list the accommodations that will be used.

## Chapter 5

# Dispute Resolution and Students with Disabilities

Historically students with disabilities have been discriminated against and are considered a protected class. Special education law is complex and offers additional rights for students with disabilities and their families that are not afforded to those without disabilities. As a result, there is more educational litigation related to special education than the rest of the education field combined.

It is important to note that some terms used in special education law can be ambiguous and can only be defined as they are applied to a specific situation. One such word is “appropriate” in the term, “Free Appropriate Public Education” (FAPE). What is considered “appropriate” for one student with a disability may be significantly different than what is considered “appropriate” for another student with a disability. This term alone can often cause disagreement and dispute between parents and school districts.

IDEA includes specific dispute resolution processes that must be available but also allows states to provide supports in addition to what is required. Many states may offer informal dispute resolution options such as an Early Assistance Program and/or IEP facilitation. The required dispute resolution processes required by IDEA includes a state complaint process, mediation, a due process hearing, and an expedited due process hearing. In addition, complaints to the U.S. Department of Education Office for Civil Rights (OCR) and litigation can occur. It is important that

## Chapter 6

# Your Role as a Board Member and Special Education

**G**iven all you have learned about students eligible for special education, what is your role as a school board member? We will discuss broadly the role of the school board member and address the specifics of special education in five areas: district vision, district policies, the superintendent, annual budget, and contracts with teachers. Too often the needs of students with disabilities are not purposefully considered when a policy or directive is presented to a school board.

### **Establishing a District Vision and Goals**

Each district is expected to set goals and to monitor its activities. Establishing the district vision and goals is the responsibility of the school board. Activities and programs are then implemented to reach the goals. The district must then periodically monitor progress toward the goals and make any needed adjustments to activities. As the vision and goals are set, it is important to consider the impact on students with disabilities. Academic goals may not align with the functional goals of many students with disabilities. Students who are more severely impacted by their disability and may need more functional goals. It is important to consider how the district will support continuous improvements to maximize the educational outcome and experience for all students.

These issues should be addressed annually, as the goals of the district change and new events unfold. Every change and