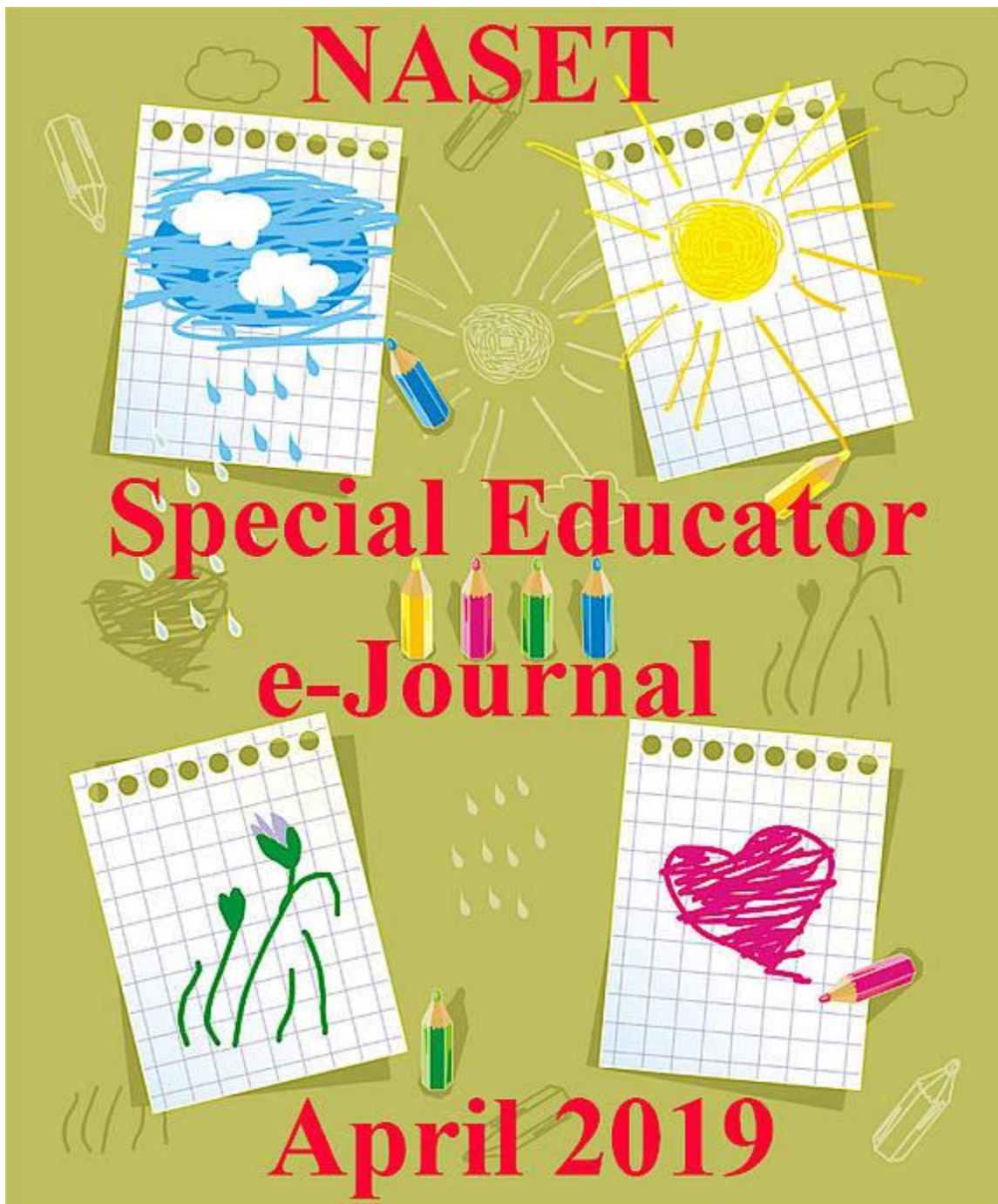


NASET

**Special Educator
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Special Education Legal Alert

By Perry A. Zirkel

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This month's update concerns issues that were subject to recent officially-published court decisions and are of practical significance: (a) FAPE variations, including ABA methodology and transition services, and (b) child find and eligibility complications, including the IDEA statute of limitations, in the case of a gifted child with school attendance and mental health problems..

In *Renee v. Houston Independent School District* (2019), the Fifth Circuit Court of Appeals addressed the various FAPE claims of the parents of a teenager with autism, intellectual disabilities, and ADHD. Citing his emotional difficulties and his first-grade levels in reading and math, they challenged his eighth and nine grade IEPs. He had major attendance problems during both years, which the parents and district personnel did not resolve promptly. After the hearing officer and federal district court ruled in the district's favor, the parents raised four claims on appeal to the Fifth Circuit—ABA predetermination, ESY notice, school refusal, and transition services.

The parents' first claim was that the school district engaged in predetermination not to provide the student with applied behavior analysis (ABA). Based on the finding that the parents had not specifically requested ABA, the Fifth Circuit concluded that they "cannot meaningfully claim that his IEP was predetermined."

In this officially published decision that is binding in its three states (LA, MS, and TX) and of potentially persuasive precedential weight elsewhere, the Fifth Circuit reinforced this ruling with the dicta from *Rowley* and *Endrew F.* that warned courts to be deferential to school district determinations of educational methodology.

Second, the parents claimed that the district had not provided sufficiently specific and timely notice of their child's extended school year (ESY) program. Again, the appeals court

This ruling revealed (a) the importance of making and documenting extra efforts for school communication with parents; (b) the deferential standard on appeal to the factual findings of the lower level(s); and

found that the parents had not provided the requisite factual foundation for their claim, here observing that “the record shows that school administrators made several successful attempts by email and telephone to contact [the student’s] parents and confirm final details of his ESY.”	(c) the court’s added reminder that even if the parents had proven the procedural violation, they still faced the second step for denial of FAPE—a resulting loss in terms of either student progress or parental participation.
Third, the parents claimed that the district failed to timely convene an IEP meeting to address the bullying that allegedly caused his refusal to attend school. In response, the Fifth Circuit deferred to the credibility assessments of the hearing officer and lower court, which favored the school representatives’ testimony of extensive outreach efforts, accommodation offers, and belated parental cooperation.	After citing its earlier decision in <i>E.R. v. Spring Branch Independent School District</i> (2018), which concluded that “<i>Andrew F.</i> represents no major departure from [this Circuit’s interpretation of] <i>Rowley</i>,” the Fifth Circuit reinforced its ruling for this claim by reciting the <i>Andrew F.</i> reasonableness standard. In doing so, the court arguably extended the applicable criterion for substantive FAPE to what appears to be a procedural FAPE claim.
Finally, the parents claimed that the transition plan, which focused on the unrealistic goal of preparing their child with severe multiple disabilities for a career as a police officer, was not appropriate. However, pointing to the addition in ninth grade of more basic goals while honoring his particular employment interest, the Fifth Circuit gave the district the benefit of the doubt.	Repeating its emphasis on judicial deference to school authorities, the Fifth Circuit reinforced its ruling with this comment: “This court is mindful of its obligation not to stray into the field of education policymaking and is reluctant to say, as a matter of law, that [the school district] was required to communicate a nuanced transition plan in a different way.” For transition services, this judicial posture largely prevails in the case law to date.

The bottom line is that the Fifth Circuit tends to be deferential to school districts; yet, overgeneralization is not advisable in light of factual and jurisdictional differences and the overriding individualized nature of the IDEA.

In *Independent School District v. E.M.D.H.* (2019), the federal district court in Minnesota addressed the parents’ child find and eligibility claims on behalf of a gifted eleventh grader who did well academically but had had increasingly severe attendance problems and successive IEEs that yielded a complex and confusing array of mental health diagnoses, including generalized anxiety, school phobia, and recurrent major depressive disorder. In the wake of disenrollments for in-patient and day treatment, the school district had successively responded with its school-based intervention team, school counseling, a 504 plan, a mental health consultant, alternative (e.g., online) learning options, and finally a special education evaluation that determined that she was ineligible under the classifications of emotionally disturbance (ED) and other health impairment (OHI). The hearing officer ruled in favor of the parents, and the district appealed.

For the child find claim, the district’s threshold defense was the two-year statute of limitations under the IDEA. Missing the nuance of the applicable KOSHK approach, the court concluded that the district’s failure to provide the parents with the procedural safeguards notice upon having reason to suspect IDEA eligibility when the student stopped attending school due to her anxiety triggered the information-withholding exception for the two-year period.

This ruling would seem to have the exception swallow the rule for the IDEA statute of limitations in child find cases, because districts typically do not provide the procedural safeguards notice for general education students until the time for obtaining consent for the initial evaluation. In any event, this ruling serves as a reminder of the practical significance and legal complexity of the IDEA statute of limitations for filing for a due process hearing, including the missed nuance of the triggering date of when the parent “knew or should have known” (KOSHK) of the alleged district violating action.

Next for the child find claim, the court based its determination of the reasonable-suspicion on the imprecise combination of non-attendance and the IEE diagnoses, concluding that this trigger was “no later than spring [of her eighth grade when she] . . . stopped attending school because of her anxiety.”	Posing a catch-22, the court turned the district’s efforts upside down: “The District admirably and appropriately engaged with the Parents concerning the student’s absences in eighth grade. . . . This involvement, however, is precisely what gave the District reason to [evaluate] the Student as a possible child with a disability.”
For eligibility, the court ruled that (a) the district’s evaluation failed to meet the state law requirements, which were additional to those under the IDEA, for observations and an FBA, and (b) her mental health-related attendance problems met the disputed adverse effect element for ED and OHI eligibility.	Illustrating the critical but blurry eligibility boundary for the need for special education, the court’s cryptic conclusion was that “[n]o one disputes that the Student excelled on standardized tests; neither can anyone dispute that her absenteeism inhibited her progress in the general curriculum.” The student’s gifted abilities and the reasons for non-attendance were complicating factors.
For the remedies, the court upheld the hearing officer’s award of reimbursement for the successive IEEs but vacated the hearing officer’s order for compensatory education “in the form of payment for private service providers.” This quoted characterization may have been at least partly attributable to the hearing officer’s imprecise specification of the compensatory education award.	The court’s rationale was that “there was no evidence as to whether the District can provide the type of specially designed instruction that Student is entitled to moving forward.” In light of the lack of FAPE since the evaluation (if not the child find violation), this analysis is questionable and reflects the confusion between the retrospective and prospective dimensions of compensatory education.

The bottom line is that the IDEA issues of statute of limitations, child find, eligibility, IEEs at public expense, and compensatory education are—along with the respective responsibilities of districts and parents—subject to varying interpretations among impartial adjudicators.

For these issues, reasonableness under the individual circumstances is not mathematically or scientifically predictable.

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Developmental Milestones

Childhood is a time of tremendous growth and learning. How very exciting to be a baby...or a two-year-old... or get on a school bus for the first time. There's so much to know!

We all come into the world like small waiting sponges, ready to absorb what's around us. Yet we're all different, too—another of life's little marvels. We also develop at different rates. Some children speed along, practically running before they walk. Others take their time—or *need* more time. And still others may ultimately need four wheels to get around.

Parents, siblings, grandparents, daycare providers, teachers, and friends watch eagerly for each new step and progression in a child's skills. If a skill is not learned “on time,” they may worry. Juana's not sitting up yet, but the baby next door is. Hannah should be talking in full sentences by now! Frank and Ahmed aren't learning to read as easily as the rest of the class.

But what's “on time?” What's “normal?” Does “normal” have a range?

Yes, “normal” has a range. But growth does tend to follow a certain sequence. Skills are expected to emerge at **more or less** the ages described below. Here are just a few of many milestones a typically developing child reaches in the first year of life and beyond.

By 3 months of age

Motor Skills

- lift head when held at your shoulder
- lift head and chest when lying on his stomach
- turn head from side to side when lying on his stomach
- follow a moving object or person with his eyes
- grasp rattle when given to her
- wiggle and kick with arms and legs

Sensory and Thinking Skills

- turn head toward bright colors and lights
- turn toward the sound of a human voice
- recognize bottle or breast
- respond to your shaking a rattle or bell

Language and Social Skills

- make cooing, gurgling sounds
- smile when smiled at
- communicate hunger, fear, discomfort (through crying or facial expression)
- usually quiet down at the sound of a soothing voice or when held

By 6 months of age

Motor Skills

- hold head steady when sitting with your help
- reach for and grasp objects
- play with his toes
- help hold the bottle during feeding
- explore by mouthing and banging objects
- move toys from one hand to another
- pull up to a sitting position on her own if you grasp her hands
- sit with only a little support
- roll over
- bounce when held in a standing position

Sensory and Thinking Skills

- open his mouth for the spoon
- imitate familiar actions you perform

Language and Social Skills

- babble, making almost sing-song sounds
- know familiar faces
- laugh and squeal with delight
- scream if annoyed
- smile at herself in a mirror

By 12 months of age

Motor Skills

- drink from a cup with help

- feed herself finger food like raisins
- grasp small objects by using her thumb and index or forefinger
- use his first finger to poke or point
- put small blocks in and take them out of a container
- knock two blocks together
- sit well without support
- crawl on hands and knees
- pull himself to stand or take steps holding onto furniture
- stand alone momentarily
- walk with one hand held

Sensory and Thinking Skills

- copy sounds and actions you make
- respond to music with body motion
- try to accomplish simple goals (seeing and then crawling to a toy)
- look for an object she watched fall out of sight (such as a spoon that falls under the table)

Language and Social Skills

- babble, but it sometimes “sounds like” talking
- say his first word
- recognize family members’ names
- try to “talk” with you
- respond to another’s distress by showing distress or crying
- show affection to familiar adults
- show apprehension about strangers
- raise her arms when she wants to be picked up
- understand simple commands

For children older than 12 months

If you’d like to know more about what experts consider the developmental milestones for children older than 1 year, we refer you to the resource links identified below.

American Association of Pediatrics

has a wealth of parent information and practice guidelines related to well-visit checkups, developmental screening, as well as articles on health conditions, and childhood diseases and treatments, all available on their web site or through their bookstore.

<https://www.healthychildren.org/English/ages-stages/Pages/default.aspx>

The Centers for Disease Control and Prevention (CDC) | Act Early

has a vast network of collaborative organizations, one of which is The National Center on Birth Defects and Developmental Disabilities (NCBDDD). From its web site you can find information related to preventing birth defects, developmental disabilities, and links to fact sheets on developmental screening, developmental milestones, and an interactive developmental checklist (called the **Milestone Tracker**) in English and Spanish.

<https://www.cdc.gov/ncbddd/actearly/index.html>

March of Dimes

Developmental Milestones for Babies (0-2 yrs.)

<https://www.marchofdimes.org/baby/developmental-milestones-for-baby.aspx>

American Speech Language Hearing Association

Typical speech and language development.

<https://www.asha.org/public/speech/development/default.htm>

National Institute on Deafness and Other Communication Disorders

Speech and language developmental milestones.

<https://www.nidcd.nih.gov/health/speech-and-language>

Pathways Awareness Foundation

Development in toddlers (1-3 years old).

<https://pathways.org/growth-development/toddler/>

Center on the Developing Child at Harvard University.

Fascinating research on how the brain develops, including this video, [The Science of Early Childhood Development](#), in English and in Spanish.

<https://developingchild.harvard.edu/>

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Educational Technology Counts

Every year *Education Week* publishes an annual report on educational technology. These reports can help Parent Centers, schools, and families learn more about the various technologies in use to support teaching and learning, and to see changes and developments across time. As examples, consider these recent reports:

2018: National Survey: What Do Principals Believe?

To better understand where the ed-tech pressure points are for principals, the Education Week Research Center conducted a nationally representative survey of 500 principals, assistant principals, and other school leaders. *Technology Counts 2018* incorporates that data in the report, while taking a hard look at what principals are thinking and doing about some of the most vexing technology issues in their schools.

2017: Classroom Technology: Where Schools Stand (June 2017)

2016: Transforming the Classroom (June 2016)

2015: Learning the Digital Way (June 2015)

These annual reports of *Technology Counts* are available back to 1997 and can all be accessed at: <https://www.edweek.org/ew/tc/index.html>

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Buzz from the Hub

All articles below can be accessed through the following link:

<https://www.parentcenterhub.org/buzz-feb2019-issue2/>

<https://www.parentcenterhub.org/buzz-march2019-issue1/>

First Steps in the Disability Journey

Navigating Life with a Child who has Special Needs

The subtitle of this January 2019 article in *Exceptional Parent* is “*finding more joy on the journey.*”

The article focuses on helping parents get organized, build their support team, make time for self-care, and seek professional therapy when necessary.

New to Disability?

Just updated, this CPIR page gives parents a quick roadmap to the world of disability resources available in the U.S. and on the CPIR Hub that they may find handy.

For Professionals New to Disability

What about the professionals who work with this newly diagnosed baby, toddler, preschooler, or school-aged student? Perhaps they, too, are new to disability. Also just updated, this CPIR resource page is easy for parents and Parent Centers to share with child care providers, early childhood educators, afterschool programs, and teachers.

Guidance from OSERS

Guidance/Policy Letters

The U.S. Department of Education released **four letters** responding to requests for guidance on January 29. The letters address:

- students with disabilities in correctional facilities;
- discipline procedures;
- children with disabilities placed in private school by their parents; and
- response to intervention.

In Honor of Black History Month

Highlighting African Americans with Disabilities

This article from Respect Ability is a fascinating combination of information about African Americans with disabilities in today’s world and those from our past who have marked history in significant ways.

Accommodations in the Classroom and in State Assessments

Accommodations for students with disabilities in the classroom and on assessments are often key to their learning and their ability to demonstrate that learning. Here are two sets of online training modules and other resources that your staff can use to learn more, as well as share with local schools and the families they serve.

IRIS Center | Accommodations: Instructional and Testing Supports for Students with Disabilities
The IRIS Center has just updated and expanded its popular online training module on the topic.

NCEO | Training to Improve Accommodations Decision Making

The National Center on Educational Outcomes (NCEO) also provides online training to help educators and others improve accommodations decision making. The training includes case-based video clips and contains 5 interactive, multi-media professional development modules.

What Are Your State's Policies?

While state policies for permissible classroom and testing accommodations can usually be found on the state education department's website, try visiting NCEO for this information. There, you can also find state-specific data on other issues (e.g., alternate assessments, graduation requirements) and data snapshots describing the accommodations that students with disabilities are receiving during assessments and how students are performing.

Great Schools Test Guide for Parents

Do your families find state tests — and their child's score reports — confusing? Share this guide with families to help them understand the skills their child is expected to know, why some students struggle, and how parents (and others) can help.

School Safety and School Resource Officers

9 Things to Know about School Resource Officers | Video

School resource officers juggle numerous roles: enforcing laws, mentoring students, and providing security to schools. But little is known about this unique law enforcement profession. An Education Week Research Center survey provides new insights into SRO training and duties via this 2-minute video.

CPIR's Brief on School Resource Officers

For more detailed information about SROs, check out CPIR's Brief for Parent Centers on School Resource Officers. As part of 2019 updating, we've just added several newly available SRO resources to the online version.

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U.S. Department of Education Letters

WASHINGTON, DC– The U.S. Department of Education released four letters responding to requests for guidance Jan. 29.

The letters address students with disabilities in correctional facilities, discipline procedures, children with disabilities place in private schools by their parents, and response to intervention.

Summary

Letter on whether the Florida Department of Corrections fails to provide a free appropriate public education (FAPE) under Part B of IDEA to students with disabilities when the state offers such students only a General Education Development (GED) credential rather than the opportunity to earn a regular high school diploma because the students are incarcerated in a particular adult corrections facility.

Letter

January 29, 2019

Melissa Duncan

Legal Aid Society of Palm Beach County

423 Fern Street, Suite 200

West Palm Beach, Florida 33401

Dear Ms. Duncan,

This letter responds to your correspondence to the Office of Special Education Programs and follow-up discussions with members of my staff. You ask whether the Florida Department of Corrections fails to provide a free appropriate public education (FAPE) under Part B of the Individuals with Disabilities Education Act (Part B or IDEA) to students with disabilities when the State offers such students only a General Education Development (GED) credential rather than the opportunity to earn a regular high school diploma because the students are incarcerated in a particular adult corrections facility. We regret the delay in responding.

We note that section 607(d) of the IDEA prohibits the Secretary from issuing policy letters or other statements that establish a rule that is required for compliance with, and eligibility under, IDEA without following the rulemaking requirements of section 553 of the Administrative Procedure Act. Therefore, based on the requirements of IDEA section 607(e), this response is provided as informal

guidance and is not legally binding. This response represents an interpretation by the U.S. Department of Education of the requirements of IDEA in the context of the specific facts presented, and does not establish a policy or rule that would apply in all circumstances.

Under IDEA, States must make FAPE available to all children with disabilities residing in the State between the ages of 3 and 21, inclusive, consistent with State law. 20 U.S.C. § 1412(a)(1)(A). IDEA limits FAPE for children aged 18 through 21 to the extent that State law does not require that special education and related services under Part B be provided to students with disabilities who, in the last educational placement prior to their incarceration in an adult correctional facility, were not actually identified as being a child with a disability under 34 C.F.R. § 300.8, and did not have an individualized education program (IEP) under Part B. 20 U.S.C. § 1412(a)(1)(B)(ii) and 34 C.F.R. § 300.102(a)(2)(i). This exception does not apply to a child with a disability aged 18 through 21 who –

1. Had been identified as a child with a disability under 34 C.F.R. § 300.8 and had received services in accordance with an IEP, but left school prior to their incarceration. 34 C.F.R. § 300.102(a)(2)(ii)(A); or
2. Did not have an IEP in their last educational setting, but who had actually been identified as a child with a disability under 34 C.F.R. § 300.8. See 34 C.F.R. § 300.102(a)(2)(ii).

If, under 20 U.S.C § 1412(a)(1)(B) and 34 C.F.R. § 300.102, a child with a disability aged 18 through 21 incarcerated in an adult correctional facility is eligible for FAPE, additional limitations regarding transition planning and services, participation in general assessments, and IEPs and least restrictive environment (LRE) requirements may apply. The requirements in 20 U.S.C. § 1414(d)(1)(A)(i)(VIII) and 34 C.F.R. § 300.320(b) (relating to transition planning and transition services) do not apply with respect to the children whose eligibility under Part B of the IDEA will end, because of their age, before they will be eligible to be released from prison based on consideration of their sentence and eligibility for early release. 20 U.S.C § 1414(d)(7)(A)(ii) and 34 C.F.R. § 300.324(d)(1)(ii). Additionally, the requirements contained in 20 U.S.C. § 1412(a)(16) and 34 C.F.R. § 300.320(a)(6), relating to the participation of children with disabilities in general assessments, do not apply to children with disabilities who are convicted as adults under State law and incarcerated in adult prisons. 20 U.S.C § 1414(d)(7)(A)(i) and 34 C.F.R. § 300.324(d)(1)(i).

Finally, limitations on FAPE apply to students where there is a bona fide security interest or compelling penological interest that cannot otherwise be accommodated. Under 20 U.S.C. § 1414(d)(7)(B) and 34 C.F.R. § 300.324(d)(2), the IEP Team of a child with a disability who is convicted as an adult under State law and incarcerated in an adult prison may modify the child's IEP or placement if the State has demonstrated a bona fide security or compelling penological interest that cannot otherwise be accommodated. Specifically, the requirements of 34 C.F.R. §§ 300.320 (relating to IEPs), and 300.114 (relating to LRE), need not apply when considering modifications based on a bona fide security or compelling penological interest. The Department declined to define the term bona fide security or compelling penological interest, “given the individualized nature of the determination and the countless variables that may impact on the determination.” However, the

Department stated that “a State’s interest in not spending any funds on the provision of special education and related services or in administrative convenience will not rise to the level of a compelling penological interest that cannot otherwise be accommodated, because States must accommodate the costs and administrative requirements of educating all eligible individuals with disabilities.” See Assistance to States for the Education of Children with Disabilities and the Early Intervention Program for Infants and Toddlers with Disabilities, Final Rule, 64 FR 12406, 12577 (March 12, 1999).

The IEP Team for each child with a disability who is convicted as an adult under State law and incarcerated in an adult correctional facility must determine the special education and related services necessary to provide the child FAPE, taking into account the exceptions described above. Absent a demonstration by the State of a bona fide security or compelling penological interest that cannot be accommodated, under 34 C.F.R. § 300.320(a)(4), the child’s IEP must include, among other things, a statement of the special education and related services, and supplementary aids and services to be provided to enable the child to advance appropriately toward attaining the annual goals and to be involved in and make progress in the general education curriculum (i.e., the same curriculum as for nondisabled children). Depending on the individual needs of the child, this could include the special education and related services necessary to enable the child to be awarded a regular high school diploma. However, if the State demonstrates to the IEP team that there is a bona fide security or compelling penological interest that cannot otherwise be accommodated for that child, the IEP Team may modify the child’s IEP and the IEP requirements in 34 C.F.R. § 300.320 need not apply. Therefore, where there is a bona fide security or compelling penological interest that cannot be accommodated so as to allow the child to receive the special education and related services necessary to enable the child to be awarded a regular high school diploma, the child’s IEP may be modified to include the special education and related services necessary to enable the child to be awarded the GED credential.

It also is important to note that a student’s right to FAPE generally ends upon graduation from high school with a regular high school diploma. Under the IDEA regulations at 34 C.F.R. § 300.102(a)(3)(iv), a “regular high school diploma does not include a recognized equivalent of a diploma, such as a general equivalency diploma, certificate of completion, certificate of attendance, or similar lesser credential” (such as a GED credential). Therefore, if the IEP Team determines that GED courses would be an appropriate modification to the IEP because the State has demonstrated a bona fide security or compelling penological interest that cannot be accommodated, the student in question would continue to have a right to FAPE after completing the GED program, subject to any relevant limitations discussed above and the State’s age limit for the provision of FAPE. 20 U.S.C. § 7801(43); 34 C.F.R. § 300.102(a)(3).

If you have any further questions, please do not hesitate to contact Ms. Lisa Pagano at 202-245-7413 or by email at Lisa.Pagano@ed.gov.

Sincerely,
/s/
Laurie VanderPloeg
Director
Office of Special Education Programs

Summary

Clarification on a series of questions regarding the protections for children not yet determined eligible for special education and related services under IDEA

Letter

January 29, 2019

Judy Nathan
Executive Deputy Counsel for
Risk Management and Litigation
Office of Legal Services
52 Chambers Street, Room 308
New York, NY 10007

Dear Ms. Nathan:

This letter responds to your correspondence to the U.S. Department of Education (Department), Office of Special Education Programs (OSEP). In that letter, you asked OSEP to provide clarification on a series of questions regarding the protections for children not yet determined eligible for special education and related services under the Individuals with Disabilities Education Act (IDEA). Each of your questions is answered separately below in this response. We regret the delay in responding.

We note that section 607(d) of IDEA prohibits the Secretary from issuing policy letters or other statements that establish a rule that is required for compliance with, and eligibility under, IDEA without following the rulemaking requirements of section 553 of the Administrative Procedure Act. Therefore, based on the requirements of IDEA section 607(e), this response is provided as informal guidance and is not legally binding. This response represents an interpretation by the Department of the requirements of IDEA in the context of the specific facts presented, and does not establish a policy or rule that would apply in all circumstances.

Question 1: Once it has been established that a child is a child who the local educational agency (LEA) is deemed to know is a child with a disability; can the LEA postpone the manifestation determination meeting until after the completion of the initial evaluation or the initial individualized education program (IEP) Team meeting? Must the evaluation, in these cases, be expedited?

Response: Under 20 U.S.C. § 1415(k)(5)(B), 34 C.F.R. § 300.534(b), a school is deemed to have knowledge that a student has a disability when –

1. the parent of the child has expressed concern in writing to supervisory or administrative personnel of the appropriate educational agency, or a teacher of the child, that the child is in need of special education and related services;
2. the parent of the child requested an evaluation of the child pursuant to section 1414(a)(1)(B) of this title; or
3. the teacher of the child, or other personnel of the LEA, has expressed specific concerns about a pattern of behavior demonstrated by the child directly to the director of special education of such agency or to other supervisory personnel of the agency.¹

If a child engages in behavior that violates a code of student conduct prior to a determination of his or her eligibility for special education and related services and the public agency is deemed to have knowledge of the child's disability, the child may assert the disciplinary protections under IDEA, including the manifestation determination review (MDR) provisions under 20 U.S.C. § 1415(k)(1)(E) and 34 C.F.R. § 300.530(e) even if the child has not been found eligible for special education and related services. Thus, within 10 school days of any decision to change the placement of a child with a disability because of a violation of a code of student conduct, the LEA, the parent, and relevant members of the child's IEP team (as determined by the parent and the LEA) must conduct an MDR. This provision does not include an exception to allow additional time to complete an evaluation prior to conducting the MDR.

While an LEA may choose or find it necessary to expedite evaluations in these circumstances, under IDEA expedited evaluations are only required in situations where the LEA is not deemed to have knowledge that the child may have a disability and a request is made for an evaluation of a child during the time period in which the child is subjected to disciplinary measures under 34 C.F.R. § 300.530. See 20 U.S.C. § 1415(k)(5)(D).

Question 2: If the LEA cannot postpone the MDR pending completion of the initial evaluation, how should the LEA conduct the MDR, given the fact that: 1) the LEA may have little to no information about the student's disability; and 2) the purpose of the MDR is to determine whether the behavior is the result of the student's disability?

Response: Under 20 U.S.C. § 1415(k)(1)(E)(i) and 34 C.F.R. § 300.530(e)(1)(ii), when conducting the MDR, the LEA, the parent, and relevant members of the IEP Team (as determined by the parent and the LEA), must review all relevant information in the child's file, including any teacher observations and any relevant information provided by the parents, to determine if the conduct in question was caused by, or had a direct and substantial relationship to, the child's disability.² We appreciate that the LEA would not have the IEP to use in its assessment of whether the behavior was a manifestation of the child's disability in these situations. See 20 U.S.C. § 1415(k)(1)(E)(i)(II). Nevertheless, it would still be possible for the LEA to convene a group of knowledgeable persons, as determined by the parent and the LEA, who would be able to conduct the MDR even before the LEA has made its eligibility determination, if the LEA cannot conduct the evaluation before the MDR. The

group would be a child with a disability under IDEA, such as concerns expressed by a parent, a teacher or other LEA personnel about a pattern of behavior demonstrated by the child. Based upon its review and consideration of the available information, the group would determine whether the conduct in question was caused by, or had a direct and substantial relationship to the child's suspected disability. There is nothing in IDEA that would prevent the LEA from conducting the MDR in connection with its evaluation and eligibility determination, so long as the MDR is conducted within 10 school days of the decision to change the student's placement due to a violation of a student code of conduct.

Question 3: Does posting the Procedural Safeguards notice on the LEA's web site and providing a link in the suspension notice letters constitute sufficient notice of a parent's rights to assert the due process protections?

Response: Under 20 U.S.C. § 1415(k)(1)(H) and 34 C.F.R. § 300.530(h), on the date on which the decision is made to make a removal that constitutes a change of placement of a child with a disability because of a violation of a code of student conduct, the LEA must notify the parents of that decision, and of all procedural safeguards accorded under Part B of IDEA. This is accomplished by providing the parents a copy of the procedural safeguards notice described in 20 U.S.C. § 1415(d) and 34 C.F.R. § 300.504(a). 34 C.F.R. § 300.504(a)(3). Although IDEA permits an LEA to post a copy of the procedural safeguards notice on its web site, the public agency would not meet its obligation to provide a parent the notice of procedural safeguards by simply directing a parent to the web site. Rather, a public agency must still offer parents a printed copy of the procedural safeguards notice. If, however, a parent declines the offered printed copy of the notice and indicates a clear preference to obtain the notice electronically on his or her own from the agency's web site, it would be reasonable for the public agency to document that it offered a printed copy of the notice and that the parent declined.

Posting the procedural safeguards notice on a public agency's web site is clearly optional and for the convenience of the public and does not replace the distribution requirements in IDEA. See Assistance to States for the Education of Children with Disabilities and Preschool Grants for Children With Disabilities; Final Rule 71 FR 46540, 46693 (August 14, 2006) available at: www.gpo.gov/fdsys/pkg/FR-2006-08-14/pdf/06-6656.pdf.

Please note that by copy of this letter, we are notifying Michael Scheinkman of this information.

Mr. Scheinkman also wrote to this Office requesting guidance on the same issues raised in your correspondence related to the conduct of MDRs for children in asserting the protections under 20 U.S.C. § 1415(k)(5). In addition, by copy of this letter we are notifying the New York State Education Department of the information in this letter for their follow up on your inquiry and our response.

If you have any further questions, please do not hesitate to contact Lisa Pagano of my staff at 202-245-7413 or by email at Lisa.Pagano@ed.gov.

Sincerely,

/s/

Laurie VanderPloeg

Director

Office of Special Education Programs

Summary

Letter regarding further discussions on a local educational agency's (LEA's) obligation to a parentally placed private school child with a disability when the child's parent does not request a free appropriate public education (FAPE) for the child.

Letter

January 29, 2019

Mr. Joshua Wayne

Director, Non-Public Unit

Office of Teaching and Learning

District of Columbia Public Schools

1200 First Street, N.E., 8th Floor

Washington, D.C. 20002

Dear Mr. Wayne:

This letter responds to your correspondence to the Office of Special Education Programs (OSEP) and follow-up discussions with members of my staff. You ask about a local educational agency's (LEA's) obligation to a parentally placed private school child with a disability when the child's parent does not request a free appropriate public education (FAPE) for the child. In the scenario you present, the LEA made FAPE available through an individualized education program (IEP), and though the parent did not disagree that FAPE was made available, the parent made clear the child would continue attending the private school. You ask whether in this circumstance the LEA is obligated to offer the child an IEP the following year (and annually, thereafter) if the parent does not contact the LEA and request FAPE for the child.

We note that section 607(d) of the Individuals with Disabilities Education Act (IDEA) prohibits the Secretary from issuing policy letters or other statements that establish a rule that is required for compliance with, and eligibility under, IDEA without following the rulemaking requirements of section 553 of the Administrative Procedure Act. Therefore, based on the requirements of IDEA section 607(e), this response is provided as informal guidance and is not legally binding. This response represents an interpretation by the U.S. Department of Education of the requirements of

IDEA in the context of the specific facts presented, and does not establish a policy or rule that would apply in all circumstances.

Under IDEA's child find provisions, the LEA where the child's parents reside has an ongoing, independent responsibility to locate, identify, and evaluate all children in its jurisdiction in connection with its responsibility to make FAPE available to eligible children, including children attending private schools. 20 U.S.C. 1412(a)(3). Further, in accordance with the child find requirements in 20 U.S.C. 1412(a)(10)(A)(ii), the LEA where the private school the child attends is located has an ongoing child find responsibility to locate, identify, and evaluate children enrolled in private, including religious, elementary and secondary schools by their parents in connection with determining eligibility for equitable services (special education and related services). This child find responsibility includes scheduling and holding a meeting to discuss with parents who have consented to an evaluation or reevaluation, the results of the evaluation or reevaluation, the child's educational needs, and whether the child is eligible under Part B, or in the case of a reevaluation, whether the child continues to be a child with a disability. Assistance to States for the Education of Children with Disabilities and the Early Intervention Program for Infants and Toddlers with Disabilities, Final Rule, 64 Fed. Reg. 12406, 12601 (Mar 12, 1999); 20 U.S.C. § 1414(c) and 34 C.F.R. §§ 300.300 and 300.303.

If a determination is made through IDEA's child find process that a child needs special education and related services and a parent makes clear his or her intent to keep the child enrolled in the private school, the LEA where the child's parent resides, is not required to make FAPE available to the child. Assistance to States for the Education of Children with Disabilities and Preschool Grants for Children with Disabilities, Final Rule, 71 Fed. Reg. 46540, 46593 (Aug. 14, 2006). However, the LEA where the child's parents reside must make FAPE available and be prepared to develop an IEP if the parent enrolls the child in public school. 20 U.S.C. 1412(a)(1) and 20 U.S.C. 1413(a)(1).

If you have any further questions, please do not hesitate to contact Ms. Lisa Pagano at 202-245-7413 or by email at Lisa.Pagano@ed.gov.

Sincerely,

/s/

Laurie VanderPloeg

Director

Office of Special Education Programs

Summary

Letter on a series of questions regarding the implementation of response to intervention (RTI) and multi-tiered systems of support (MTSS).

Letter

January 29, 2019

Perry A. Zirkel, Ph.D., J.D.
University Professor of Education and Law
Lehigh University Perry A. Zirkel, Ph.D., J.D.
Department of Education and Human Services
111 Research Drive
Bethlehem, Pennsylvania 18015-4793

Dear Dr. Zirkel:

This letter is in response to your electronic mail (email) addressed to Lisa Pagano of the Office of Special Education Programs (OSEP), U.S. Department of Education (Department). In that email, you asked a series of questions regarding the implementation of response to intervention (RTI) and multi-tiered systems of support (MTSS). Each of your questions is answered below. We apologize for the delay in providing this response.

We note that section 607(d) of the Individuals with Disabilities Education Act (IDEA) prohibits the Secretary from issuing policy letters or other statements that establish a rule that is required for compliance with, and eligibility under, IDEA without following the rulemaking requirements of section 553 of the Administrative Procedure Act. Therefore, based on the requirements of IDEA section 607(e), this response is provided as informal guidance and is not legally binding. This response represents an interpretation by the Department of the requirements of IDEA in the context of the specific facts presented, and does not establish a policy or rule that would apply in all circumstances.

Question 1: Is there a difference between RTI and MTSS under IDEA?

Answer: IDEA does not define RTI or MTSS. RTI is only mentioned in IDEA when determining eligibility for specific learning disability. 20 U.S.C. § 1414(b)(6)(B) and 34 C.F.R. § 300.307(a)(2).

Question 2: Is it permissible for a school district to provide special education services (e.g., resource room instruction in reading via multisensory approach) under Tier 2 or 3 prior to an evaluation for IDEA eligibility? If so, what are the legal and related funding limitations?

Answer: Under IDEA Part B, special education and related services are provided to an eligible child with a disability as an element of a free appropriate public education (FAPE) in conformity with the child's individualized education program (IEP). 20 U.S.C. § 1401(9) and 34 C.F.R. § 300.17. The provision of special education and related services occurs only after a child is evaluated in accordance with 34 C.F.R §§ 300.304–300.311 as having a disability, as defined in 34 C.F.R § 300.8 and, who by reason thereof, needs special education and related services. 20 U.S.C. §§ 1414(a)(1)(A) and (b)(4), and 34 C.F.R. §§ 300.301(a) and 300.306. In addition, special education services cannot be provided without parental consent after completing an evaluation and eligibility determination.

20 U.S.C. §§ 1414(a)(1)(A), (a)(1)(D)(i)(II), and (b)(4), and 34 C.F.R. §§ 300.300(b), 300.301(a), and 300.306. Therefore, IDEA Part B funds cannot be used to provide special education and related services during the secondary or tertiary level of an RTI framework to a child who has not been evaluated and found to be a child with a disability and eligible under IDEA, and whose parents have not provided parental consent for the initial provision of services.

Question 3: Is an RTI approach applicable to special education students (i.e., after rather than before an eligibility evaluation) as a framework for implementing least restrictive environment and/or FAPE under IDEA?

Answer: As discussed in response to Question 2, FAPE includes the provision of special education and related services provided in conformity with an IEP. While there is nothing in IDEA that prohibits children with disabilities who are receiving special education and related services under IDEA from receiving instruction using RTI strategies, all special education and related services must continue to be provided consistent with each child's IEP.

If you have any further questions, please do not hesitate to contact Ms. Pagano at 202-245-7413 or by email at Lisa.Pagano@ed.gov.

Sincerely,

/s/

Laurie VanderPloeg

Director

Office of Special Education Programs

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For Professionals New to Disability

All links in this section can be accessed by visiting:
<https://www.parentcenterhub.org/new-professionals/>

Are you a teacher who has a student with a disability in your class this year? Perhaps you work in daycare or an early childhood program, and the newest kid on the playground uses a wheelchair? Or maybe you run an afterschool program—which now includes a third grader with serious behavioral challenges. Maybe you’re a

Well, you get the idea. Your professional life now includes addressing the needs of an individual or individuals with disabilities.

What do you do? What *should* you do? You don’t know, because you’re **new** to disabilities!

Well, the truth is, most of us start out not knowing much about disabilities. But when disability touches your life, professionally or personally, you have to come up to speed fast. You’ll be pleased to know there is a lot of help, understanding, and assistance near your fingertips.

A Home Truth About Disability

There are many home truths about disability, but perhaps the most visible one is that “***disability is a natural part of the human experience...***”

We’ve quoted here from Congress. This was the first finding of Congress when it wrote the nation’s special education law, the Individuals with Disabilities Education Act. You’ll find many disability laws in the United States. They are all part of a national policy “to ensure equality of opportunity, full participation, independent living, and economic self-sufficiency for individuals with disabilities.”

The work you do with each person with a disability supports this national policy—not to mention the goals and well-being of the individual!

Finding the Information and Help You Need

OK, friend, let’s get down to different business—connecting you with expertise to inform your work and interactions with those who have disabilities. In this section, we’re not going to explain anything

in detail (the page would never end!). We're going to suggest that you visit certain pages on our site. That's where you'll find things explained.

What type of information were you looking for today?

Find out about a particular disability.

Visit our [Categories of Disability](#) page and connect with fact sheets on many different disability conditions in children.

Is there a “disability etiquette” I should know about?

Yes. Read more at [Disability Awareness](#). Information about disability etiquette is towards the bottom of that page.

I'm a child care provider. What do I need to know about my legal obligations?

Visit our page called [Especially for Child Care Providers](#). You'll find the answer there.

How do I address challenging behavior in a young child?

Find answers in [Addressing Challenging Behavior in Young Children](#).

What disabilities qualify for special education services in the public schools?

You'll find the answer in [Categories of Disability Under IDEA](#).

I'm a general educator. How do I help this new student with a disability in my class?

Great question! We have lots of resources to share with you, including the ones we've listed below.

Learn more about the student's specific disability.

Connect with our fact sheets on disabilities via [Categories of Disability Under IDEA](#). They include “Tips for Teachers.”

How did this student end up in my class?

Read how placement is decided for students with disabilities, in [Placement, Short and Sweet](#).

Find out about accommodations and supports you can offer.

The [Supports, Modifications, and Accommodations](#) page has a wealth of info on the subject.

How do I help the other students in the class understand the needs of this new student?

Try our [Disability Awareness](#) page.

How do I really make inclusion “work”?

Read about effective practices in [School Inclusion](#).

This student has an IEP. What is that?

Find out fast in [The Short-and-Sweet IEP Overview](#).

I'm supposed to help write the student's IEP. What does the general educator contribute?

Have a look at [Regular Educators on the IEP Team](#).

When behavior is a concern.

We offer a [Behavior Suite](#), which can help you address behavior issues in your classroom. Have a look at [Behavior at School](#).

Other Places and Pages to Visit

We don't know what type of assistance or info you're looking for today, so it's hard to cover all the possibilities. So let us give you a small laundry-list of other pages that may hold the info you seek. You can also try entering search terms in the SEARCH box you'll find at the top of every webpage.

[Centers funded by the Office of Special Education Programs \(OSEP\)](#) to provide technical assistance and information about educating students with disabilities

[Resources for employers](#)

[Resources for school administrators](#)

[About the Americans with Disabilities Act \(ADA\)](#)

[About the Individuals with Disabilities Education Act \(IDEA\)](#)

[About early intervention for babies and toddlers](#) (to the 3rd birthday)

[About the special education process for children](#) (3-22)

I don't even know what to ask! It's all too new.

Understood. The first steps into the disability world can seem overwhelming. But go step by step. There's a lot to learn and know. We humbly suggest that you poke around CPIR's [Repository of Resources](#) , and see what you find.

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Services in Your State for Infants and Toddlers

All information for this section and links to specific websites can be found at:

<https://www.parentcenterhub.org/services-ei/>

Early intervention provides free developmental evaluations of children younger than 3 (that is to say, before their third birthday) and helps families find services for their little one. These services are available through the same law that makes special education services available—the Individuals with Disabilities Education Act.

Finding Early Intervention in Your Area

If you're concerned about possible delays in your baby's development or think your baby or toddler needs special help, you should get in touch with the early intervention system in your area. Here are two suggestions for how to do that.

Get in touch with the Parent Center in your state.

Every state has at least one Parent Center funded to provide information and guidance to parents of children with developmental delays or disabilities. Call your Parent Center and ask to be put in touch with an early intervention program near you. Find your Parent Center here at the Hub:

<http://www.parentcenterhub.org/find-your-center/>

Keep track of info.

Write down the names, phone numbers, and emails you're given (and, as you continue, everyone you talk to). You can use the [Parent's Record-Keeping Worksheet](#). Having this information available will be helpful to you later on.

Other Ways of Finding Early Intervention in Your Area

Here are a few alternative ways in which you can identify the early intervention program in your community.

- Ask your child's **pediatrician** to put you in touch with the early intervention system in your community or region;
- Contact the **Pediatrics branch** in a local hospital and ask where you should call to find out about early intervention services in your area.

Also, you should know the following, which can also help you find the early intervention program you're looking for.

Get in touch with the State system.

The State is responsible for providing early intervention programs for infants and toddlers. The agency in charge is called the **lead agency**. Services for children are provided at the local level, under State supervision. Find out the lead agency for your State at the ECTA Center:

<http://ectacenter.org/contact/ptccoord.asp>

Ask to be referred to your local area.

Call the State agency you identified above. Explain that you want to find out about early intervention services for your child. Ask for the name of the office, a contact person, and the phone number in your area where you can find out more about the program and have your child screened for a disability or delay.

Visit the State's and/or local agency's website.

Most States make websites available where you can find guidance for parents new to the early intervention system, as well as descriptions of policies. You can identify the website address at the [ECTA Center](#), when you are finding out who the lead agency in your State is. The same types of information may also be available on the website of the local-level program, so be sure to ask at the local level if they have a website you can visit.

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Brief for Parent Centers on School Resource Officers

All information for this section and links to specific websites can be found at:

<https://www.parentcenterhub.org/brief-school-resource-officers/>

Read This Brief If...

...the school system in your community, district, or state places (or is *considering* placing) sworn law-enforcement officers in public schools as part of building a safe learning environment for students.

This Brief Expands Upon...

...OSEP's Dear Colleague Letter on the *Use of School Resource Officers (SROs) in Schools*, released September 8, 2016, and available online at:

<http://www2.ed.gov/policy/elsec/guid/secletter/160907.html>

About the Dear Colleague Letter

The Secretary of Education released this Dear Colleague Letter (DCL) to express the Department's increasing concern that school discipline is being administered by school resource officers (SROs), who are law-enforcement officers based in schools. There are many reasons for the Department's concern, including:

- the potential for violations of students' civil rights;
- the unnecessary citations or arrests of students in schools; and
- the unnecessary and harmful introduction of children and young adults into a school-to-prison pipeline.

Call to Action

In the Dear Colleague Letter, Secretary King states: "As education leaders, you can empower schools, educators, and staff with the skills and capacity to **avoid relying on SROs in the first place** (emphasis added) and also eliminate SRO-related school discipline policies and practices that may harm young people and needlessly contribute to their involvement with the juvenile and criminal justice systems."

Basic Facts about SROs

Federal definition of an SRO | A school resource officer (SRO), by federal definition, is a career law enforcement officer with sworn authority who is deployed in community-oriented policing and

assigned to work in collaboration with schools and community-based organizations to fulfill specific duties. (1)

Appropriate duties of an SRO | Included in the federal definition of an SRO are such duties as:

- educating students in crime and illegal drug use prevention and safety;
- developing or expanding community justice initiatives for students; and
- training students in conflict resolution, restorative justice, and crime and illegal drug use awareness. (2)

Three main roles of an SRO emerge from this list, which the National Association of School Resource Officers summarizes as: **educator** (i.e., guest lecturer), **informal counselor/mentor**, and **law enforcement officer**. (3)

How many SROs are there? | No one really knows how many SROs are working in our schools, but data from the 2015-16 school year indicate that approximately 42% of public schools have at least one full- or part-time SRO. (4) That's roughly 41,200 schools in the country. (5)

SROs and Students with Disabilities

Disproportionate disciplinary practices | Current data are clear that exclusionary discipline practices—including suspension, expulsion, and arrest—are disproportionately applied to students with disabilities (and to students of color). (6) This Dear Colleague Letter on SROs adds to the resources already issued by the U.S. Department of Education regarding discriminatory practices in how students with disabilities are disciplined at school. The U.S. Department of Education has repeatedly cautioned school systems against such practices, most notably in ED's January 2014 Dear Colleague letter (available in English and Spanish) (7) and in the School Discipline Guidance Package of 2014. (8)

What SROs need and most often lack | Research shows that most SROs have received little or no training in many issues that disability and legal advocates see as essential to their role in schools. (9) Among these are: how to work with young people, cognitive differences between juveniles and adults, techniques for defusing a volatile situation, and alternatives to physical intervention and other exclusionary practices. The list is longer when considering how to interact appropriately and legally with students with disabilities. SROs need training on how student behavior can be affected by various disabilities; the rights of students with disabilities under IDEA, the ADA, and Section 504; and the protections that these laws provide.

Recommendations and How-To's

From OSEP's Dear Colleague Letter on SROs

"School districts that choose to use SROs should incorporate them responsibly into school learning

environments and **ensure that they have no role in administering school discipline**" (*emphasis added*).

There are numerous experts who can speak to best practices in (a) deciding whether to use SROs as part of creating a positive school climate, and (b) establishing an effective program for school-based policing. We list 3 such resources below.

The U.S. Departments of Education and Justice | *Safe School-based Enforcement through Collaboration, Understanding, and Respect (SECURE)*

<http://www2.ed.gov/policy/gen/guid/school-discipline/support.html#tools>

The SECURE Implementation Rubrics are designed to help school districts, schools, and law enforcement agencies determine the type of school-police partnership that will be most effective in their community and, where appropriate, to incorporate SROs into the school learning environment. There is a local implementation rubric and a state and local policy rubric. Parent Centers can and should be involved in the local and state policy discussions and decision-making process.

National Association of School Resource Officers | *To Protect and Educate: The School Resource Officer and the Prevention of Violence in Schools*

<https://nasro.org/cms/wp-content/uploads/2013/11/NASRO-To-Protect-and-Educate-nosecurity.pdf>

In discussing best practices in school-based policing, NASRO makes 4 main assertions:

- (1) A Clear and Concise Memorandum of Understanding is Essential
- (2) SROs Must Receive Training Regarding Special Needs Children
- (3) Use of Physical Restraint Devices is Rarely Necessary
- (4) NASRO Offers Support to Policymakers.

Both law officials and schools should explore the cost-benefits of NASRO's Basic SRO **training classes** offered in various locations around the country. There are also **state chapters** of this association. Parent Centers may find NASRO's report particularly useful in preparing to be part of any SRO discussions and decision making in the local community or state.

School Safety Net | *Role of the School Resource Officer Tutorial*

<http://cte.jhu.edu/courses/ssn/sro/index.html>

This free online tutorial can help users understand the role of SROs and their responsibilities; the issues related to researching, developing, and implementing an effective SRO; and the importance of the partnership between the school administrator and the SRO in maintaining a safe school environment.

Additional Readings

What is a School Resource Officer? *(Resource added, 2019)*

From the Office of Community Oriented Policing Services (COPS Office), U.S. Department of Justice, which funds grants that grow community policing efforts (including SROs) and provides training and technical assistance to its grantees and via its website.

<https://cops.usdoj.gov/supportingsafeschools>

School Resource Officers: A Policy Option to Improve School Safety | From the Education Commission of the States *(Resource added, 2019)*

This is a short 2018 blog summarizing what state legislatures are considering on the issue of school safety, including the use of SROs.

<https://ednote.ecs.org/school-resource-officers-a-policy-option-to-improve-school-safety/>

School Discipline Consensus Report | Council of State Governments

The *School Discipline Consensus Report* draws on real-world strategies and research to promote truly multidisciplinary approaches to reducing the millions of youth suspended, expelled, and arrested each year while creating safe and supportive schools for all educators and students.

<https://csgjusticecenter.org/youth/school-discipline-consensus-report/>

School Discipline Consensus Report Highlight Video

8-minute video

https://youtu.be/51qVdggp11k?list=PLvoZLdtBgik3v9rjEP2BD2_QYOh5wEy-C

Schooling the Police: Race, Disability, and the Conduct of School Resource Officers

A detailed examination of current data, legal imperatives and court cases, disability protections under the law, the history of SROs in our schools, and recommendations for needed training.

<http://repository.law.umich.edu/cgi/viewcontent.cgi?article=1053&context=mjrl>

School Resource Officers: Safety Priority or Part of the Problem?

<http://www.usnews.com/news/articles/2015/01/30/are-school-resource-officers-part-of-the-school-to-prison-pipeline-problem>

Why So Few School Cops Are Trained to Work With Kids

Only 12 states mandate that school resource officers receive student-specific preparation.

<http://www.theatlantic.com/education/archive/2015/11/why-do-most-school-cops-have-no-student-training-requirements/414286/>

What We Know About the Effectiveness of Assigning Police Officers to Schools

Despite their popularity, few studies are available that have reliably evaluated the effectiveness of

SROs.

http://www.popcenter.org/responses/school_police/3

Deciding Whether and How to Assign Police Officers to Schools

http://www.popcenter.org/responses/school_police/4

References

- 1 | The Safe and Drug Free Schools and Communities Act, 20 U.S.C. § 7161 (2012). Definitions are online at: <http://law.justia.com/codes/us/2014/title-20/chapter-70/subchapter-iv/part-a/subpart-4/sec.-7161>
- 2 | *Ibid.*
- 3 | National Association of School Resource Officers (NASRO). (n.d.). *Frequently asked questions*. Hoover, AL: Author. Online at: <https://nasro.org/frequently-asked-questions/>
- 4 | Congressional Research Service. (2018, July). *School resource officers: Issues for Congress* [R45251]. Washington, DC: Congressional Research Service. Online at: https://www.everycrsreport.com/files/20180705_R45251_db5492370a04c7e3b39f27ce52416d229a0ac17d.pdf
- 5 | National Center for Education Statistics (2019, January). Number of public school districts and public and private elementary and secondary schools: Selected years, 1869-70 through 2015-16 [Table 214.10]. *Digest of Education Statistics, 2017*. Washington, DC: Author. Online at: https://nces.ed.gov/programs/digest/d17/tables/dt17_214.10.asp
- 6 | U.S. Department of Education, Office for Civil Rights. (2014, March). *Data snapshot: School discipline* (Issue Brief No. 1). Washington, DC: Author. Online at: <http://ocrdata.ed.gov/Downloads/CRDC-School-Discipline-Snapshot.pdf>
- 7 | U.S. Department of Education and U.S. Department of Justice. (2014, January). *Dear colleague letter on the nondiscriminatory administration of school discipline*. Washington, DC: Authors. (Available in **English** and in **Spanish**.)
- 8 | The *School Discipline Guidance Package 2014* is available online at: <http://www2.ed.gov/policy/gen/guid/school-discipline/fedefforts.html#guidance>
- 9 | Merkwae, A. (2015). Schooling the police: Race, disability, and the conduct of school resource officers. *Michigan Journal of Race and Law*, 21(1), 146-181. Online at: <http://repository.law.umich.edu/cgi/viewcontent.cgi?article=1053&context=mjrl>

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NASET SPONSOR



Latest Employment Opportunities Posted on NASET

* **Educational Support Services (ESS) Coordinator, Upper School** - Berman Hebrew Academy is seeking an ESS Coordinator who will provide vision and direction for the ESS Program by supporting students with different learning styles; supporting teachers in their efforts to advance students with different learning needs within the classroom; and working with parents, students, and outside professionals in order to better support the needs of the students. To learn more - [Click here](#)

* **ESP (IEP) Specialist** - This position will be responsible for the design and implementation of Educational Support Plans (ESP's), similar to IEP's. To learn more - [Click here](#)

* **Director, Endowed Chair Laboratory Schools** - The Director of Laboratory School is responsible for directing the Laboratory Schools by serving the educational needs of students with learning differences and Down syndrome; serving as a training site for TCU students to become teachers; establishing educational research opportunities for faculty and staff. To learn more - [Click here](#)

* **Director of Education** - Wye River Upper School (WRUS) seeks a full time 12 month Director of Education. WRUS is an independent college and career prep high school serving bright students with learning differences including ADHD, dyslexia or high-functioning autism. To learn more - [Click here](#)

* **Special Education Teacher** - This is an opportunity to work in rural bush Alaska. We offer teacher housing, health benefits, and a competitive salary. We have multiple openings for this position. To learn more - [click here](#)

* **Curriculum/Special Ed. Coordinator** - Responsible for the effective implementation of special education services, testing, certifications of students and related services throughout the district.

Serves as the district liaison with the Alaska Department of Education in all Special Education matters. To learn more - [Click here](#)

* **Director of Special Services** - Elmwood Park School District, a K-12 Suburban District, is seeking a Director of Special Services for the 2019-2020 School Year. Starting July 1, 2019. Candidates for this position are required to have New Jersey Supervisor and Principal Certification. To learn more - [Click here](#)

* **Special Education Teachers** - Responsible for providing an educational atmosphere where students have the opportunity to fulfill their potential for intellectual, emotional, physical, spiritual and psychological growth. This person is responsible for organizing and implementing an instructional program that will maximize the learning experience of students with special needs. To learn more - [Click here](#)

* **Special Education Teacher** -Seattle Public Schools is seeking gap-closing, equity-focused educators to lead the way in eliminating opportunity gaps for our students. As an educator in SPS, you have the opportunity to have a profound and lasting positive impact on the lives of Seattle students. To learn more - [Click here](#)

* **Teacher - Special Education (All Areas) - Approximately 100 positions!** -We are looking for highly motivated and skilled talent to join our team at District of Columbia Public Schools (DCPS). We seek individuals who are passionate about transforming the DC school system and making a significant difference in the lives of public school students, parents, principals, teachers, and central office employees. To learn more - [Click here](#)

* **Special Education Teacher** - \$50,000/school year (185 days), summers off with year round pay and year round appreciation. Special Education Teachers needed in Arizona (Phoenix and surrounding cities). Needs are in the self-contained and resource settings serving students with emotional disabilities (ED), Autism (A), Severe/Profound (S/P), and Intellectual Disabilities (ID). To learn more - [Click here](#)

* **Physical Education Teacher** - Jewish Child & Family Services (JCFS) provides vital, individualized, results-driven, therapeutic and supportive services for thousands of children, adults and families of all backgrounds each year. To learn more - [Click here](#)

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