



## Pre-Training Exercise

### Continuum of Expertise – Self-Assessment

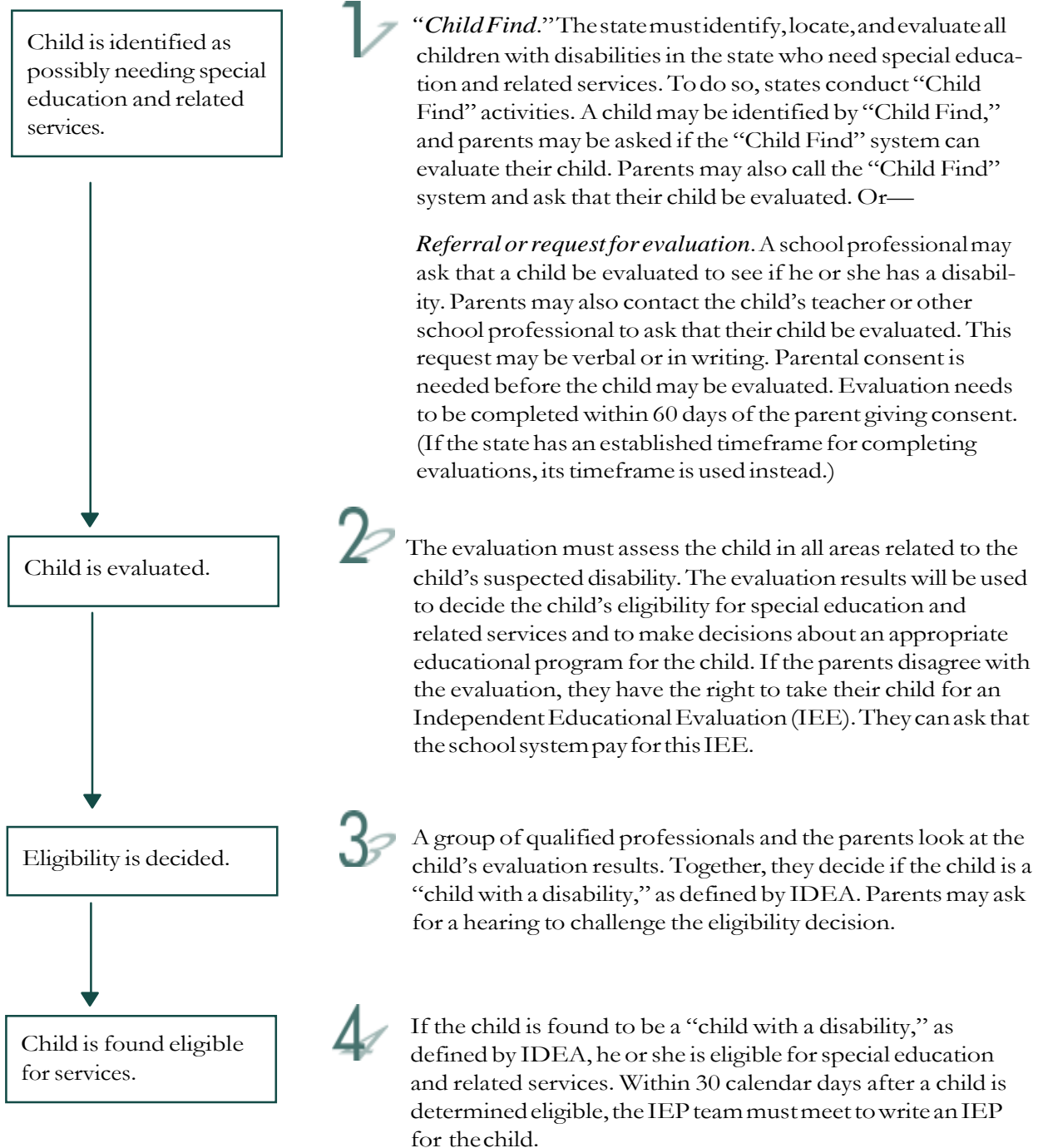
We will be creating a wall chart prior to beginning the module today. Prior to beginning the professional development session today, place a colored sticker (dot) along the continuum chart that best represents how you feel about your expertise in the area of special education laws, and the processes that these laws govern.



1. Which law has as its main purpose to ensure all students with disabilities have a free and appropriate public education in the least restrictive environment?
  - A. No Child Left Behind
  - B. Federal Educational Rights and Privacy Act
  - C. Individuals with Disabilities Education Act
  - D. Rehabilitation Act, Section 504
  
2. Which law influenced the Individuals with Disabilities Improvement Act of 2004, ensuring students with disabilities are taught by highly qualified teachers through the use of “scientifically-based programs and strategies.”
  - A. No Child Left Behind 2002
  - B. IDEA 1990
  - C. 504 Section of the Rehabilitation Act
  - D. Family Education Rights and Privacy Act of 1974 (FERPA)
  
3. What are the steps in the special education process?
  - A. Annual Review, Referral, Eligibility
  - B. Annual Evaluation, IEP, Annual Review
  - C. Referral, Eligibility, Placement
  - D. Referral, Evaluation, Eligibility, IEP, Instruction & Monitoring, Annual Review
  
4. When is prior written notice with parent consent required?
  - A. When any changes are made to the IEP
  - B. Initial services, Initial evaluation, Reevaluation with assessment
  - C. Initial placement, Initial evaluation, when any changes are made to the IEP
  - D. Initial evaluation and Reevaluation with assessment
  
5. After a parent referral, if the local education agency suspects a disability a Review of Existing Data must be conducted within how many days?
  - A. 10 days
  - B. 20 days
  - C. 30 days
  - D. 60 days

## The Basic Special Education Process under IDEA 2004

Here's a brief look at how a student is identified as having a disability and needing special education and related services.



Excerpted from Küpper, L. (2011). *Communicating with your child’s school through letter writing* (Parent’s Guide 9). Washington, DC: National Dissemination Center for Children with Disabilities (NICHCY). Available online at: <http://www.nichcy.org/schoolage/steps/>

## The Basic Special Education Process under IDEA 2004 (cont.)

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Once the student has been found eligible for services, the IEP must be written. The two steps below *summarize* what is involved in writing the IEP.

IEP meeting is scheduled.

5

The school system schedules and conducts the IEP meeting. School staff must:

- contact the participants, including the parents;
- notify parents early enough to make sure they have an opportunity to attend;
- schedule the meeting at a time and place agreeable to parents and the school;
- tell the parents the purpose, time, and location of the meeting;
- tell the parents who will be attending; and
- tell the parents that they may invite people to the meeting who have knowledge or special expertise about the child.

IEP meeting is held and the IEP is written.

6

The IEP team gathers to talk about the child's needs and write the student's IEP. Parents and the student (when appropriate) are part of the team. If the child's placement is decided by a different group, the parents must be part of that group as well.

Before the school system may provide special education and related services to the child for the first time, the parents must give consent. The child begins to receive services as soon as possible after the IEP is written and this consent is given.

If the parents do not agree with the IEP and placement, they may discuss their concerns with other members of the IEP team and try to work out an agreement. If they still disagree, parents can ask for mediation, or the school may offer mediation. Parents may file a complaint with the state education agency and may request a due process hearing, at which time mediation must be available.



Excerpted from Küpper, L. (2011). *Communicating with your child's school through letter writing* (Parent's Guide 9). Washington, DC: National Dissemination Center for Children with Disabilities (NICHCY). Available online at: <http://www.nichcy.org/schoolage/steps/>

## The Basic Special Education Process under IDEA 2004 (cont.)

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Here is a brief summary of what happens *after* the IEP is written.

Services are provided.

7

The school makes sure that the child's IEP is being carried out as it was written. Parents are given a copy of the IEP. Each of the child's teachers and service providers has access to the IEP and knows his or her specific responsibilities for carrying out the IEP. This includes the accommodations, modifications, and supports that must be provided to the child, in keeping with the IEP.

Progress is measured and reported to parents.

8

The child's progress toward the annual goals is measured, as stated in the IEP. His or her parents are periodically informed of their child's progress toward achieving the annual goals (such as through the use of quarterly or other periodic reports, perhaps issued at the same time as report cards).

IEP is reviewed.

9

The child's IEP is reviewed by the IEP team at least once a year, or more often if the parents or school ask for a review. If necessary, the IEP is revised. Parents, as team members, must be invited to attend these meetings. Parents can make suggestions for changes, can agree or disagree with the IEP goals, and agree or disagree with the placement.

If parents do not agree with the IEP and placement, they may discuss their concerns with other members of the IEP team and try to work out an agreement. There are several options, including additional testing, an independent evaluation, or asking for mediation or a due process hearing. They may also file a complaint with the state education agency.

Child is reevaluated.

10

At least every three years the child must be reevaluated, unless parents and the school system agree that a reevaluation is not necessary. The purpose of the reevaluation is to find out if the child continues to be a "child with a disability," as defined by IDEA, and what the child's educational needs are. Parents must give their consent for their child's reevaluation.

A child may be reevaluated more often if conditions warrant or if the child's parent or teacher asks for a new evaluation.

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## Special Education Public Policy

### History

In the 1954 landmark school desegregation case, *Brown v. Board of Education of Topeka* (347 U.S. 483), the U.S. Supreme Court determined that it was unlawful to discriminate against a group of individuals for arbitrary reasons. The Court determined that education was characterized as a fundamental function of government that should be afforded to all citizens on an equal basis. The Brown decision by the U.S. Supreme Court set a precedent that was used by parents and advocates to secure equal educational opportunities for children with disabilities. Two court decisions in 1972, *Pennsylvania Association for Retarded Children (PARC) v. Commonwealth of Pennsylvania* and

*Mills v. Board of Education, District of Columbia* started a flurry of litigation regarding the education of children with disabilities. The litigation, coupled with untiring vocal and collaborative efforts of parents and politically powerful advocacy groups, led to federal legislation in 1975 for students with disabilities.

The Education for All Handicapped Children Act (Public Law 94-142) was signed into law on November 29, 1975 by President Gerald Ford. This legislation is considered the "Bill of Rights" for children with disabilities and their families. The legislation incorporated six major components or guarantees that have forever changed the landscape of education across the United States. These components include:

1. A free appropriate public education (FAPE). All children, regardless of the severity of the disability, must be provided an education appropriate to their unique needs at no cost to the parent(s)/guardian(s). Included in this principle is the concept of related services, which requires that children receive other services as determined educationally necessary to benefit from special education. These related services may include occupational therapy, physical therapy, orientation and mobility instruction, and a host of other support services for the student.
2. The least restrictive environment (LRE). Children with disabilities are to be educated, to the maximum extent appropriate, with students without disabilities. Placements must be consistent with the pupil's education needs. Each state is required to provide a full continuum of alternate placements.
3. An individualized education program (IEP). This document, developed with the parent (s)/guardian(s), is an individually tailored statement describing an educational plan for each learner with exceptionalities. The IEP is required to address: (1) the present level of academic functioning; (2) annual goals and accompanying instructional objectives; (3) educational services to be provided; (4) the degree to which the pupil will be able to participate in general education programs; (5) plans for initiating services and the length of service delivery; and (6) an annual evaluation procedure specifying objective criteria to determine if instructional objectives are being met.
4. Procedural due process. The Act affords parents or guardians several safeguards pertaining to the child's education. Briefly, parents or guardians have the right to confidentiality of records; to examine all records; to obtain an independent evaluation; to receive written notification (in the parents' native language) of proposed changes to the child's educational classification or placement; and the right to an impartial hearing whenever disagreements arise regarding educational plans for the child. Furthermore, the student's parents or guardians have the right to representation by legal counsel.
5. Nondiscriminatory assessment. Prior to placement, a child must be evaluated by a multidisciplinary team in all areas of suspected disability by tests that are not racially, culturally, or linguistically biased. Students are to receive several types of assessments, administered by trained personnel. A single evaluation procedure is not permitted for either planning or placement purposes.
6. Parental participation. P.L. 94-142 mandates meaningful parent involvement. This legislation requires that parents participate fully in the decision-making process that affects the child's education.

## **Major components of the Amendments to PL 94-142**

*Public Law 99-457 (1986 Amendments to PL 94-142)*

PL 99-457 created the Handicapped Infants and Toddlers Program. This new provision was aimed at children from birth through age 2 with developmental delays or disabilities. It assists states in implementing a statewide, comprehensive, coordinated, multidisciplinary, interagency program of services for young children and their families.

*Public Law 101-476 (1990 Amendments to PL 94-142)*

- Renamed the legislation Individuals with Disabilities Education Act (IDEA).
- Required that each student have, no later than age 16, an individual transition plan (ITP) as part of his or her IEP. The plan allows for a coordinated set of activities and interagency linkages designed to promote the student's movement to post school functions such as independent living, vocational training, and additional educational experiences.
- Expanded the scope of the related services provision by adding two services: social work and rehabilitation counseling.
- Added the identification of autism and traumatic brain injury as distinct disability categories.

*Public Law 105-17 (1997 Amendments to PL 94-142)*

- Students with disabilities who exhibit less serious infractions of school conduct may be disciplined in ways similar to children without disabilities (including a change in placement) provided that the misbehavior was not a manifestation of the student's disability.
- IEPs are now required to state how the student with disabilities will be involved with and progress in the general education curriculum.
- Transition planning will begin at age 14.
- Regular educators will become part of the IEP team.
- Benchmarks and measurable annual goals will be emphasized.
- Assistive technology needs of the student must be considered by the IEP team.
- Orientation and mobility services for children with visual impairments were added to the definition of related services.
- States are required to offer mediation services to help resolve disputes.
- A variety of assessment tools and strategies are to be used in an effort to gather relevant functional and developmental information.
- Requires that students with disabilities be included in statewide and districtwide assessment programs or given alternative assessments that meet their unique needs.

*Public Law 108-446 (2004 Amendments to PL 94-142)*

- Added language from the No Child Left Behind Act of 2001 regarding core academic subjects, limited English proficiency, and highly qualified teachers.
- Created a 15-state pilot program in which states may develop and implement three-year IEPs.
- Districts may elect to not use the "discrepancy formula" in determining if students have a learning disability. A school district may instead use a process called the response to intervention model.
- Benchmarks or short-term objectives are no longer required in an IEP, except for students who take alternative assessments.

*Individuals with Disabilities Education Improvement Act of 2004 (/DEJA or IDEA 2004)*

- Purpose of IDEA 2004 is to reauthorize IDEA to be consistent with No Child Left Behind and update education legislation



- IQ achievement discrepancy is no longer required for the determination of a specific learning disability
- Response to Intervention (RTI) may be used as part of the special education evaluation
- RTI interventions are based on research-based interventions
- The individualized education program (IEP) planning teams base services on peer-reviewed literature
- Student progress is regularly monitored based on written measurable goals
- Transition services begin at age 16
- Align IDEA with NCLB's provisions
- A student with a disability may be removed to an interim alternative setting up to 45 school days, if the behavior involved a weapon, illegal drugs or bodily harm, without the determination of whether the behavior is a manifestation of the disability.
- Dispute-resolution system model for education was clarified
- Changes in special education eligibility and evaluation process

## Resources

### Activities

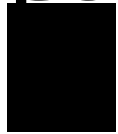


[Components of IDEA 2004](#)

### Presentations



[Laws Concerning Students with Disabilities](#)



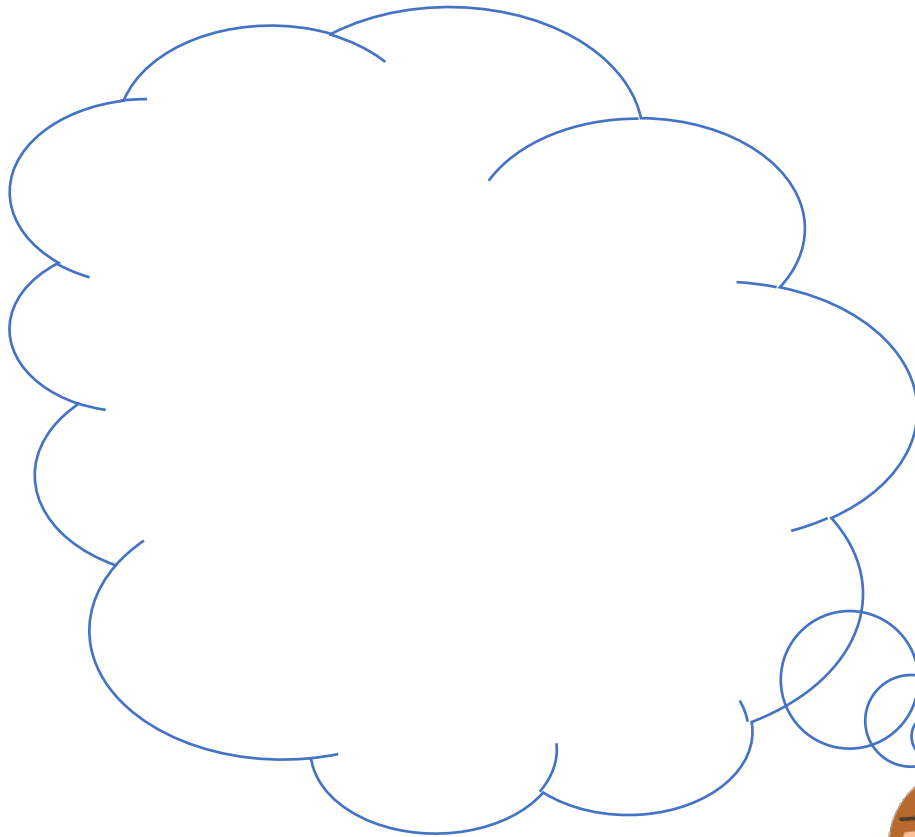
[Laws Concerning Students with Disabilities - Transcript](#)

### Videos



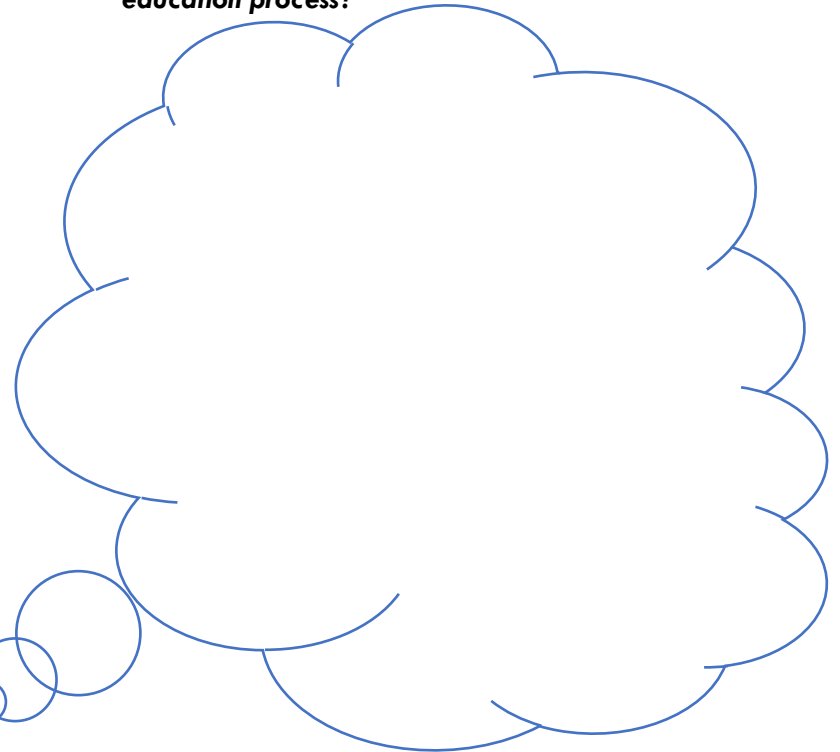
Special Education Law | Reflections from Dr. Fred Hartmeister

### Additional Resources



***Describe the special education process in your school district.***

***What experiences have you had with the special education process?***



**What do you know about the special education process and the laws that govern it?**

## Special Education Process Module

### GLOSSARY of Key Terms

**Special Education**—Specially designed instruction that meets the unique needs of a child who has a disability

**Referral**—Determination that a disability is suspected and that the student will be evaluated to determine eligibility for special education services.

**Evaluation**—School districts use evaluations to determine both initial and continued eligibility for special education services, to determine a student's need for special education and related services, and to gather additional information for developing an Individualized Education Program (IEP)

**FAPE**—Free and Appropriate Public Education individualized educational program that is designed to meet the child's unique needs and from which the child receives educational benefit, and prepares them for further education, employment, and independent living.

**Individualized Education Program**—An Individualized Education Program (IEP) is a written statement for a student with a disability that is developed, reviewed, and revised in accordance with federal law to describe the amount of time that the student will spend receiving special education, any related services the student will receive, and the academic/behavioral goals and expectations for the year.

**Instruction and Monitoring**—The services are described in the IEP that the student will receive for instruction and how their progress will be monitored for progress.

**Least Restrictive Environment**—One of the defining principles of special education law is that students with disabilities should be included in the general education program as much as possible and not excluded or educated separately.

**Placement**—The term placement in special education does not necessarily mean the precise physical location where your student will be educated. Rather, your student's placement refers to the range or continuum of educational settings available in the district to implement her/his IEP and the overall amount of time she/he will spend in the general education setting.

**PLAAFP**—Present Level of Academic Achievement and Functional Performance is a part of the IEP that describes how the disability affects the child's participation in the general education curriculum and the child's performance in academic areas. The PLAAFP also describes skills or activities that are not related to the academic area, but are related to routine activities of daily living such as dressing, eating, social skills, making friends, communication and behavior.

**Accommodations and Modifications**—Accommodations are changes in procedures or materials that increase equitable access in the classroom setting. Accommodations generate comparable results for students who need them and allow these students to demonstrate what they know and can do. Modifications are changes in procedures or materials that change the construct of the educational task making it difficult to compare results with typical peer results. Modifications allow students to demonstrate what they know and can do in a non-standardized way.

## What is the Difference?

	SECTION 504	IDEA	ADA	ESEA
TYPE	Civil Rights Act	Education Act	Civil Rights Law	Education Act
TITLE	The Rehabilitation Act of 1973	Individuals with Disabilities Education Act	Americans with Disabilities Act of 1990	Elementary and Secondary Education Act
RESPONSIBILITY	Public and Private Schools; Employment	Special Education	Public and Private Schools; Employment	Public Schools

	SECTION 504	IDEA	ADA	ESEA
PURPOSE	Provides protection for all people that have impairments in one or more major life activities	Provides aid to ensure that students with disabilities receive appropriate services	Provides protection against people with disabilities in education and employment	Increases the academic achievement of all students by helping districts improve teacher quality
POPULATION	Any person who has a physical or mental impairment which substantially limits a major life event	Any person who has been identified as being eligible under one of the 16 categories of disability	Any person who meets the definition of being disabled	All students



## Case Study: Jennifer

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**INTRODUCTION:** Jennifer is a ten-year-old, fifth grade student at ABC Elementary School. She has a history of academic difficulties, specifically in the areas of reading and writing. Jennifer's challenges in these areas were less apparent early in her schooling, however as school has become more difficult in the last few years, she has begun to fall further behind. Jennifer's teacher, Mrs. Smith, has tried various research-based interventions with her which have been unsuccessful. Mrs. Smith has collected multiple work samples over the course of the school year.

**REFERRAL:** Because research-based interventions in the general education classroom did not appear to be working and Jennifer was still experiencing difficulty, Mrs. Smith made a request for consideration of an initial special education evaluation. The local education agency (LEA) determined that there was reason to suspect a disability and provided Jennifer's parents with a copy of procedural safeguards within five days of the date of referral. A team of qualified professionals will review existing data within 30 days of the date the LEA determined that a disability was suspected.

**REVIEW OF EXISTING DATA (RED):** The upper elementary special education teacher, Mrs. Jones, began working on the review of existing data. Mrs. Jones collected information from Jennifer's school files, her current and previous teachers, and parents. The Review of Existing Data team (Mrs. Jones (special education teacher), Mrs. Smith (general education teacher), the school principal (LEA representative) and Jennifer's parents) met to decide if additional information was necessary to determine whether or not Jennifer is a child with a disability. The team determined that additional information was needed in the areas of Intellectual/Cognitive abilities and Academic Achievement to make that determination. It was not necessary to gather additional information in the areas of vision, hearing, health/motor, speech/language, adaptive behavior, social/emotional, transition and assistive technology. The evaluation must be completed within 60 days of the review of existing data when the team determined that an evaluation was warranted.

**NOTICE OF ACTION FOR EVALUATION AND PARENTAL CONSENT:** After determining that additional testing was necessary to determine if Jennifer qualified for special education, Mrs. Jones contacted Jennifer's parents and explained to them that she would be sending home a written notice stating that an evaluation is recommended, including a copy of the description of areas to be assessed. Additionally, Mrs. Jones asked them to review it, contact her with any questions, and if they agreed, sign giving consent to administer the necessary assessments. Jennifer's parents reviewed the information, agreed and sent back the signed consent.

**EVALUATION:** Once the school received the signed parental consent, they began the process of evaluating Jennifer. The school's psychological examiner completed the Wechsler Intelligence Scale for Children-Fifth Edition (WISC-V) with Jennifer. The score report showed Jennifer's Full Scale Intelligence Quotient (FSIQ) to be 104, which is in the average range when compared to other children her age. The school's psychological examiner also completed the Woodcock-Johnson IV: Test of Achievement with Jennifer. The score report showed that Jennifer scored below average in written expression (76) and reading comprehension (81). In all other areas of the test (oral expression, listening comprehension, basic reading skills, reading fluency skills, mathematics calculations and mathematics problem solving), Jennifer scored average to above average. Additionally, an observation of Jennifer was conducted in the general education classroom in the areas of written expression and reading comprehension. Jennifer was observed having difficulty answering questions regarding the story that was read aloud in class. Jennifer also struggled with writing the requested 5-sentence paragraph on the topic of dogs. Jennifer

Activity: Case Study  
Special Education Process Module

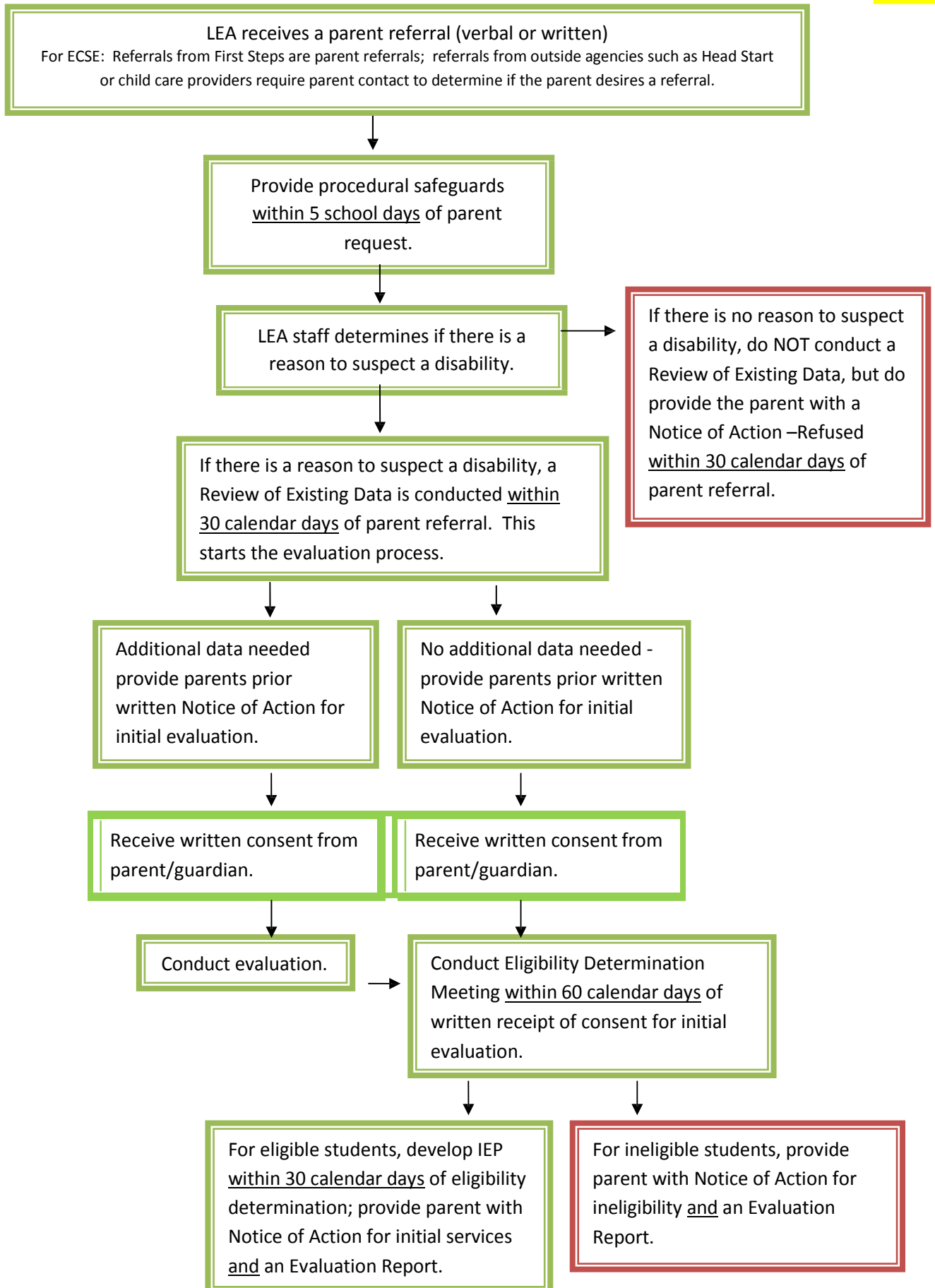
was only able to write two sentences during the time allotted, compared to her peers who were able to complete this assignment. In order to be determined eligible for a possible specific learning disability for schools using the discrepancy model, the difference between IQ and Academic Achievement must be greater than or equal to 1.5 standard deviations (22 points) of the mean. Any score on the academic achievement test below 82 would indicate a learning disability for disability. Using the information gathered during the Review of Existing Data, observations of Jennifer in the classroom, and the above test results, an evaluation report was written, which addressed Jennifer's vision, hearing, health/motor, speech, language, social/emotional, general intelligence, and academic performance.

**ELIGIBILITY:** Once all of the information was gathered through testing, interviews and observations, the evaluation team consisting of Jennifer's parents, 5<sup>th</sup> grade teacher, the building's special education teacher, psychological examiner and the principal met to review the evaluation report and determine eligibility. Based on these test results, interviews with teachers and parents, and a classroom observation, the team determined that Jennifer is eligible for Special Education services under the disability category of specific learning disability in the areas of written expression and reading comprehension. The team determined that Jennifer is in need of special education services in order to benefit from education.

**IEP:** Now that Jennifer has been determined eligible for special education, the team held an IEP meeting to determine what services would best fit her needs. Jennifer's parents; Mrs. Smith, the 5<sup>th</sup> grade teacher; Mrs. Jones, the special education teacher; the psychological examiner; and the principal were all in attendance at this IEP meeting. It was determined at this meeting that Jennifer would spend a total of one hour per day in the resource room, 30 minutes for reading instruction and 30 minutes for writing instruction. Jennifer will receive accommodations within the general education classroom. Jennifer's parents were given a notice of action for consent for services. They signed the consent and services were initiated.

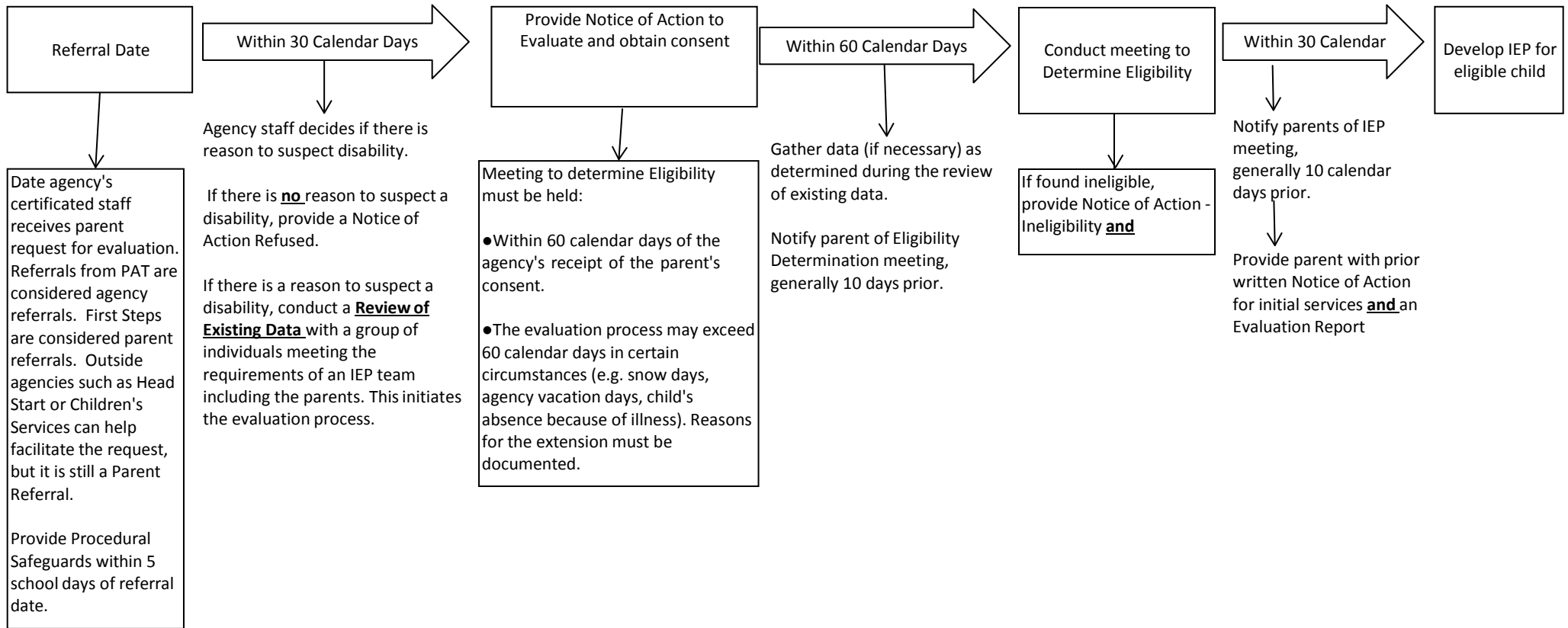
**INSTRUCTION & MONITORING PROGRESS:** After services began, the school kept the parents informed via progress reports. Mrs. Jones sent progress reports home with Jennifer every time a progress report or grade card was sent home. Jennifer's parents received progress reports twice a quarter. With each progress report, Jennifer made a little more progress on her goals. Because she was allowed accommodations within the general education classroom and was given specialized instruction within the resource room, Jennifer's learning increased and she became more successful in school.

## Initial Evaluation Process – PARENT REFERRAL Flow Chart





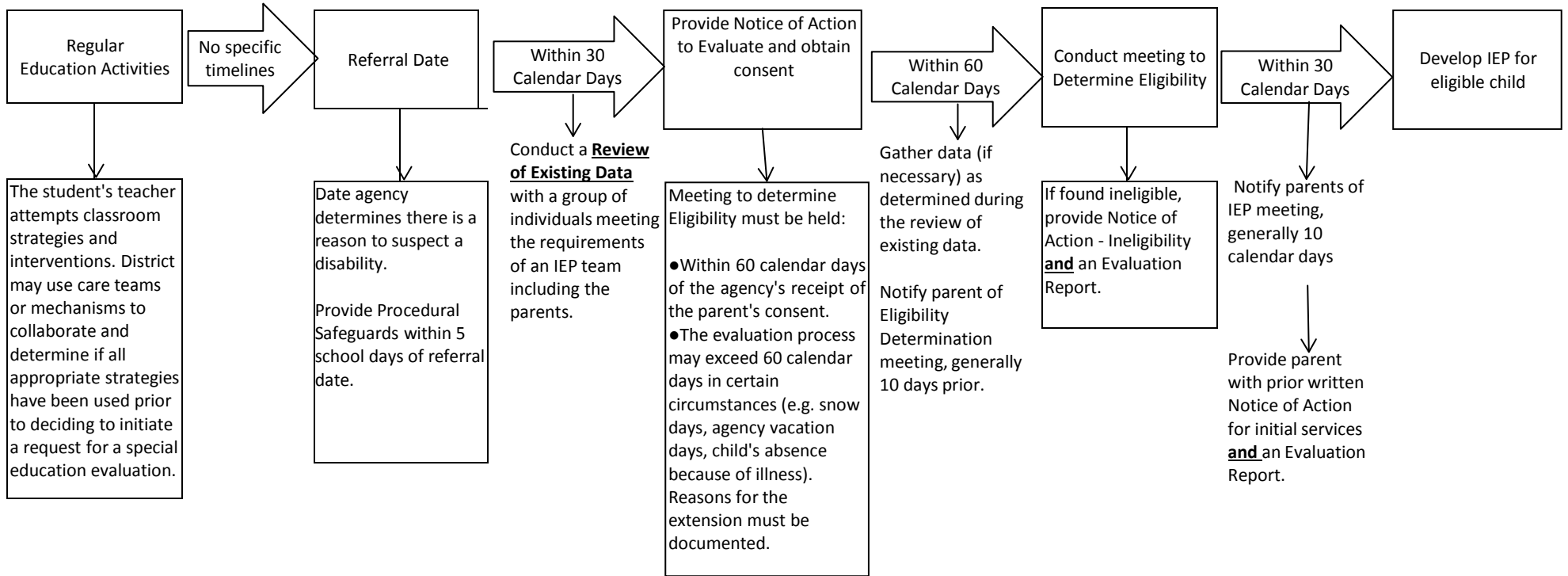
## Initial Evaluation Process Parent Referral



● **Referrals for children receiving services in the First Steps System:** Referrals for children served in First Steps are considered parent referrals and occur when the LEA is provided with “directory information” for the child. Directory information includes the child’s name and birth date as well as the parent’s name, address and phone number. Directory information may be provided in a variety of ways including, but not limited to: direct parent contact, a directory information form provided by the First Steps SPOE, First Steps service provider contact, the invitation to attend the child’s First Steps Transition Conference, or from any other source with knowledge of the child. The date of the contact, which may be either verbal or written, when the directory information is provided to the LEA is considered the date of referral and triggers the evaluation process requirements under IDEA. This includes the requirements to provide the parent a copy of Procedural Safeguards within 5 days of the date of referral and to provide parents with a Notice of Action within 30 days of the referral date. Under Part C requirements, for any child who may be eligible for Part B preschool services, the Transition Conference must be held no later than 90 days before the child’s third birthday, but, at the discretion of all parties, may occur up to nine months before the child’s third birthday with the approval of the family. The First Steps system must invite the LEA to attend the Transition Conference. If invited, a representative of the LEA must attend the Transition Conference. The IDEA requires for eligible children that an IEP must be developed and implemented by the child’s third birthday.

● If the parent makes the initial contact with the agency, then the date of the referral will be the date that a member of the agency's certificated staff received a request for an evaluation from the child's parent.

## Initial Evaluation Process Agency Referral



# Initial Evaluation Process – AGENCY REFERRAL Flow Chart

