



Law Office of Norma Francullo, LLC
Empowering Parents and Students

**Understanding
Your Child's
Rights in
Special
Education**

Agenda

- Different instructional pathways:
 - a). Response to Intervention
 - b). IEP
 - c). 504 Plan
- Federal Laws that impact special education
- State Laws--New Jersey Administrative Code for Special Education, N.J.A.C. 6A:14
- Special Education Process
- Procedural Safeguards
- How to get your child help in school

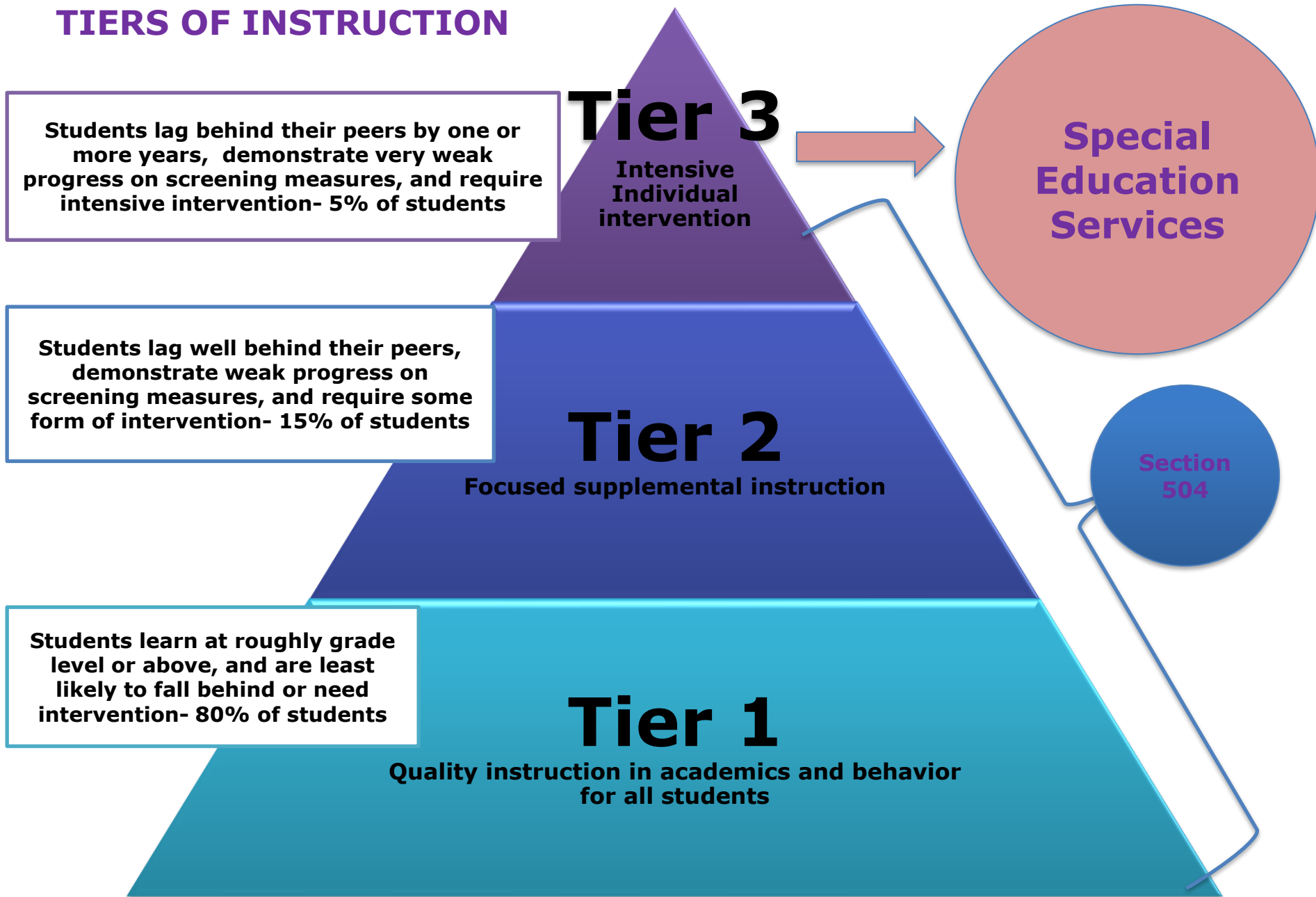
3 Pathways of Instruction

Response to
Intervention
(RTI)

Individualized
Education
Plan (IEP)

Section 504
Plan

TIERS OF INSTRUCTION



Federal Laws Impacting Students With Disabilities

- **Individuals with Disabilities Education Act (IDEA)-1990**
- **Section 504 of the Rehabilitation Act of 1973**

Individuals with Disabilities Education (IDEA)

Congressional Purposes of IDEA

- What did Congress intend the IDEA to accomplish?
 - “The purposes of this title are to ensure that all children with disabilities have available to them a **free appropriate public education** that emphasizes special education and related services **designed to meet their unique needs** and **prepare them for further education, employment and independent living.**” (Section 1400(d)(1)(A))

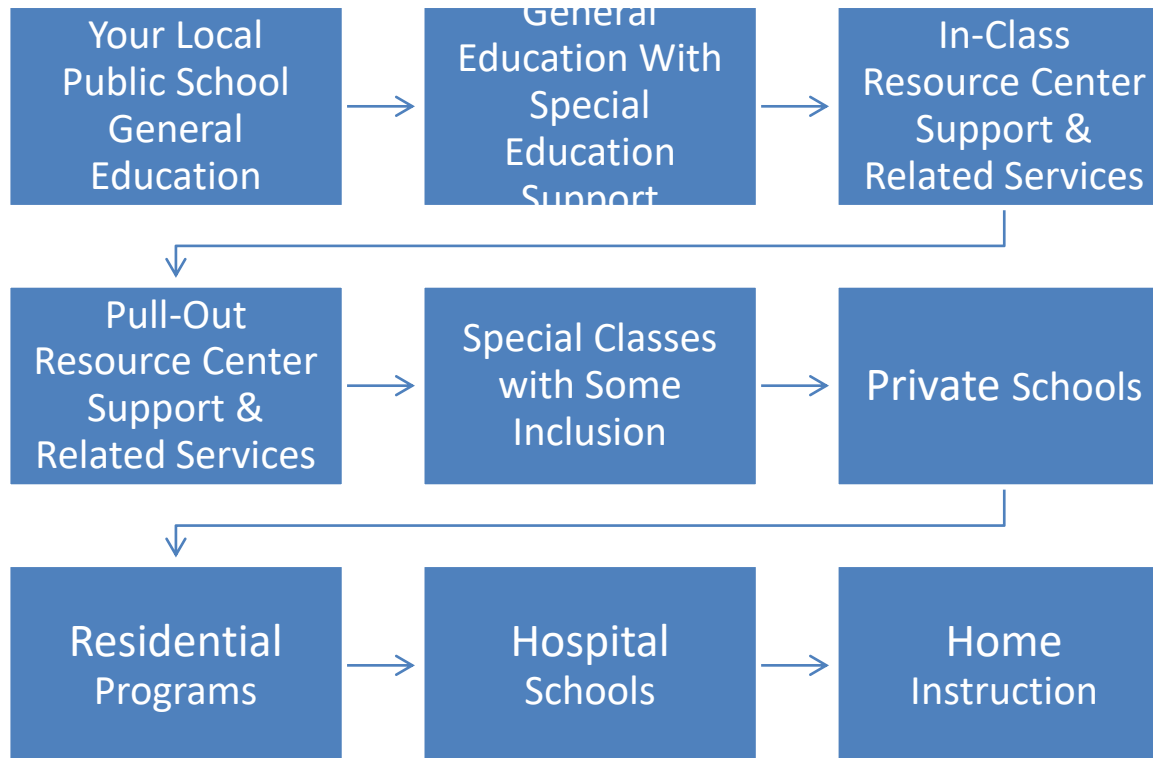
The IDEA's Mandate:

- Entitles all children who meet the definition of **“a child with a disability”** to receive:
 - A **F**ree **A**ppropriate **P**ublic **E**ducation (FAPE)
 - In the **L**east **R**estrictive **E**nvironment (LRE)

What is a Free Appropriate Public Education (FAPE)?

- The term FAPE is defined as “special education” and “related services” that:
 - Are provided at public expense – *without any cost to the parent* – under public supervision;
 - Meet the state’s educational standards (as contained in the state’s special education and general education regulations and statutes); and
 - Comply with the child’s **Individualized Education Program (IEP)**.

What is the Least Restrictive Environment (LRE)?



Who qualifies under IDEA?

- Children between the ages of 3 and 21, who meet the eligibility criteria in one of thirteen qualifying disabilities ***and who require special education services because of the disability*** can qualify for services under IDEA.
- There are ***13 categories of disabilities*** listed under IDEA
- To be eligible, a student must have a disability that ***adversely affects*** her or his educational performance **and** must need **special education** in order to receive an appropriate education.

IDEA Eligibility Criteria for Special Education & Related Services

- Auditorily impaired
- Autistic
- Cognitively Impaired
- Communication Impaired
- Emotionally Disturbed
- Multiply Disabled
- Deaf/Blindness
- Orthopedically Impaired
- Other Health Impaired
- Social Maladjustment
- Specific Learning Disability
- Traumatic Brain Injury
- Visually Impaired
- Eligible for Speech & Language Services Only
- Preschool Child With a Disability (ages 3-5)

Specific Learning Disability

34 CFR 300.8(c)(10):

"(A) IN GENERAL.—The term 'specific learning disability' means a disorder in 1 or more of the basic psychological processes involved in understanding or in using language, spoken or written, which disorder may manifest itself in the imperfect ability to listen, think, speak, read, write, spell, or do mathematical calculations."

"(B) DISORDERS INCLUDED.—Such term includes such conditions as perceptual disabilities, brain injury, minimal brain dysfunction, **dyslexia**, and developmental aphasia."

Other Health Impaired

34 CFR 300.8(c)(9)

(9) Other health impairment means having limited strength, vitality, or alertness, including a heightened alertness to environmental stimuli, that results in limited alertness with respect to the educational environment, that--

- (i) Is due to chronic or acute health problems such as asthma, attention deficit disorder or attention deficit hyperactivity disorder, diabetes, epilepsy, a heart condition, hemophilia, lead poisoning, leukemia, nephritis, rheumatic fever, sickle cell anemia, and Tourette syndrome; and
- (ii) Adversely affects a child's educational performance.

Specially Designed Instruction

Sec. 300.39 Special education.

a). General

1). Special education means specially designed instruction, at no cost to the parents, to meet the unique needs of a child with a disability, including—

(i) Instruction conducted in the classroom, in the home, in hospitals and institutions, and in other settings; and

(ii) Instruction in physical education.

Do you need to fail first?

- According to IDEA, states must make a free appropriate public education available to “any individual child with a disability who needs special education and related services, even if the child has not failed or been retained in a course or grade and is advancing from grade to grade.”

[34 CFR §300.101(c)(1)]

Can methodology be discussed?

(3) Specially designed instruction means adapting, as appropriate to the needs of an eligible child under this part, the content, ***methodology***, or delivery of instruction—

- (i) To address the unique needs of the child that result from the child's disability; and
- (ii) To ensure access of the child to the general curriculum, so that the child can meet the educational standards within the jurisdiction of the public agency that apply to all children.

34 CFR 300.39(3)

Methodology

As a general rule, a parent does not have a legal right to select a preferred methodology. School personnel may choose the methodology to be used.

Parents have the right to demand a methodology that works. If the child does not make progress with the methodology chosen by the school personnel, this is a reason to revisit the current program.

Section 504

- A civil rights statute which prohibits discrimination against individuals with disabilities
- It is an anti-discrimination law
- It is not an education law
- Programs or activities that receive Federal financial assistance fall under Section 504
- Schools are required to provide a “free appropriate public education” (FAPE)


Disability defined under Section 504

- Under Section 504 there is no list of “approved” disabling conditions. A person with a disability is someone who:
 1. Has a physical or mental impairment which substantially limits one or more major life activities OR
 2. Have a record of such an impairment OR
 - 3. Be regarded as having such an impairment

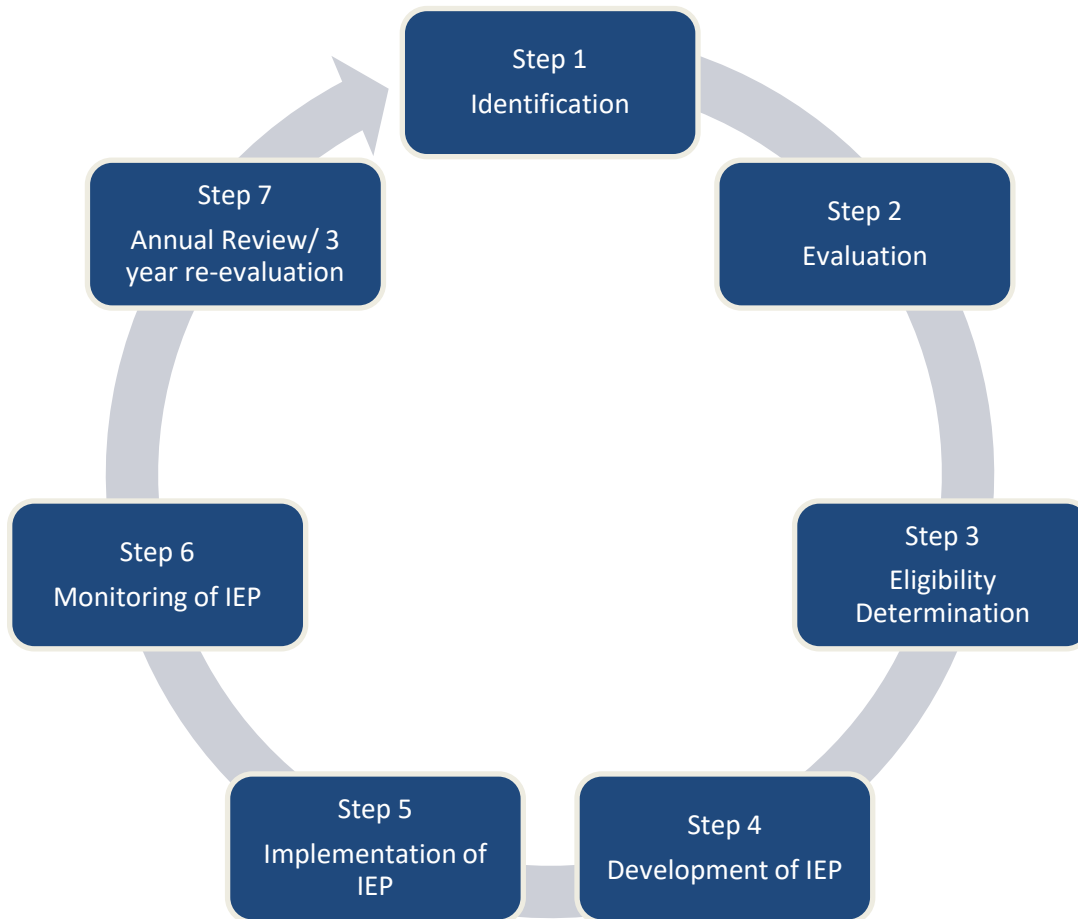
Section 504

- It is about leveling the playing field
- Accessibility to regular education programs
- Its focus is on preventing discrimination
- It is about accommodations
- You have fewer rights than under the IDEA

Special Education Process

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IDEA: The Special Education Delivery Cycle



Step 1. Child is identified as possibly needing special education and related services.

- "Child Find." Schools are obligated to identify, locate, and evaluate all children with disabilities who need special education and related services. Or —
- Parents may also contact the child's teacher or other school professional to ask that their child be evaluated.
- This request should be in writing. Parental consent is needed before the child may be evaluated.
- A determination is made as to whether evaluations are warranted.
- Evaluation needs to be completed within 90 days after the parent gives consent.

Step 2. Child is evaluated

- All areas of suspected disability must be tested.
- Evaluation plan is developed.
- The evaluation results will be used to decide the child's eligibility for special education and related services and to make decisions about an appropriate educational program for the child.
- Parents have a right to an independent evaluation at the district's expense if they disagree with the evaluation.
- Parents can provide the school with their own private evaluation.

Step 3. Eligibility Meeting

- Evaluation reports are shared with the parents 10 days prior to the Eligibility Meeting.
- The Child Study Team and the parents review the child's evaluation results. Together, they decide if the child is a "child with a disability," as defined by IDEA.
- School districts are not required to diagnose a disability. They are required to determine eligibility for special education services based on the child's educational need.

Step 4: Development of IEP

- You will be notified in writing as to the time and place of the meeting
- You will be made aware of who will be attending
- You can invite people to the meeting who have knowledge or special expertise about your child

Continue Step 4: IEP meeting is held, and IEP is written

- The IEP is developed.
- Consent is required for the first IEP. After the first IEP, parental consent is not required.
- If the parents do not agree with the IEP and placement, and discussions with the IEP team does not resolve the situation, parent can file for due process.

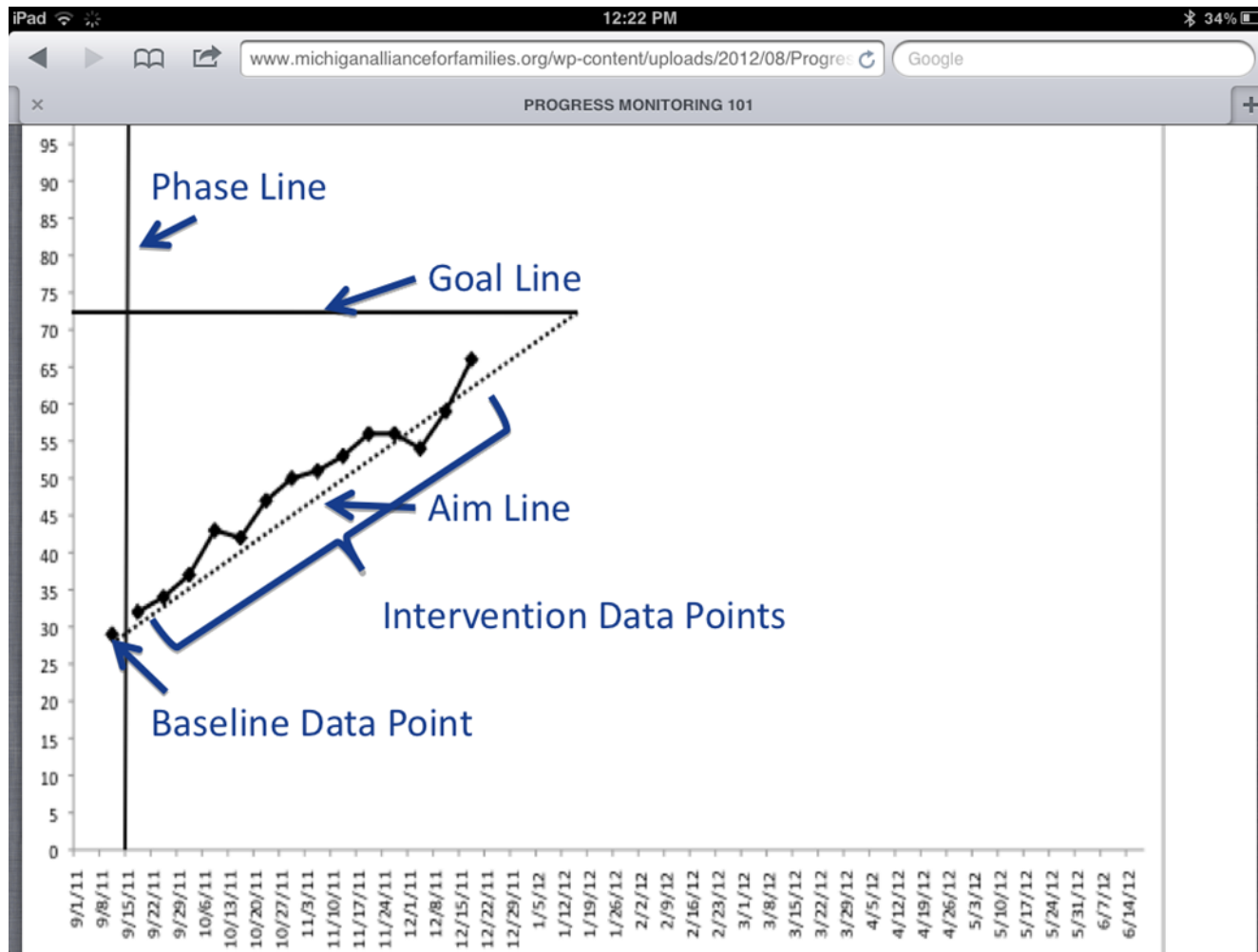
Step 5: Implementation of IEP

- 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.
- Discuss and summarize the IEP with your child
- Each of the child's teachers and service providers has access to the IEP.

Step 6: Monitoring IEP

- A child's progress is shared with the parents (weekly, bi-monthly, monthly, quarterly).
- How progress reports are shared should be written into the IEP.

Progress Monitoring

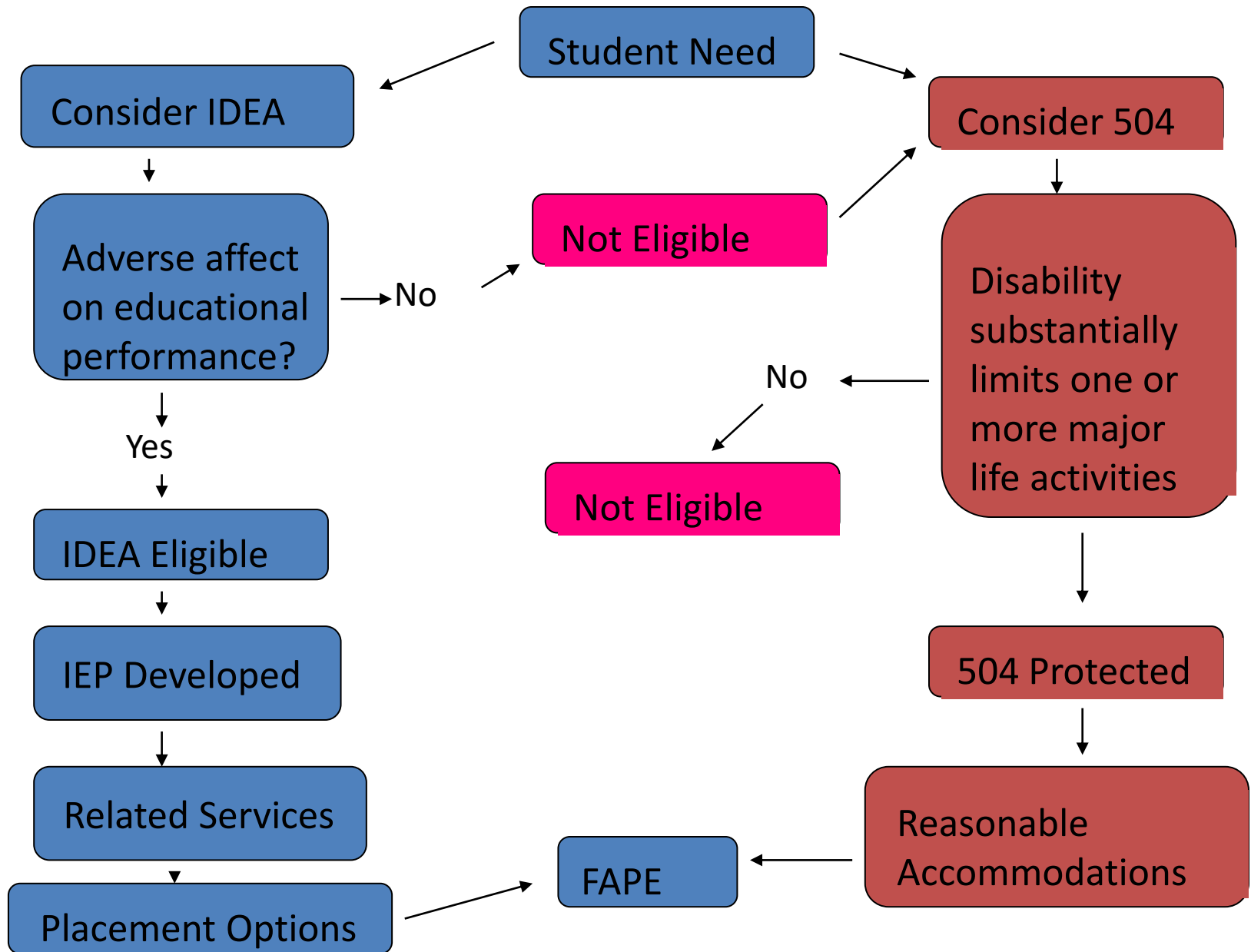


Step 7: IEP is reviewed annually


- 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 can always be revised.
- If parents do not agree with the IEP and placement, they should discuss their concerns with the team.
- 15 days and “Stay Put”.

Continue Step 7: Child is reevaluated every 3 years

- At least every three years the child must be reevaluated. This evaluation is often called a "triennial."
- Its purpose 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.
- However, the child must be reevaluated more often if conditions warrant or if the child's parent or teacher asks for a new evaluation.



Procedural Safeguards

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Procedural Safeguards

- Parents have rights regarding identification, evaluation, classification, the development of an IEP, placement and the provision of a FAPE
- These rights are called procedural safeguards,
- Parental Rights in Special Education (PRISE).

Procedural Safeguards:

- If a Parent disagrees with the district, they may file for Due Process:
 - Filed with the NJ Department of Education
 - Held for 30 days (resolution, mediation)
 - If unable to resolve, case goes to the Office of Administrative Law
 - Settlement Conference with a settlement judge
 - Due process/impartial hearing

HOW TO GET YOUR CHILD HELP AT SCHOOL

It starts
with...

1. Comprehensive **evaluation**

- Provides you with good baseline data
- Identify the needs of the student
- Identify a student's learning deficits and strengths
- Identify a student's social and emotional needs

2. Measurable annual **goals** and objectives

3. Describe how progress towards the annual goals and objectives will be measured (**progress monitoring**)

Then you can
begin to
discuss...

Programs

Specially Designed
Instruction

Related Services

Placement

How to Advocate for Your Child...

- Organization
- Preparation for IEP Meetings and Teacher/Parent Conferences
- Communication and Collaboration
- Knowledge

Organization

- Information is power
- Having information at your fingertips makes you more powerful
- Having you child's paperwork organized is one area of control
 - Binders: IEP (draft and final), evaluations, progress reports, grades, work samples, emails, letters
- Daily Journal
- You need to collect your own data and observations throughout the year

Preparation for IEP Meetings and Teacher/ Parent Conferences

- Prep for IEP meeting
- Cheat Sheet-one page
- Stranger Test for goals
- Read your evaluations and highlight
- Parental Concerns
- Consider bringing a friend to the meeting to take notes
- Note pad
- Educate yourself about what his/her learning, social and emotional difficulties are. “What does it look like”

Communication and Collaboration

- Document every conversation in writing.
- Work collaboratively with the teachers and child study team members.
- Make friend not enemies.
- Being adversarial is not the most effective way to get what your child needs.
- You need to set the standard.
- Best article- Eight Steps to Better IEP Meetings:
<https://www.wrightslaw.com/advoc/articles/iep.bollero.hearts.htm>
- Identify the educational , emotional and social needs of your child

Knowledge Base

- In what areas does your child excel? Where do his/her talents, abilities and interests lie?
 - Focus on supporting their strengths, not only on remediation of weaknesses.
- Understand your child's diagnosis/disability:
 - Read books and articles written about your child's disability.
 - Attend lectures and workshops to learn more.
- Find both a local and national parent advocacy group and become a member.
- Network with other parents in your community to find out more about local service providers.
- Attend you Board of Education meetings.
- Wrights Law, SPAN Parent Advocacy Network, Understood.org, PRISE, Education Law Center.

Build Partnerships

- Establish a positive working relationship with the professionals at your child's school
- Encourage mutual respect.
- Develop honest, clear and open communication with your child's teachers and other members of the school administration.
- Maintain a positive attitude.
- Include school personnel in decision-making and planning to promote joint responsibility for your child's education.

Final Words

- Your child is not entitled to the “best” education, he/she is entitled to an “appropriate” education.
- **PUT EVERYTHING IN WRITING.** If you have a verbal conversation about what your child needs/will receive, follow up with a confirmation e-mail. IF IT IS NOT IN WRITING IT WAS NEVER SAID.
- Keep your child’s records and work samples in binders.
- Maintain a pleasant, cooperative, respectful manner when dealing with your child’s school.

Everyone has a voice

- Everyone at the table has a voice.
- We all must be “child” focused.
- Everyone’s opinions must be heard.
- You will not always agree, but you will need to come to an agreement.
- ***“Develop a language of persuasion rather than a language of positional battle”***

(*Parenting A Struggling Reader*, pg. 53 by Susan Hall and Louisa Moats)



Questions...



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Thank you

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