

Due Process

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Introduction

IDEA is the collection of federal regulations governing special education that ensures a free and appropriate public education (FAPE) for students with disabilities attending public schools. IDEA requires that each public school provide services to eligible special education students in the least restrictive environment (LRE) and in accordance with each student's individualized education program (IEP). Throughout this process, if parents believe a school district has not followed IDEA procedures or disagree with actions involving the identification, evaluation, or placement of their child, they may file a complaint. They may pursue three routes to dispute resolution: investigation, adjudication, and voluntary mediation (Yell, 2019).

Data Source

The data for the Due Process Cases included twenty-eight special education due process hearings issued by the Texas Education Agency (TEA) between February 4, 2019, and December 19, 2019. All hearings were available from the TEA's website (<http://tea.texas.gov>). All due process hearing decisions were reviewed. An Excel sheet was created to assist with identifying the disability, issues, and prevailing party.

Research Questions

After reviewing the Due Process Cases, the predominant primary student disability category was Other Health Impairment (OHI) 32.1%, followed by initial eligibility of Autism (AU, ASD) 25%, and Speech Impairment (SI) 14.3%. Only one case did not specify the qualifying disability. There was only one case with the category of student disability of Emotionally Disturbed (ED) and Intellectually Disabled (ID); two cases with the category of student disability of Dyslexia.

In examining the main issues in due process hearings, the top three were disputes regarding FAPE, LRE, and IEP. In the majority of due process hearing cases, when the main issue was free Appropriate Public Education (FAPE), the question was whether the school district failed to provide and implement an appropriate Individual Education Plan (IEP). In the due process hearing cases involving (LRE), petitioners claimed that the school district failed to place students in the least restrictive environment (LRE). When the IEP was the disputed issue, it involved the development and proper implementation of the Individualized Education Program (IEP).

In the overall decisions of the due process hearings, the school prevailed in 23 cases. In two of the due process hearings, parents prevailed; in three of the cases reviewed, both the respondent and the petitioner prevailed.

Synthesis

Principles in the FAPE and the IDEA can guide school districts in developing appropriate programs for students with disabilities. By following these principles, school districts can avoid disputes, which could lead to hearings and court cases. Because parents are considered partners in determining the components of their child's IEP, they must be involved in the identification, assessment, programming, and placement of their child. Among parent involvement, FAPE requires school-based personnel to understand and meet their responsibilities under the IDEA (Yell, 2019). Developing educationally meaningful IEPs is another essential component in providing FAPE to students with disabilities. It is essential to use effective instructional strategies and monitor student progress to help students make educational progress in their individualized programs. With frequent progress monitoring, Teachers will be aware if

interventions are working and students are making progress towards meeting their academic goals. It is equally important to ensure that a child with a disability has in place instructional methods that aid in accessing the general curriculum and meet the student's individual academic and functional needs. In all due-process cases reviewed in 2019, school districts were cleared of violating LRE.

In the due process case, Student v. Highland Park Independent School District, 2019 June 28. Parents submitted issues regarding evaluation, identification, FAPE, placement, and procedural violations. Because student evaluation is critical in the special education process, it is crucial to conduct educationally appropriate and legally sound special education assessments. When the identification, assessment, and evaluation process is incorrectly performed, the possible result is that a student will not receive a FAPE. It is vital to ensure that response intervention systems do not delay the testing of students suspected of having a disability. Parent involvement is essential in developing a student's educational program, as their involvement in the assessment process is equally important. In conclusion, the law holds that the school district failed to reevaluate Student on time, though the failure to do so in a timely manner did not deny Student a FAPE.

Student v. Frisco Independent School District 2019 August 23 Petitioner submitted the issues of failure to provide FAPE due to failure to provide the supports and accommodations provided in Student's IEP, and whether the School District failed to include a BIP in Student's IEP promptly. The litigation regarding the appropriateness of IEPs underscores the importance of carefully adhering to the requirements outlined in IEPs (Yell, 2019). Standards provide direction in developing and implementing educationally relevant and legally sound IEPs. When

determining whether a school district complied with the IDEA's procedural requirements, the court will apply the first part of the Rowley test because a procedural violation might deprive a student of an educational benefit or deprive parents of the opportunity to be involved in the special education process. Failure to ensure the presence of the required IEP team members is a procedural error. IEPs have been invalidated due to the absence of required participants when their absence affected the document's development. To prevent a violation of FAPE, the IEP team must develop an IEP that allows a student to make progress, all responsibilities are understood by all staff involved, and the IEP is implemented as written. In the conclusion of the law, the Student was provided a FAPE during the relevant time period, and the Student's IEP was reasonably calculated to address the Student's needs in light of the Student's unique circumstances (Texas Education Agency).

Student V. Northside Independent School District, (2019). October 14, one of the Petitioner's issues involved whether the school district provided the Student's educational services in the Student's LRE. A student's placement must be individualized and decided after the student's program has been established. It is essential to consider the general education classroom with supplementary aids and services. The conclusions of law found that the Respondent provided Student with a FAPE within the meaning of the IDEA. The student's placement was Student's LRE. The student had an opportunity to participate in extracurricular activities, to the extent appropriate with the use of supplementary aids and services (Texas Education Agency).

Student V. Houston Independent School District, (2019). May 24: The central issue in this case is whether the District failed to fulfill its Child Find duty promptly and whether

Petitioner was denied a free, appropriate public education (FAPE) as a result (Texas Education Agency). Child Find requires all school districts to identify, locate, and evaluate all children with disabilities, regardless of the severity of their disabilities. This obligation exists to identify all children who may need special education services, even if the school is not providing them to the Child (2017). If District officials fail to meet their Child Find obligations, it is a violation of the IDEA that could result in depriving Children of a FAPE. In the Conclusion of the Law, the District violated its Child Find obligation by improperly evaluating and failing to identify Student as a student in need of special education services for Student's specific learning disorders —dyslexia, dysgraphia, and dyscalculia (Texas Education Agency). The Student was denied an appropriate, individualized IEP crafted to foster academic and nonacademic progress; consequently, the Student was denied a FAPE (Texas Education Agency). **Conclusion**

Throughout the Discussion of due process hearings, Case Law continues to influence all due process hearing cases because court opinions interpret the status and regulations to be followed during a hearing. Case law refers to the published opinions of judges arising from court cases, in which they often interpret statutes, regulations, and constitutional provisions (Yell, 2019). Becoming familiar with the history and development of Federal laws regarding Special Education and with the requirements of these laws is essential for all involved in the education of children with disabilities. It may help prevent litigation against school districts. A deep understanding, particularly in Part B of IDEA, is especially crucial for those involved in the education of children with disabilities and in the development of their programs.

References

Texas Education Agency. (n.d.). Special Education Due Process Hearings 2019.

Retrieved June 19, 2020, from

[https://tea.texas.gov/about-tea/government-relations-and-legal/special-education-hearings/due-pr
ocess-hearings/special-education-due-process-hearings-2019](https://tea.texas.gov/about-tea/government-relations-and-legal/special-education-hearings/due-process-hearings/special-education-due-process-hearings-2019)

Sec. 300.111 Child find. (2017, May 03). Retrieved June 20, 2020, from

<https://sites.ed.gov/idea/regs/b/b/300.111>

Yell, M. L. (2019). *The law and special education*. New York, NY, NY: Pearson.