

3 Components of Special Education

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Learning from past mistakes seems to be a promising way to succeed. So looking at the history of education, we are guaranteed to make strides to better education for both general education students as well as special education students. In this development of education, we must address the ways in which a student is placed in general education versus special education. One of the strongest ways to place students is to implement the RTI system within the school because it delineates which students are struggling and if those students need special education services. Regardless of where students are placed, we can review the history and be aware of the importance of equality; both in the opportunities of the students are given as well as the discipline they receive. The goal of this paper is to review the history of education, discuss the properties of placement, and define means of discipline.

Hulett (2009) states the United States Constitution is made up of three branches: legislative, executive, and judicial branches. There are four types of laws that United States contains: constitutional, statutory, regulatory, and case law. The U.S. Constitution presents the Preamble, 7 articles, and 27 amendments. The Bill of Rights covers the first ten amendments that are in the Constitution. In the Constitution, education is not brought up. Article 1, Section 8, Tenth Amendment, and the Fourteenth Amendment can be perceived as the makeup for education that provides equal rights to all individuals (p. 1). (Hulett, 2009).

Hulett (2009) states that Article 1, Section 8 is “The Congress shall have Power to lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defence and general Welfare of the United States...” (p. 4). This is stating how Congress can regulate educational programs taxes such as

No Child Left Behind Act and the Individuals with Disabilities Education Act by collecting taxes and allocating money through grants. (Hulett, 2009).

Hulett (2009) states the Tenth Amendment as “The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people” (p. 4). This clarifies how the Constitution does not define education, as a federal responsibility or rejects education to the states education becomes a state responsibility. Hulett (2009) states, “ Education has generally been considered a state responsibility, and most states have taken a great deal of ownership and developed a sense of autonomy” (p.4). Therefore, states have taken control of their education and making education a responsibility so that all individuals receive an equal education. (Hulett, 2009).

Hulett (2009) states the Fourteenth Amendment, Section 1:

No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws. (p.5)

Hulett (2009) notes how the Fourteenth Amendment focuses more on special education. The three main words that define this amendment are: life, liberty, and property. The amendment includes education because since education is a state responsibility, education becomes a property right. No child can be deprived of education, even if the child needs specific services. (Hulett, 2009).

Hulett (2009) notes first makeup of a program for special education started in 1954, which was Cooperative Research Act of 1954. Along with Hulett, the article *Focus on Exceptional Children* by Terrye Conroy, Mitchell L. Yell, Antonis Katsiyannis, and Terri S. Collins, notes on how the first public law was authorized in 1975 and was named Education for All handicapped Children Act. This article mentions how this law has been revised four times and became Individuals with Disabilities Education Act in 2004. Hulett, Conroy, Yell, Katsiyannis, and Collins focus on how the federal courts have control over IDEA, therefore IDEA is a federal law. Hulett (2009) mentions how “Federal statutes are referred as public laws. When a law is enacted, it is provided a number” (p. 5). As an educator or student involved with special education, it is important to understand the law and how special education has come into effect; the law is always changing and it is important to be up to date.

Hulett (2009) states how IDEA is made up into four sections, which is A-D: A) General Provisions, B) Assistance for Education For All Children with Disabilities, C) Infants and Toddlers with Disabilities, D) National Activities to Improve Education of Children with Disabilities. Part B is the only one that has not been altered since it deals with civil rights. A, C, D are definitions, early interventions, and the national support programs, therefore they are being altered or revisited occasionally. IDEA delineates special education as structured, free, and allows a child with a disability to receive the services that they need. There are six components of IDEA: individualized education program, the guarantee of a free appropriate public education, the requirement of education in the least restrictive educational environment, appropriate evaluation, parent

participation, and procedural safeguards. IDEA has a state version, which is titled, Article 7. To explain the difference between the two is how IDEA is a federal law and Article 7 is a state law. IDEA is broader into how special education is structured, than Article 7 is more inclusive and breaks information down on how education runs.

The individualized education program is the most important when dealing with IDEA. Hulett (2009) explains how a child is required to have an IEP if he or she is qualified for IDEA. IEP is defined as “a written statement for each child with a disability that is developed, reviewed, and revised...” (p. 32). Hulett (2009) states how the IEP is structured: “ 1) the required content of each child’s IEP 2) how parents will receive progress reports 3) who must, and who may, be included in the IEP team 4) considerations in the development of the IEP 5) the role of the regular education teacher 6) the requirements for review and revision of the IEP “ (p. 32). The reasoning for the IEP is that the individuals such as the parents, teachers, school board, and other essential individuals that may go into the IEP team must be alert on what a child must need to get through the educational process. The IEP reviews the evaluations and all the information that is needed to know about the student, sets the expectations of the following year, and describes the type and amount of special services the student will receive. Hulett (2009) states how an IEP is created because of a meeting that includes the child, the parent, staff, and any individual that is included with the child’s education. The author also includes how an IEP is evaluated yearly unless upon request by a parent or staff. To alter an IEP, there does not have to be a conference, unless the change provides a massive amount of adjustments. For the IEP team, (Hulett 2009) states they should be focused on the

student's strengths, parent concerns, results of recent evaluations, and the academic, developmental, and functional needs of a child. (p. 149). (Hulett, 2009).

Hulett (2009) states "The IEP must address the who, what, when, where, how, and why of the student's educational program" (p. 149). Therefore, this will be the makeup of how the student will receive the services they need and by who, also this will explain when the services will occur and where the student will be when receiving these services. The IEP content is present levels, annual goals, student progress, related services, least restrictive environment, participation in state and district wide assessments, frequency and duration of service, and transition services. (Hulett, 2009).

Hulett summarizes the IEP team should contain the parent/guardian of child, regular education teacher of the child, special education teacher of the child, school district/local education agency such as the principal, and someone there to present the evaluations that have been administered and the current levels of the child that are developed within the IEP. It is important for the parent or the guardian to be involved because they know the child the best. The parent should be actively involved on where the child is placed, what services are needed for the child, and how much involvement the child has in with general education. The regular education teacher has more involvement if the intent is to have the child in mostly general education. The special education teacher is involved when it comes to setting up an IEP and being able to present the process in the meeting. Hulett notes that the special education teacher cannot present a full typed up finished IEP during the meeting until the parent is aware of what their child will need to get through the education process. The school district/local agency representative is needed for the overall regulation of the IEP and making sure that the

child is receiving the needs they must have. The person who is presenting the evaluations of the child may be the special education teacher or a specialist. The student involvement within the meeting begins when they are age of sixteen years old so that they are aware of their present and future that involves their education that leads up to their career. (Hulett, 2009).

Present levels in the IEP addresses how the child is performing in the present academically. Also, it can represent test results from the past to show the strengths and weaknesses of a child. It can help what the child needs to improve on and how the disability is effecting their education. It can also show how a child's behavior is in the classroom and if they need any types of services or accommodations. (Hulett, 2009).

Annual goals report how a child is doing yearly. Annual goals rely on the present levels and see if the child is progressing on what they are having troubles with. Annual goals do not have to be broad; they can be little actions to increase the child's way to function outside of school and inside of school. (Hulett, 2009).

Student progress focuses on how the parents must be notified on how the child is doing with their annual goals and their present levels. A report card is an example that represents the child's progress. (Hulett, 2009).

The main focus with accommodations, modifications, and support services is how a child with a disability is receiving services to help increase the time the child is in general education classrooms, increase the progression of the annual goals/present levels, and most all, helping a child receive an education by alleviating the difficulties they are having. Hulett (2009) notes how a child is not just receiving services in the classrooms, but also in other activities such as field trips, sports, or gym class. Examples of

accommodations are extra time, calculators, and any type of technology that supports the type of disability the child may have. Changes with course and the expectation of that grade level are focusing on modifications. (Hulett, 2009)

The least restrictive environment focuses on how much a child may receive an education in a general education classroom. The child may need to go to a resource room where their technology that assists them may be there. This is depending on the child and how severe the disability may be. Also, a child could be homebound, in a resource room full-time or part-time, or a child may have to have assistance by a type of therapist through part of the day. The time spent in the environment is dependent on the individual's needs. (Hulett, 2009).

Hulett (2009) focuses on the participation in state/district wide assessments component towards the No Child Left Behind Act of 2001. An IEP contains a section where the child has to partake in state and district assessments, but with the accommodations and services they need. Hulett (2009) also states there must be a statement explaining the reasoning why a child may need an alternative assessment. The child may need accommodations such as more time; therefore they have the same curriculum as a general education student would. But, a child may need a modification that leads to a different criterion that leads to a different assessment. (Hulett, 2009).

Transition Services focuses on when the child is in high school and how the IEP meeting is focused on the future of that child. The main topics are education training, employment, and independent living skills. Hulett (2009) also notes when a student is out of high school and should take part into the community. This component mentions when

the student is sixteen years old, he or she attends the IEP meeting to incorporate on future plans. (Hulett, 2009).

FAPE is one of the components of IDEA and it means children receive a free and appropriate public education. The main focus of FAPE is how education is never rejected to a child. Hulett (2009) notes how this goes back into the 1960' s-1970 and the “right to education” movement. Hulett (2009) summarizes FAPE by saying services are provided with no expense. FAPE applies to a child from their third birthday until their twenty-first year. Services are provided such as OT, PT, ST, counseling, transportation, without charge. But FAPE does not require schools to have the best services, which follows back on the Cadillac vs. Chevrolet argument. Progress with students need to be presented to express how the children are receiving FAPE. (Hulett, 2009).

The least restrictive environment goes back to the past towards the *Brown vs. Board of Education* court case and how separation was not perceived as equal. Therefore, when dealing with special education, children that are disabled have a right to be in the same area as the other students. Placing a child in another area is only based upon the severity of that child’s disability. (Hulett, 2009).

Evaluation is a process that determines eligibility of a student for special education. It is expressing the strengths and weaknesses of a child and what that child may need to achieve an education. Services can be suggested, but only a CCC can make these decisions. (Hulett, 2009).

Parents or guardians of the child are most needed when it comes to the development of an IEP. The parent needs to be involved with what the child is doing when they are at school and how they are learning. The teacher needs to notify the parent

on the progress of the student and they need to work as a team for that to child to succeed throughout the education process. Procedural safeguards go along with the rights of the parents/guardians and the child. Conroy (2010) presents in the article examples of procedural safeguards. Hulett (2009) also mentions them, when he states, “States must develop procedures to guarantee safeguards regarding the provision of a FAPE ” (p. 35). This article contains procedures done when making an IEP, general procedural safeguards, what actions are taken when a complaint is made towards the IEP or IDEA, and how a parent may be given back money if the child is not receiving FAPE.

Hulett (2009) focuses on the case *Brown vs. Board of Education* on how it goes along with the Civil Rights Movement. The Civil Rights Movement is defined as an equal protection of the laws for all individuals. The fourteenth amendment helped this case because it expresses the meaning of how an individual should not be denied life, liberty, and property. This case dealt with African Americans, but the whole case opened an opportunity for all individuals for a free and appropriate education. Hulett (2009) presents how this case opened up Title 1 and IDEA because *Brown vs. Board of Education* setup opportunities for children that had disabilities to receive FAPE. *Brown vs. Board Of Education* occurred in Topeka, Kansas. An article called *Brown v. Board of Education* written by library.thinkquest.org, described the whole situation. Linda Brown, who was African American, and only seven years old, was only, by law to attend an African American school. Her parents became the plaintiff and the Topeka Board of Education became the defendant. This article summarizes how the case lost in state courts, therefore the National Association for the Advancement of Colored People took it to the Supreme Court. The case lasted up to three years and finally in 1954, the case was

over and favored towards Linda Brown and her parents. The final ruling was that equal was not segregation and the schools became mixed.

Education has developed its way through the years to accommodate people's needs. People have been punished, tortured or segregated in the past for no exact reasoning. Therefore, the laws have made its way through by people fighting for their freedom and what they deserve. Special education is the makeup of IDEA, Article 7, IEP, and people's rights. If it were not for the makeup of the four things, people with disabilities would be ignored still today. As an educator, it is important to understand how a law comes into play, the six components of IDEA, Article 7, and what makes an IEP.

Before receiving an IEP, students must be evaluated on where they stand academically so that the school can see who needs special education services. The Child Find section of Article 7 (2008) states how schools are responsible for the students of ages between three and twenty-one. The schools search for students that could have a disability and may need special education. The Child Find section of Article 7 (2008) displays a list of all types of students that are included in the schools search. Two examples of those in the Child Find section would be students without a home and students who have been placed with a guardian by the court (Child Find, 2008). Charter schools are also mentioned in this section to point out that they are separate from the public, but they have to go through the same process as a public school would do. The process consist of identify students who could have a disability and may need related services. The main point in this section is that each student that may be suspected of a disability is being monitored and identified so that they can receive special education and related services (Child Find, 2008).

The comprehensive and coordinated early intervening services of Article 7 (2008) states how schools are providing services to students that may need that extra support in the general education curriculum. This section explains how students that are suspected of a disability should be evaluated even if they are going through EIS. The comprehensive and coordinated early intervening services of Article 7 (2008), breaks report data into two groups: 1) students who are participating in EIS and 2) students who participate in EIS, but end up having to begin special education and related services. Elementary and Secondary Education Act of 1965 funds this program to support activities and different technology that may help the student's progress in their education (Comprehensive and coordinated early intervening services, 2008). Also, this section points out how schools report to parents if their child is participating in early intervening services. The main point of this section is how students are being evaluated academically and behaviorally to figure out what they need help with and to provide that support. (Comprehensive and coordinated early intervening services 2008, 7-40-2).

Responsiveness to Intervention is a program provided by schools to reduce the amount of children in special education (Hulett, 2009). The significance of RTI is how students are given a chance to receive support in areas where they are struggling. Hulett (2009) states how schools implement RTI because students that may not need special education, but need that extra help in a subject can receive that support. During RTI, teachers are providing more instruction to where a student may be lacking (Hulett, 2009). Also, Hulett (2009) makes note on how students are able to receive this intervention without parent consent. Students are being monitored through the process to see if they are progressing and to see if RTI is successful. RTI delineates into three tiers on how well a student is doing academically and behaviorally. (Hulett, 2009).

The first tier looks at different data that may help what the child is struggling in and if they need extra support (Hulett, 2009). Pamela M. Stecker describes this section in her article, *Using Progress Monitoring With Intensive Services*, as a beginner step for teachers to decipher which students are struggling. Stecker (2007) presents examples that teachers must look at which include benchmark tests or tests that is provided in the classrooms. Even though all students are being monitored in this tier, the ones who are struggling begin to be monitored in a five to ten week period (Stucker, 2007). Stucker (2007) notes that data is collected monthly in the general education classroom to see if the classroom instruction is successful. The main point about this tier is to provide services to all students and to see if they may need more services based on their progress.

Tier 2 differentiates from Tier 1 because it provides more instruction to a student individually rather than corroboratively in a classroom. Stecker (2007) states how a general education teacher can provide this tier along with a school psychologist. This tier may delineate students into how they perform so that there is a teacher in each section focusing on one subject (Stecker, 2007). In tier 2, Stecker (2007) notes that teachers may work with students in groups a few times a week for thirty minutes or more. The progress being made by students is reported within a time frame of eight to twelve weeks to see if the students are responding successfully to the instruction (Stecker, 2007). The main point of this section is that students begin to receive help in a smaller environment and also individually.

Tier 3 is the next level after tier 2 for students that are receiving RTI, but are not making any progress (Stecker, 2007). Hulett (2009) notes that this tier focuses on students that may need to be evaluated to see if they need special education and related services. Students who are in this tier are focused on individually to see where they stand academically (Stecker, 2007).

Hulett (2009) states how students are being focused on every two weeks with more intensive instruction Stecker (2007) states how this tier may relate to special education and how an IEP may be developed after a student is evaluated.

The school or a parent may request an evaluation for a student. This section focuses on how after a student has been provided EIS and RTI, but has not progressed at all, then the school should request for an evaluation. If a parent requests an evaluation, they may tell their child's teacher, psychologist, administrator, counselor, or principal. Parent consent must be provided to the school before an evaluation is done; therefore, the school must provide a notice to the parents (Initial educational evaluation; public agency written notice and parental consent, 2008).

After the evaluation has been requested, the people who give an evaluation may be the general education teacher, school psychologist, and a teacher that is defined in a specific disability. This evaluation section of Article 7 (2008) speaks how the administration works together to see if a student is eligible for special education services and what type of services they need. Evaluation, observations, and assessments are being looked at while making the decision. The main point is that the administration is able to determine what type of disability a child may have, if the child is eligible for special education, and what related services needed for the child. A timeline for an evaluation once parent consent is given has to be within fifty days. This time frame is only if the student has not participated in RTI and in that case, if a student has participated in RTI then an evaluation must be made within twenty days. The team that is designated to that child is the one to make the final decision on the eligibility for special education (Conducting an initial educational evaluation, 2008).

The determination of eligibility of Article 7 (2008) presents how a child cannot be only related services. When determining eligibility, all information is provided about a child and not just one aspect. Also, the child has to be evaluated on whether if they are eligible or not for special education and related services (Determination of eligibility, 2008).

Even after the students have been evaluated and separated, the equality of special education students and general education students do not change, especially in regards to discipline. Discipline in schools focuses towards students without disabilities and with disabilities as well. Hulett explains how a student with a disability could be disciplined the same way as a student without a disability. The only difference between them is how the process works and the 10-day rule that applies. The 10-day rule for students with disabilities breaks down that within ten days of removals, the student does not receive any special education services. If a student with disabilities is disciplined beyond the ten days then the school is required to provide services outside of the school setting (Hulett, 2009). Students without disabilities are not given any educational services after the 10-day rule. Students without disabilities and with disabilities are supposed to maintain the school rules in the same way and if either breaks the rules, consequences are given (Hulett, 2009).

Under Article 7, Rule 44-1 goes into depth about removals. A removal occurs when a student is removed from their current placement for any period of time. Article 7 gives an example as a removal, which would be suspension, unless it is in-school suspension. Also, if the school is providing transportation for that student because it is in their IEP then that would be considered a removal as well (Removals in general, 2008). Under a removal, within 10-days of out of school suspension, a student with disabilities will not be provided any services if not

provided to a student without a disability. After the 10 days, the school is required to provide services to students with a disability (Removals in general, 2008).

After the 10 days, there are two types of disciplinary actions that could take place, which is either change in placement or no change in placement. Under Rule 7-44-2 in Article 7, it breaks down that if a student continues to break the rules then a change of placement should occur. The change of placement should take place if a removal is more than 10 days. Also, the school should keep track of the student's history of how many removals he or she receives and what types of behavior he or she displays. The school is to provide a student with the school rules and is to make sure the student understands the consequences that can occur if he or she does break the rules. Parent consent is not required for the change of placement of the student, but if they disagree then they are able to go through mediation or due process (Disciplinary change of placement, 2008). Also, under Rule 7-44-4, it goes into depth on how parents may be notified when there is a change of placement and is provided with procedural safeguards. Then after there has been a decision made of change of placement, then a manifestation is determined (Removals of more than 10 consecutive days or 10 cumulative days that result in a change of placement, 2008).

Under Rule 7-44-3 goes into detail on how a change of placement does not occur after the 10-days. A change of placement does not occur if a student does not show a pattern of bad behavior. A student is able to receive education in a general education setting and continues to work towards their IEP goals. The only change of the student is that he or she will not be in the same classroom as before (Removals of more than 10 cumulative days that do not result in a change of placement).

Under Rule 7-44-5 in Article 7, it defines manifestation determination as a CCC meeting that determines how a student's disability affects their behavior. A manifestation determination occurs within 10-instructional days of any removal that results in a student's change of placement (Manifestation determination, 2008). In the meeting, it is required to view the student's IEP and take into consideration of any teacher observations or parent concerns. Two perspectives are viewed to make a valid statement of why the student made the decisions he or she did. They are if the behavior happens because of the student's disability or if the teacher did not follow what the student's IEP says (Manifestation determination, 2008). The decision at the manifestation meeting is final and not reviewed unless legal actions are taken.

If determined a manifestation, then the CCC will make a functional behavior assessment if the student does not have one. The next step is that a behavior intervention plan is made, unless it has already been made then changes will be made to focus towards the student's behavior (Manifestation determination, 2008). The CCC determines the placement, which the student typically returns to previous placement unless the CCC and the parent agree on a different location for the student (Manifestation determination, 2008).

If not determined a manifestation, then the same actions will be taken place as for a student without a disability. The student will be able to work towards the general education curriculum and still receive appropriate services. The student continues to work towards the goals that are in their IEP and services could be provided in an alternative setting (Manifestation determination, 2008). If the student's parents disagree with the decision made, then they have the right to request for mediation, due process, or both (Manifestation determination, 2008).

Under rule 7-44-6 of Article 7 presents why a student may be put into an interim alternative education setting. The reasons pertaining to this situation is if the student is carrying a

weapon, illegal drugs, or does bodily harm to others on school ground. A student is automatically removed for up to 45 days if they partake into any of the three reasons (Interim alternative educational setting: weapons, drugs, and serious bodily injury, 2008). The CCC determines the placement for the student so that the student still partakes in the general education curriculum and still receives the appropriate services that are written in the IEP. The student continues to work towards the goals that are written in the IEP and will have a functional behavior assessment along with behavior interventional services.

The school's responsibility regarding towards the decision of putting the student into an interim alternative education setting is to notify the parents and to provide the parents procedural safeguards. If the parents disagree with the decision being made, they have a right to request for mediation, due process hearing, or both (Interim alternative education setting: weapons, drugs, and serious bodily injury, 2008).

In this overview, one can conclude that without each of these areas of education, the other would not thrive. The history of education has created laws that allow students to receive a free and appropriate education. Adding to this opportunity, with RTI students can be placed according to where they stand academically. The efforts of creating an equal environment have been fulfilled through the ways of which students are disciplined. Overall, the history of education, the placement of students, and the discipline administered all intertwine to create a system of equality and achievement that students can grow in.

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