A Primer of Special Education Law

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[Diagram with acronyms and definitions]

BBSST = building based student support team (AL)
BIP = behavior intervention plan
ESY = extended school year
FAPE = free appropriate public education
FBA = functional behavioral assessment
IEE = independent educational evaluation
IEP = individualized education program
IHO = impartial hearing officer
LRE = least restrictive environment
M-D = manifestation determination
OCR = Office for Civil Rights
OSEP = Office of Special Education Programs
RTI = response to intervention
SEA = state education agency
SLD = specific learning disability

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1.0 Federal legislation and regulations

1.1 Individuals with Disabilities Education Act ("IDEA")∗
   - 2004 legislation + 2006 regulations
   - eligibility (2-pronged definition of disability)
     - initial evaluation, reevaluation, and IEE
   - IEP: FAPE + related services + LRE
     - assistive technology services and devices
     - ESY
     - transition services
   - IHO ➔ judicial appeal
     - resolution session
     - “stay-put” (or status quo) provision
     - attorneys’ fees + nonexclusivity
   - discipline: M-D and FBA/BIP

1.2 Section 504 of the Rehabilitation Act ("Sec. 504")

1.3 Americans with Disabilities Act ("ADA")

∗ Formerly called EHA, EAHCA, and P.L. 94-142.
2.0 Supreme Court case law [see attached article for all but last two]

2.1 Davis (1979) - “otherwise qualified” (Sec. 504)

2.2 Rowley (1982) - FAPE (“appropriate” education)

2.3 Tatro (1984) - related services (CIC)

2.4 Burlington (1985) - tuition reimbursement (3-step test)

2.5 Arline (1987) - “handicapped” (Sec. 504)

2.6 Honig (1988) - dangerousness exception to “stay-put”

2.7 Zobrest (1993) - parochial [see also Kiryas Joel (1994)]

2.8 Florence County v. Carter (1993) - tuition reimbursement (second step)

2.9 Garret F. (1999) - related v. medical services

2.10 Sutton (1999) and Toyota (2002) – “disability” under Sec. 504 and ADA

2.11 Schaffer (2005) – burden of proof

2.12 Murphy (2006) – parents’ experts
3.0 Alabama Administrative Code Ch. 290-8-9

3.1 requires BBSST during pre-referral or initial evaluation process

3.2 specifies criteria and evaluation components for various classifications (e.g., autism) and use of “standard scores” when determining eligibility

3.3 permits districts to choose severe discrepancy, RTI, or other research-based alternative for identifying students with SLD

3.4 requires “case manager” with maximum of 20 student records (limited exc.)

3.5 adds separate provisions and procedures for gifted students

3.5 plus proposed clarifications for 60-day deadline for determining eligibility of students with disabilities and unavailability of impartial due process hearing for gifted students

4.0 Legal forums for complaints or cases

4.1 school district’s Sec. 504/ADA coordinator and grievance procedure

4.2 U.S. Dep’t of Ed’s OCR (www.ed.gov/ocr)

4.3 SEA’s complaint investigation process (www.alsde.edu)

4.4 SEA’s impartial hearing officer (and mediation) process (www.alsde.edu)

5.0 Other useful websites

5.1 U.S. Dep’t of Ed’s OSEP (http://idea.ed.gov/)

5.2 parent info – www.wrightslaw.com

5.3 law library – www.law.cornell.edu

5.4 special ed info – www.nichcy.org and www.cec.sped.org

5.5 text info – www.ed.sc.edu/spedlaw/lawpage.htm