

FREEMAN

L A W O F F I C E S , L L C

WHEN THE LOCAL PUBLIC SCHOOL IS NOT ENOUGH: EXPLORING THE NEED FOR AN OUT OF DISTRICT PLACEMENT

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AGENDA

- Individuals with Disabilities Education Act/Section 504 of the Rehabilitation Act
- Least Restrictive Environment (LRE)
- Supports in Public Schools
- Placement Options
- Demonstrating the Need for Out of District Services
- Researching Schools
- Writing the IEP
- Planning for the Eventual Return to District

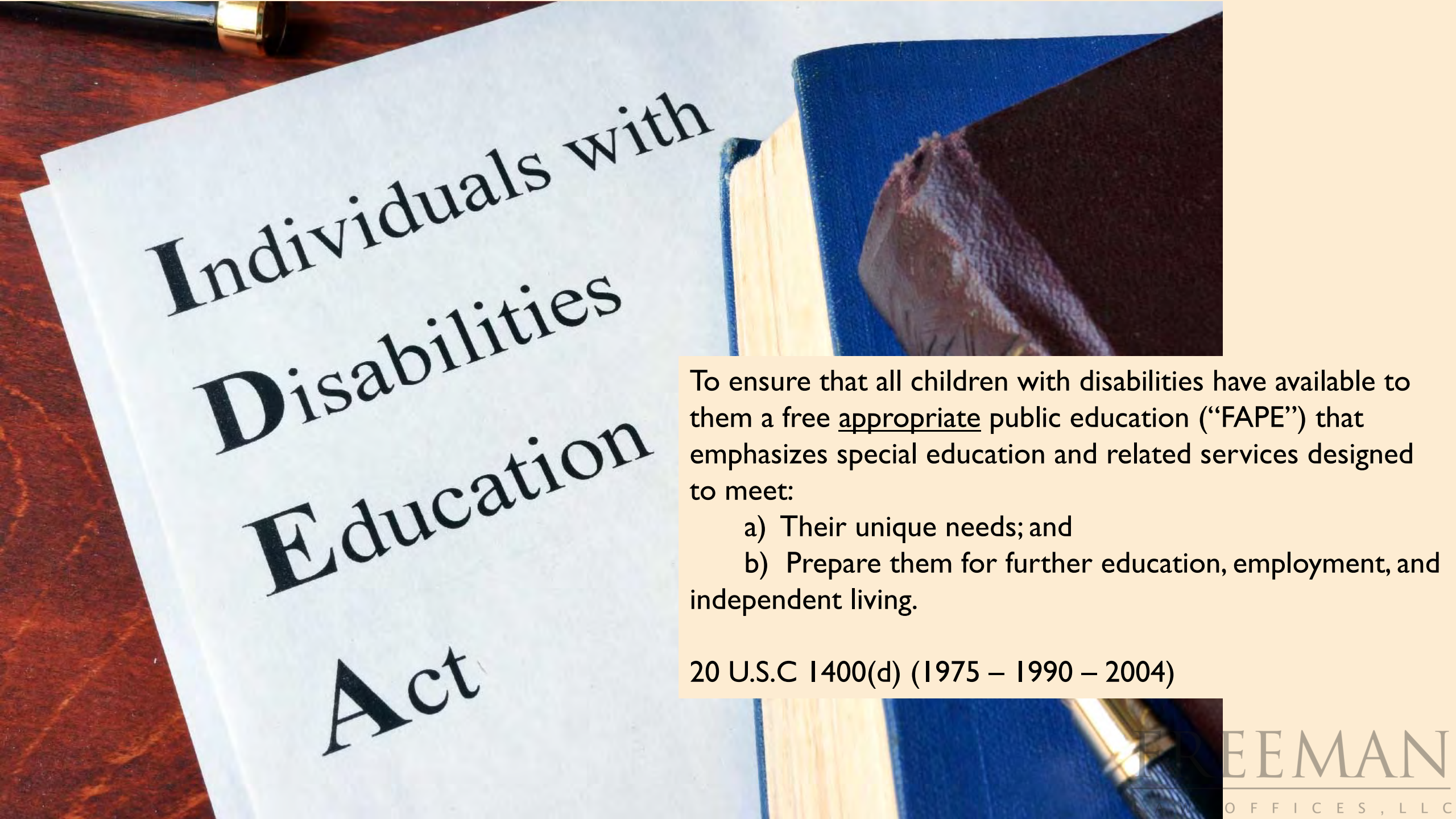
SECTION 504 OF THE REHABILITATION ACT

No otherwise qualified individual with a disability in the United States, shall, solely by reason of her or his disability be:

- **Excluded from the participation in,**
 - **Denied the benefits of, or**
 - **Subjected to discrimination under any program or activity receiving Federal financial assistance.**
-
- ***Codified as 29 U.S.C. 794 (1973)***

Summary of Section 504

- School districts to make “reasonable modifications” to policies, practices or procedures, if necessary to avoid discrimination.
- Provide regular or special education and related aids and services so that the educational needs of disabled students are met as adequately as non-disabled students;
- **LRE**: Educate disabled students with non-disabled students to the maximum extent that is appropriate for the students with disabilities;
- Asserting federally protected rights have statutory and constitutional protections against retaliation, interference and coercion.



Individuals with Disabilities Education Act

To ensure that all children with disabilities have available to them a free appropriate public education (“FAPE”) that emphasizes special education and related services designed to meet:

- a) Their unique needs; and
- b) Prepare them for further education, employment, and independent living.

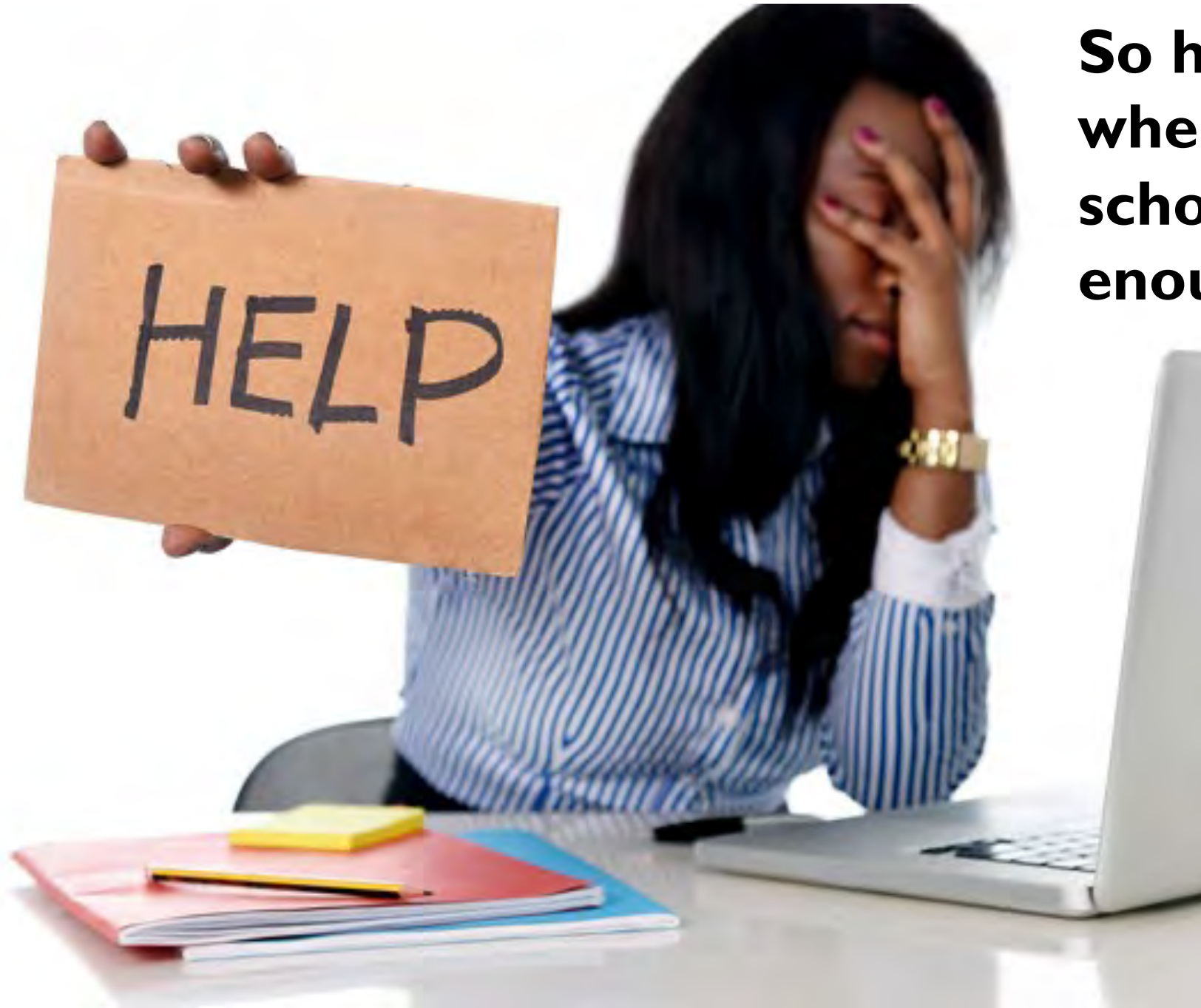
20 U.S.C 1400(d) (1975 – 1990 – 2004)

WHAT IS APPROPRIATE?

- “...a school must offer an IEP reasonably calculated to enable a child to make progress appropriate in light of the child’s circumstances.”
- “The adequacy of a given IEP turns on the unique circumstances of the child for whom it was created.” To that end, each IEP “is constructed only after careful consideration of the child’s present levels of achievement, disability, and potential for growth.”

LEAST RESTRICTIVE
ENVIRONMENT (LRE)

- 20 U.S. Code § 1412(a)(5)
- To the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are not disabled, and special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only when the nature or severity of the disability of a child is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.



**So how do you know
when the local
school district is not
enough?**

GET TO KNOW THE STUDENT



DETERMINING WHETHER PLACEMENT IS APPROPRIATE

Equal access?

Knowledge of
disability

Progress?

Social,
Emotionally,
Academically

Getting right
curriculum in the
classroom

Are staff trained
properly?



AUTISM

ALWAYS

UNIQUE

TOTALLY

INTELLIGENT

SOMETIMES

MYSTERIOUS

AUTISM

- Usually not diagnosed before 18 months.
- Characteristics:
 - poorly developed social skills,
 - difficulty with expressive and receptive communication, and
 - the presence of restrictive and repetitive behaviors.
- Other possible associated traits or diagnoses:
 - Anxiety
 - OCD
 - Post traumatic stress disorder
 - Lower IQ or high IQ
 - Sensory challenges or sensitivities
 - Aggressive behaviors
 - Challenges with life skills

DYSLEXIA

- While there may be signs early on, not diagnosed until later.
- Characteristics:
 - Poor spelling
 - Poor phonemic awareness
 - Poor Encoding/decoding abilities
- Other possible associated traits or diagnoses:
 - Attention issues
 - Challenges with writing
 - Withdrawal



MENTAL HEALTH CHALLENGES

- Anxiety
- Depression
- Bipolar Disorder
- ADHD
- Post Traumatic Stress Disorder



EVALUATE

- A) When the child isn't making progress;
- B) When the child isn't receiving the appropriate instruction
- C) When the child needs more intense or different instruction?



ACCOMMODATIONS/MODIFICATIONS

- Preferential Seating
- 1:1 instruction
- Paraprofessional
- Extra Set of Books
- Enlarged Print
- Behavioral Support
- Frequent Breaks



PLACEMENT OPTIONS



- General Education
- General Education with Push-in support
- Inclusion
- Resource room
- Hybrid approach
- Self-Contained Class
- Out of District Day Placement
- Residential Setting
- PHP/IOP

A blue and silver ballpoint pen is positioned diagonally across the frame, pointing towards the bottom right. It rests on a document featuring a blue bar chart with several bars of varying heights. The background is a light blue grid. A white rectangular box with a black border is centered in the upper half of the image, containing the title text.

DEMONSTRATING NEED FOR OUT OF DISTRICT SERVICES

- Research
- Past performance
- Progress reports
- Repeated Goals
- Environment/ Program concerns

RESEARCHING SCHOOLS

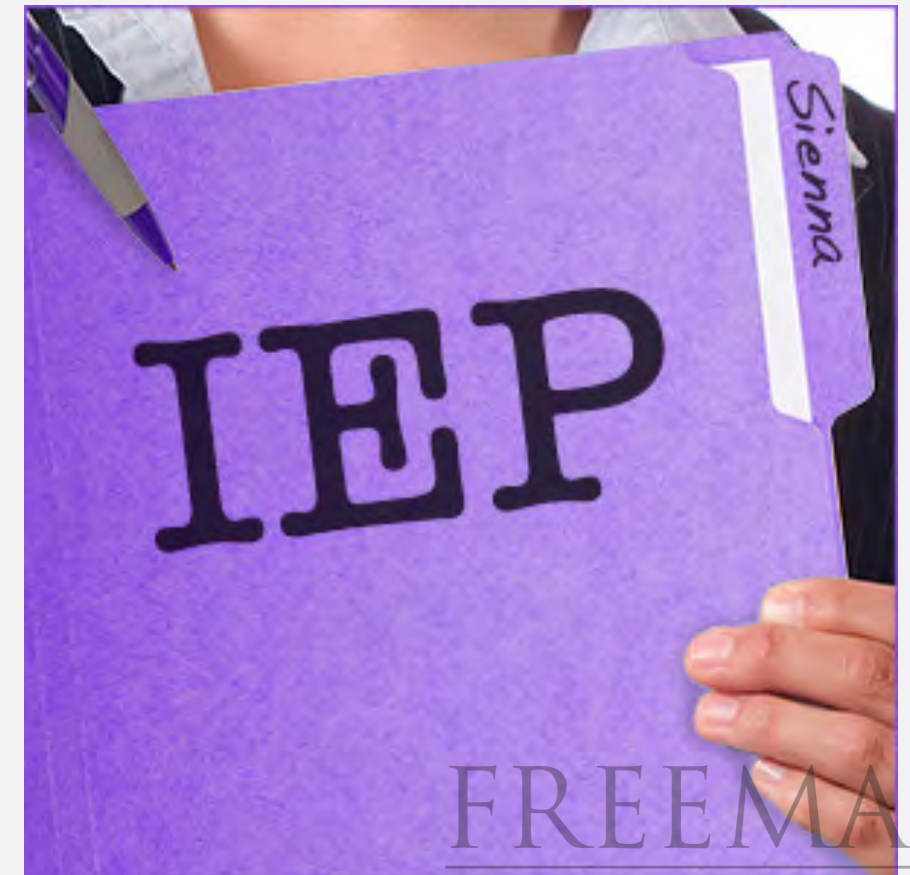
- New Jersey Approved Schools for Students with Disabilities (<https://homeroom5.doe.state.nj.us/apssd/>)
- ASAH Website
- Send Records/Set up school tour
- Review Core Curriculum Content Standards
- Have more than just academics (assemblies, field trips, prom, electives, etc.)
- Meet with teachers. (Evidence based practices?)
- Evidence of therapies (behavioral & social skills; transition services; life skills, OT, PT, counseling, etc.)



WRITING THE IEP

- Placement;
- Present Levels of Academic and Functional Performance
- Related Services
- Transportation
- Goals

***Will be reviewed after 30 days*



PLANNING FOR EVENTUAL RETURN TO DISTRICT

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Workforce Innovation That Works™
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DISPUTE RESOLUTION

IDEIA 20 U.S.C. §1412(a)(1)(A): establishes formal procedures for resolving disputes between school districts and parents.

Title II of the Americans with Disabilities Act (ADA); and

§504 of the Rehabilitation Act.

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