

# **Module I: The Special Education Law Landscape: A Guide for School Leaders**

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## **I. Overview**

This curriculum module focuses on helping school leaders obtain a broader understanding of how to create better educational environments for students with disabilities. According to the U.S. Department of Education, nearly 6 million children currently receive special education services in secondary schools. Historically, our nation's response to students with disabilities was segregation from the general classroom, exclusion, and institutionalization (Bartlett, Etscheidt, et al, 2007). However, groundbreaking legislation such as the Education for All Handicapped Children Act not only opened our nation's schools to students with special needs, but also served as the catalyst for a major culture shift toward a more inclusive learning environment for students with disabilities. This trend toward increasing the quality of special education continued with the enactment of the Individuals with Disabilities Education Act (IDEA), Section 504 of the Rehabilitation Act, Americans with Disabilities Act (ADA), and the No Child Left Behind Act. These laws collectively form the special education law landscape for America's schools.

In recent years, there has been an increased interest in promoting social justice within America's schools, as researchers, educators, and policymakers struggle to provide all students with a high quality education. Social justice leadership may be defined as principals who "advocate, lead, and keep at the center of their practice and vision issues of race, class, gender, disability, sexual orientation, and other historically and currently marginalizing conditions in the United States" (Theoharis, 2007 at p.3). This module will encourage school leaders to critically examine and discuss the broader

context of leadership for social justice and inclusive schooling for students with disabilities (Frattura & Capper, 2007). Participants will be asked to reflect upon their current and future leadership practices to evaluate ways to promote social justice for students with disabilities.

This module will also examine the major special education laws as well as recent caselaw impacting the education of students with disabilities. Activities in this module are designed to help participants gain an understanding of how to address various special education law issues that may arise in their school setting. Specifically, participants will be asked to evaluate and apply special education law principles to various scenarios. School leaders will also be encouraged to develop effective strategies to address the misclassification of students with behavioral problems as special needs children and the disproportionately high minority representation in special education.

## **II. Institution Tenets of Social Justice**

This module directly correlates with the four tenets of social justice as articulated by the National Institute on Leadership, Disability and Students Placed at Risk.

- **Developing school cultures that include all students.** This module will highlight the major components of special education law and how these legal principles can be used to ensure that all students, including those with disabilities, receive a high quality education.
- **Ensuring literacy for all learners.** The case studies will help participants understand and avoid common errors made by teachers and school staff during the special education process that serve as barriers to ensuring literacy for all learners.

- **Creating cultures of empowerment.** Participants will discuss how to use the special education law principles to create cultures of empowerment for students with disabilities and their parents through increased parental involvement and awareness regarding the educational resources available to assist their child's special education needs.
- **Ensuring that family and community perspectives are at the heart of the culture of the school.** Developing meaningful collaborations with stakeholders in education such as parents and community members is essential toward promoting social justice for students with disabilities. Participants will discuss the roles and responsibilities of school leaders in addressing challenges within their school community such as race, class, and other historically and currently marginalizing conditions that directly impact families, especially those with special needs children.

### **III. Instructional Agenda**

#### **Goals of Module**

The goals of this module are to provide school leaders with invaluable insight regarding the core legal principles in the area of special education law, and apply such principles toward increasing the quality of education for students with disabilities.

#### **Student Assessment**

- Participants will discuss the applicable special education laws for each case study as well as effective strategies toward addressing each special education issue in a large group discussion.

- Participants will complete written exercises designed to help them transition special education legal principles from law to practice.
- Participants will write a two-page reflective essay which highlights their personal definition of social justice and what role it plays in promoting educational equity for students with disabilities.

### **Instructional Process**

This module was designed to be delivered over two three hour class sessions.

#### 1. First Class Session: General Overview of Special Education Law

- a. Power point presentation entitled, *Special Education Law: A Historical Perspective* (40 Minutes).
- b. Large group discussion: Considering the historical transitions in special education law from issues of access to accountability, what are some re-occurring themes (i.e. issues) stakeholders in special education have experienced in their efforts to improve the education of students with disabilities? (25 Minutes).
- c. Power point presentation entitled, *Special Education Law: Legal Landscape* (40 Minutes- PPT)
  - 1) Review *Six Principles of IDEA* handout (15 Minutes) (*Power Point Slide #4*)
  - 2) Class Group Activity #1: *Understanding and Applying the Six Principles of IDEA* handout (30 Minutes) Instructor Notes:  
Separate the class into small groups and assign each group a specific IDEA principle. (*Power Point Slide #12*)

- d. Class Group Activity #2: *Transitioning IDEA Principles to IDEA Outcomes handout (30 Minutes- Power Point Slide #13)*

2. Second Class Session: Administrator Rights and Responsibilities

- a. Discuss recent special education court cases. See *Cases in Special Education Law handout. (30 Minutes)*
- b. Class Activity: *Case Study #1* & Follow up discussion (40 Minutes)  
Instructor Guide: Please review the *Rowley* case and *Six IDEA Principles handout* with students just prior to issuing *Case Study #1* (Rowley Case location: Slides 7-8, *Historical Perspective Power Point*).
- c. Class Activity: *Case Study #2* & Follow up discussion (40 Minutes)
- d. Discuss *Leadership for Social Justice PPT* (15 Minutes)
- e. Reflective Essay #1: What is the relationship between leadership for social justice and inclusive schooling for students with disabilities?  
How can principals committed to social justice create inclusive learning environments for students with disabilities? How can school leaders address the disproportionately high number of minority representation in special education? (35 Minutes -*Power Point Leadership for Social Justice- Slide #7*).
- f. Reflective Essay #2: What type of programs can be developed to promote meaningful collaborations between schools and the parents of students with disabilities regarding the special education process? How can the suggested programs be used to foster a culture of

empowerment? (20 Minutes -*Power Point Leadership for Social Justice- Slide #8*).

### **Handouts**

- IDEA Six Principles Handout
- Transitioning the IDEA Principles to IDEA Outcomes
- Understanding and Applying the Six Principles of IDEA
- Case Study #1 (student version)
- Case Study #2 (student version)
- Special Education Caselaw Handout

### **Materials**

- Special Education Law: A Historical Perspective Power Point
- Special Education Law: Legal Landscape Power Point
- Leadership for Social Justice Power Point



### **Case Study #1 (Instructor Version)**

John Davis attended Carver Elementary School in Jackson, Georgia. In February, John's 4<sup>th</sup> grade teacher, Ms. Daniels noticed that John was experiencing difficulty understanding the class material. Ms. Daniels expressed her concerns to the assistant principal and John's mother who consented for him to receive a complete comprehensive evaluation to determine whether or not he had a learning disability. The school psychologist administered John's evaluation testing the following month (March, 1998). Based on the test results, John was found to have a full scale I.Q. of 63 which is classified as mild intellectual disability (MID). Two years later, John's IEP team met to assess John's needs and to determine what type of special services would help his educational process. The individuals notified and present at this meeting were as follows: a special education teacher, a general education teacher, and the assistant principal. During the meeting the IEP team developed an IEP for John and determined that placing John in a self-contained special education classroom within the school's MID Program would be the most restrictive educational environment available. John remained in the school's MID Program for the next two years. John's IEP was not evaluated or changed during his two years in the school's MID Program.

Six years later (2003) John's mother mailed a letter to the school requesting that the school psychologist reevaluate John. The school psychologist conducted the evaluation and concluded that although John was in the 9<sup>th</sup> grade, he was performing at the 3<sup>rd</sup> grade level due to his MID. John's parents were not pleased with the school's evaluation so they obtained an independent psychological evaluation in which John was diagnosed with a specific learning disability and not MID. The independent evaluation

also showed that John had an IQ of 83 instead of 63. This same year, John's mother requested that the school provide John with private tutoring to increase his academic progress. The school did not respond to Mrs. Davis' request. One year later, John's mother again requested private tutoring through the Sylvan Learning Center for John. Again, the school took no action. John's mother removed him from Carver Elementary School and placed him in a private special education school that created an educational plan for John's specific learning disability. John learned to read in one year.

### **Discussion Questions:**

Did Carver Elementary School provide John with a Free and Appropriate Public Education (FAPE) as mandated by the landmark Board of Education v. Rowley case?

Based on the facts provided, did Carver Elementary school officials comply with IDEA, ADA, and Section 504 in the education of John? Why or why not?

What legal claims, if any, does John's mother have against Jackson Public School District?

### **Instructor Guide:**

#### Case Study #1

- Jackson Public Schools (APS) failed to provide a free and appropriate education (FAPE) to John. This is evidenced by APS' failure to meet John's special education needs by not creating an IEP for more than two years after receiving notification by his teacher that John may have a learning disability (Notification 1998, IEP created 2000). Once an IEP was created the school further violated IDEA by not evaluating John's progress to determine whether John mastered his goals and objectives for the year, and to make periodic changes to his IEP based on his individual learning needs.
- Jackson Public Schools did not provide John with an adequate education as evidenced by their failure to properly teach him to read. Jackson Public Schools also negligently misdiagnosed John and labeled him with MID.
- Jackson Public Schools made no effort to evaluate John for five years, which directly violates IDEA assessment requirements. A proper diagnosis of John was only made as a result of his family's insistence that he receive additional testing.
- The school failed to involve John's parents in the IEP process by not including them in the IEP decision-making process.

- IDEA mandates that students with disabilities are placed in the “least” restrictive environment, as opposed to the “most” restrictive environment (i.e. inclusion as opposed to exclusion).

## Case Study #2 (Instructor Version)

Simon Smith is 10 years old and has been diagnosed with a learning disability in reading, math, and writing. Simon currently attends Jackson Elementary School where he has spent the majority of his schooling in self-contained special education classes with limited mainstreaming. Recently, Simon began to show signs of depression and stopped making adequate progress in his reading, math, and writing. Simon's mother discovered that the change in Simon's behavior and academic progress was due to his growing desire to be in a general classroom as opposed to a special education classroom. Although, Mrs. Smith obtained psychological counseling for her son he failed to show any improvement. As a result, Simon's mother requested that he be transferred into a general classroom with a resource specialist program assignment for reading, math, and writing. The school approved Mrs. Smith's request and transferred Simon into the general classroom.

Simon has transitioned well into the general classroom and has shown remarkable progress in his academic studies. Mrs. Smith believes that he can make even greater progress with the help of assisted technology such as read aloud computer software. Mrs. Smith called an IEP meeting and requested that Simon be provided with assisted technology in his general education classroom. She was shocked at the IEP team members' response to her request. One of the IEP team members, Assistant Principal Hayward informed Mrs. Smith that Simon would not be permitted to receive assisted technology in the general classroom, and thus would have to be moved back to special education classes in order to receive the requested services.

**Discussion Question:** May schools limit certain services for special needs children, such as assisted technology, to those students in self-contained special education classes? Why or why not? What special education law applies to this scenario?

**Instructor Guide:** The law requires that children with disabilities be included in the general classroom to the maximum extent possible. However, the severity of the students' disability will dictate the appropriate placement. Standard support services such as assisted technology should be made available to children with disabilities in regular and special education classrooms. IDEA defines assistive technology as, "any item, piece of equipment, or product system whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve the functional capabilities of a child with a disability (34 CFR 300.5).

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