Whirlwind of Homelessness

- Abruptly removed from home and safety
  - High anxiety of adults
  - Toxic stress
- Safety Concerns, Hunger, Exhaustion
- Difficult to complete homework/stay on task
- Often living with strangers
  - Doubled up
  - Shelters
- Few or none of your possessions
  - Lucky to have trash bag of belongings
- Uncertainty about future
  - Where will I live?
  - Will I return home?
  - Where will I go to school?
Barriers to School Success

- **School mobility**
  - Less likely to be known to schools
  - Lack of connection to school
- **Challenges communicating with parents**
- **Unaccompanied youth lack a parent**
- **High rates of special education eligibility**
  - Unidentified disabilities; Higher rates of emotional support needs
- **More likely to have significant remedial needs**
- **Higher rates of school discipline** » high rates of trauma
- **Lower credit accumulation** » lower graduation rates
History of Exclusion

- Disability is a natural part of the human experience and in no way diminishes the right of individuals to participate in or contribute to society (school).

- All children with disabilities are entitled to:
  - a free appropriate public education (FAPE), including spec. ed and related services in the least restrictive environment
Special Education Issues

- Frequent school changes =
  - Unidentified needs
  - Incomplete evaluations/out-of-date IEP
  - Little information to develop quality IEP
  - Records lost or delayed

- School stability challenges

- Parent-driven system:
  - IDEA Parent engagement
  - Surrogate parents needed for unaccompanied youth

- May have significant behavioral health needs; more likely to have emotional support needs with few records

- Transition planning in IEP is often non-specific and fails to be youth driven.
Shelter/DHS Provider Role: The Linchpin

- Communicate with school and relevant personnel
- May assist in obtaining records & background
- Ensure active involved decisionmaker
- Attend school-based informal & official meetings (e.g., IEP, manifestation determinations etc.)
- Assist in understanding a child’s needs
- Know about resources available in the community.
Education Records

Family Educational Rights and Privacy Act (FERPA)

AMENDMENT: On January 14, 2013, the Uninterrupted Scholars Act (USA) made two important changes to FERPA:

- Creates a new “child welfare exception” whereby child welfare representatives can gain immediate access to education records of children in care;
  - For whom the agency is legally responsible as defined by each State
- Eliminates duplicative notice to parents under “court order exception”
Special Education 101

- **Legal entitlement**
- **Parents must be included in all decisions**
- **Eligibility** – Based on evaluations establishing **BOTH disability & need for specially designed instruction**
- **IEP is the contract; must be followed**
- **Includes transportation as a related service**
- **Child must progress in least restrictive environment**
- **Special rights in school discipline**
- **Right to dispute resolution**
Child Find: Special Duty to Identify

- Schools have a special duty to identify “highly mobile” children with disabilities
  - Warning signs may include truancy & school discipline issues
- Schools often lack basic information regarding a child in foster care:
  - Foster parents receive little information regarding children placed in their homes
  - History of absences, frequent school moves, delays in conducting evaluations, lost IEPs etc. contribute to failure of a child to be properly identified
- Emphasize the need for administrators and teachers to identify children
- Ensure that schools obtain records PROMPTLY
- Ensure that schools connect with and collaborate with agencies who can provide information.
Special Education (IEP) Eligibility:
(2-part test) From: 34 CFR § 300.7

STEP 1: Child must have a “disability”

- Mental retardation/
  developmental delays
- Hearing impairments
- Speech or language impairments
- Visual impairments
- Serious emotional disturbance
- Orthopedic impairments
- Autism
- Traumatic brain injury
- Specific learning disabilities
- Multiple disabilities
- Other health impairment
Important Definition

“Serious Emotional Disturbance”

- Exhibits ≥ 1 of following for long time:
  - Inability to learn not explained by intellectual, sensory or health factors
  - Inappropriate relationships with peers/teachers
  - Inappropriate behavior in normal circumstances
  - Pervasive unhappiness or depression
  - Physical symptoms or fears associated with personal or school problems

- But not: “socially maladjusted”
Step 2: As a result of the disability, the child requires special education

For example: special instruction methods, modified curriculum, related services (therapy)

If the child does not meet Part 2 but has a disability that substantially impairs a major life activity, the child is protected by Section 504 / Chapter 15
#1: Request an Evaluation

- Must be in writing
- Parents must sign a Permission to Evaluate Form (PET form)
- District has 60 school days** to complete the evaluation and issue the Eval. Report (ER)
  - Trigger is the date consent form signed
  - **CAN ask for expedited evaluation (30 days)**
    - See U.S. DOE Guidance on highly mobile students at http://www2.ed.gov/policy/speced/guid/idea/memosdclt
      rs/12-0392dclhighlymobile.pdf

** Depends on state law
#2: Evaluation

- Must be free, non-discriminatory and assess the child in all areas of suspected disability
  - Not just an IQ test
  - In language most likely to give accurate info.
  - Consider sharing private evaluations or evaluations by the child welfare agency (if get consent)

- Independent Educational Evaluation
  - Can be at public expense if parent disagrees with school’s evaluation (or school must go to a hearing to avoid paying)
  - But only one IEE per school evaluation
Purpose of Evaluation

- Determine eligibility for special education services:
  - Two-part test
- Provide recommendations to develop appropriate and “individualized” program for child
Evaluations

Evaluation – Special Factors
- Consider expediting the evaluation
- Assess children in **ALL** areas of suspected disability
  - SLD, Emotional Disturbance, Other Health Impairment
- Explain importance of parent input in meeting re eligibility
- Parent may request independent evaluation be conducted
- Ensure the child will be produced for the evaluation

Evaluation Timeline:
- **PARENT** must sign the Permission to Evaluate
- If child enrolls in a **new** district after prior school started an evaluation, the timeline may be extended, but ONLY IF:
  - “Parent” and school agree to a new specific time &
  - New school ensures **prompt** completion of evaluation
#3: Develop Individualized Education Program

If student is found eligible:

- Team must meet within 30 calendar days of eligibility
  - Team must include the “parent”
  - School must document efforts to include the parent – including records of phone calls, copies of letters, records of visits to parent’s home or place of employment!
  - If parent can’t attend, school must use other methods (phone calls) to ensure parent participation
  - Parent can bring people with expertise on child (CW agency)
Development of IEP

- Invite outside agency to participate
- Address how progress will be measured and monitored & who will receive/review the reports;
- IEPs should be reviewed carefully and substantially revised if child was in a more restrictive residential school placement;
- Specially designed instruction – is it working?
- Transition plans must be detailed & youth-driven to be meaningful and effective.
- Ensure child is in the least restrictive environment
Development of IEP

- **Present Levels of Academic Achievement and Functional Performance**: Often needs updating
- **Measurable Annual Goals & Periodic Progress Reports**
- **Specially designed instruction**: Should be specific as to time, place, purpose & manner
- **Related Services**: Transportation, occupational therapy & counseling are common issues
- **Supplementary Aids & Services (SAS)**: Consider how child can be supported to be educated in regular education classes
- **Extended School Year (ESY)**: Often overlooked
Development of IEP

- **Special considerations:**
  - Functional Behavioral Assessment
  - Positive Behavior Support Plan

- **Transition Services:**
  - Coordinate with other child welfare transition plans
  - Must be “youth driven” to be effective
  - Consider ALL resources available to child – including the Independent Living Coordinator
  - Conduct assessments and inventories for youth
  - Make youth aware of rights and responsibilities to access higher education
  - Develop 504 Plan for college
#4: **Placement Decision**

- Placement should be decided after IEP written
- Key: least restrictive environment in which IEP can be implemented successfully using supplementary aids/services
  - Parent must be part of team deciding the placement
  - Same rules for meeting participation as IEP meeting
- Parents must be given prior written notice of IEP & Placement before it starts
  - Parents can disagree with the IEP and/or placement
- Pendency - child remains in last-agreed-to placement pending resolution of the dispute process
Special Education & School Stability

- One right does not “trump” the other
- Two separate decisions must be made in tandem
- School stability is about location:
  - Is it in the child’s best interest to remain in the same school according to the parent. Meeting the special education needs of a child may be a factor in that decision. The child has a right to remain in the same placement.
- Special education placement is about program:
  - Once the school stability decision is made, the child’s LEA must meet his/her special education needs in the least restrictive environment.
Special Education Process
(34 C.F.R. Part 300)

- **Implementing/Revising IEPs**
  - Must be implemented within 10 school days
  - IEP team must meet at least annually
  - Parents may request IEP meeting at any time

- **Reevaluations must occur:**
  - Every 3 years (2 years if child has intellectual disability); or
  - If parent requests a reevaluation; or
  - If school believes “conditions warrant”

BUT school need not agree to > one a year

**Parent may request meeting to revise IEP at any time**
Right to Dispute Resolution

- **Mediation:**
  - Free, voluntary, usually without attorneys

- **State Administrative Complaint:**
  - May file letter complaint with State seeking an investigation; State has set number of days (e.g. 60) investigate and issue report. Compensatory Education may be available.

- **Special Education Hearing**
  - “PARENT” requests a hearing via letter to school and state
    - State office of dispute resolution
    - Resolution Session or Mediation (to try to work it out)
    - Hearing scheduled if no agreement reached
    - After hearing, appeal to federal court (or state panel if applicable)
Who can be an “IDEA Parent”

- The Individuals with Disabilities Education Act (IDEA) defines a “parent” as
  - A **natural or adoptive parent**
  - A **foster parent**
  - A **guardian** but not the State (thus no caseworkers)
  - A **person acting in the place of a parent**
    - Such as a grandparent or stepparent with **whom the child lives**, or a person who is legally responsible for the child’s welfare; or
  - A **“surrogate parent”**
IDEA Parent (Cont’d)

- If a person previously signed an IEP as “parent,” you must ensure that the person is legally authorized to serve as the child’s IDEA Parent.
  - For example, a “group home parent” or caseworker CANNOT serve as IDEA Parent even if they previously signed an IEP.

- In all cases, the person’s relationship to the student should be reflected in the IEP.
When Does a Child Need a Surrogate Parent?

- School district must appoint a surrogate if:
  - No “parent” can be identified
  - School, after reasonable efforts, can’t locate parent
  - Child is a ward of the state under laws of that state
  - Child is unaccompanied homeless youth

- School can’t appoint a surrogate just because the bio./adoptive parent is “uncooperative” or won’t attend a meeting

- School must have methods to decide if a child needs a surrogate and for assigning surrogate
  - Must make reasonable efforts to appoint in 30 days
When Does a Child Need a Surrogate Parent?

Presumption in favor of Biological Parent

- See Comments to Federal regulations (71 FR 46566-68):
  - Nothing requires the bio./adoptive parent to assert their rights affirmatively
  - School must document efforts to engage parent & accommodate their schedule for IEP meetings, etc. before allowing another “parent” to act on the child’s behalf
  - Or have the judge appoint a decision-maker (school must use)
Surrogate Parent Examples

- a relative of the child
- a prior foster parent or other person who knows the child
- a former special education teacher
- a Court Appointed Special Advocate (CASA)
- a Guardian ad Litem also known as a child advocate
Who may not be a surrogate parent?

- Employees of school district or Pa Dept. of Ed.
- Employees of “any agency that is involved in the education or care of the child”

Note: Anyone may request a surrogate parent & judge-appointed surrogate trumps a school-district appointment

Other rules for school-appointed surrogates:

- Can’t have a conflict of interest
  
  Rule does not apply to judge-appointed surrogates
  
  “Conflict” is defined by U.S. Dept. of Ed as coming from the employer relationship (e.g., can’t be teacher in another school district, or in the group home where child is living)

- Must have knowledge and skills to represent child
Initial Evaluations Only: Special Rules for At-Risk Students

- **Unaccompanied Youth** *(youth on their own)*
  - School districts may conduct initial evaluations **without** parental consent relying on shelter staff

- **Wards of the State** *(children in custody of a child welfare agency who do not have a foster parent with the power to make special education decisions)*
  - School districts may conduct initial evaluations **without** parental consent only if:
    - The school district can’t locate the parents after making reasonable efforts
    - The birth parents rights are terminated (TPR)
    - **Or** a judge removes the birth parents’ educational rights (temporarily or permanently) & consent is given by an individual the judge appoints
  - **School/judge should appoint surrogate in the interim**
What happens when a child changes schools before an initial evaluation is completed?

- Timeline for initial evaluations MUST be honored:
  - 60 calendar days (or less depending on state law)
- If child moves to a new district: 34 CFR § 300.301(d, e)
  - The timeline may be extended, but ONLY IF:
    - “Parent” and school agree to a new specific time
    - New school ensures prompt evaluation
- Exception: Schools do not have to meet the timeline if parent repeatedly fails or refuses to produce child for the evaluation
What if the child moves after an IEP is written & signed?

- If a child with an IEP moves: 34 C.F.R. 300.323(d)
  - **In-State Transfers**: new district must provide “services comparable to those described in the previously held IEP” & ensure FAPE
    - Until district formally adopts the old IEP or negotiates a new IEP with the parent
  - **Transfers from Another State**: same rule as above: comparable services to previous IEP & FAPE
    - Until district conducts a new evaluation (if needed) & negotiates a new IEP with the parent
What about re-evaluations?

- Reevaluations:
  - Old and new school districts (or charter schools) must coordinate all evaluations to ensure prompt completion
  - Encourage parents to share information regarding their child
  - Re-evals are very important – particularly for students experiencing homelessness and should NOT be waived.
What if the child moves after an IEP is written & signed?

- If a child with an IEP moves:
  - **In-State Transfers**: new district must provide “services comparable to those described in the previously held IEP” & ensure FAPE
    - Until district formally adopts the old IEP or negotiates a new IEP with the parent
  - **Transfers from Another State**: same rule as above: comparable services to previous IEP & FAPE
    - Until district conducts a new evaluation (if needed) & negotiates a new IEP with the parent
Section 504

- Consider whether child should be evaluated for Section 504 Plan, especially if the child has behavioral issues.

- **Entitlement** - *reasonable accommodations*:
  - Evaluation & child find obligation
  - Written Plan - lists aids, services, accommodations
  - Must be followed to provide a FAPE
  - Revised as needed
LEA Policy Guidance

- Consider measures to identify students
- Ensure consents are available, signed and provided to the right people
- Expedite evaluations
- Surrogate Parent Guidance:
  - IEP meetings: Invite and coordinate with other agencies
  - Address behaviors & Conduct FBAs
  - Revise IEPs
  - Work with unaccompanied youth on transition plans
- Consider a child’s need for 504 Plan
- Coordinate transition planning with other agencies.
Ten Top Tools and Strategies

1. Know and share the law(s) with others.
2. Create check lists for identification issues.
3. Develop simple, fast system for appointment of surrogate parent.
4. Expedite record transfers (collaborators).
5. Expedite evaluations for students experiencing homelessness.
Top Ten Tools and Strategies

6. Expedite IEP Team Meetings and decisions.
7. Implement spec. ed. and other support services as soon as possible.
8. Develop clear local policies to help navigate issues at intersection of MVA and IDEA.
9. Learn and inform others about Infant, Toddler and Preschoolers – IDEA and MVA rights and services
10. Use the “knowledge in the room”
Summary: What Can You Do?

- Ensure that a child who may have special education needs is evaluated.
- Ensure prompt implementation of an IEP when a child changes school.
- Ensure that a child with special education needs has an appropriate and involved decision maker.
- Learn more about the homeless children and disabilities – to address unique learning needs.
- Link special education goals to other life objectives.
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