

The concept of free appropriate education is largely based on the dynamics of diversifying public education. A wide spectrum of public education should be able to meet established standards as provided by state educational authorities. The approach includes but is not limited to appropriate elementary, pre-school as well as secondary education. In all these instances, the government is has an important role to play. When the foundational level of these establishments is brought under examination, the law is developed to reflect and conform to the needs of Individual Education Program which is necessitated by section 1414 (d). As underlined by IDEA (Individuals with Disabilities Act), the federal law establishes a ground for enacting the necessary law for FAPE. This calls for development of special education acts for children with special needs. The main objective of the law was to propagate a proper provision of education to all without any bias or segregation including individuals with special needs. Keeping the federal requirements in view, the Michigan Rules can be brought under consideration which asserts that each and every public agency as defined under 34 CFR: 300.33 has to observe regulations relating to persons with disabilities. This illustrates that the provision of special education as well as the protection of individuals with special needs is paramount to the government.

The special education law is a document that explains the measures of special education as well as associated services which the child is entitled to receive (Ormrod, 2006). The law equally stipulates that IEP can be implemented within the area where he or she has been identified as a possible candidate to receive specialize education.

Free Appropriate Public Education

It is mandatory for every child identified with any disability is avail Free Appropriate Public Education. This should take place in the least restrictive surroundings that can adequately sustain the child's requirements. Under the act, the word 'free' is employed to denote that the education must be given at absolutely no cost. However, if the parents of the child have insurance or more medical assistance, the school could request costs for therapy or counseling. It should be noted that the law has clauses stipulating that the education must be individually developed to the specific requirements of each child.

An Individualized Education Program (IEP) must outline the child's special academic requirements. The child has the right to receive a unique classroom tutoring, special physical education and individual vocational instruction depending upon his or her particular requirements (Weishaar, 2001). However, if a child is unable to go to school due to any specific reason, the special education plan can entail home schooling or teaching within a hospital premises. This explains why the act asserts that special education needs to include supplementary services which a child may require in order to avail the most out of an Individual Education Program. Such extra services are also referred to as Related Services. The scope of FAPE is to ascertain that each and every disadvantaged child has equal access to education as other normal children. This Act was developed as a result of the constant discrimination against children with special needs who had for many years remain barred from attaining education like any other child. Its enactment opened a door for such children to access education at no cost.

Violation of Free Appropriate Public Education

The federal government has for years tried to enact proper laws to shield the public from exploitation and in particular, child abuse. The law was intended to usher a new life to children with special needs. A special child had an equal right to be schooled (Pierangel & Giuliani, 2004).

However, failure to implement the established IEP across schools has seen an increased rate of violation of FAPE. Nevertheless, the legislation entails clauses which say that a child with disability must be educated as those without disabilities.

A good illustration of this violation is captured under *Van Duyn v. Baker School District* (King, 2009). The school had failed to comply with the child's needs as stipulated by the law and this had made it impossible for the child to gain effectively from the program. The court, in this regard, observed that the concerned school violated the spirit of FAPE by not implementing IEP and the rationale established is that it was material concern. However, the inclusion of materiality within the amended clause could have significant effects where evaluation of schools with regards to IEP or FAPE is concerned. In determining the case, the court underlined that the grievances raised by the plaintiff were more of material concern, hence, the school had an obligation to consider them (Ormrod, 2006). The courts have, over the times, construed the scope of FAPE differently. However, when we explore the interpretation of the Supreme Court with regards to FAPE stipulations noted in *Board of Education of Hendrick Hudson Central School District of Westchester County v. Rowley*, it says that for the school to satisfy the established stipulations it must provide pupils with FAPE where:

1. The school satisfies routine requirements imposed on it by the Act,
2. And when the child's IEP is inclusively applicable.

While exploring the Act's requirements, the SC arrived at its verdict, which remains controversial even today, as a matter of urgency in shielding the disadvantaged child from being under-looked within the academic environment. The problem is, despite SC observations, many schools have continued to violate the laid down specifications.

Another instance where this violation was witnessed was with regards to *Manalansan v. Board of Education of Baltimore City*, (Pierangel and Giuliani, 2004). Plaintiffs contended that defendants had failed to grant Brandon with a "free appropriate public education" (FAPE) as is mandatory by IDEA for the 1999- 2000 school year, in that the school failed to execute his Individualized Education Plan (IEP). The petitioner sought injunctive as well as declaratory relief. In this case, the jury observed that the law does not state clearly what exactly is meant by inappropriate implementation of IEP and FAPE and that is why schools are unable to determine what they should or should not do resulting in cases of violation.

Likewise, another instance touching on instances where FAPE was violated is *Peterson v. County School Board of Hanover County*. Various measures were employed in determining the nature of violating the law. The school in question had failed to implement IEP under 'free appropriate public education (FAPE). In this case, the court upheld that the school had to employ proper measures of implementing IEP successfully. The verdict stated: "*if discrete trials had been implemented for each, or at least most, of [his] goals, the discrete trial technique could certainly have been a substantial and significant component of [his] IEP*" (Friend, 2010).

Summary

The successful implementation of FAPE and IEP is instrumental in ascertaining that each handicapped child has equal access to education just like any other normal child. The enactment of this act provides that any child identified with Specific Learning Disability (SLD) or any other abnormality that brings about a hindrance in one or more of the fundamental psychosomatic

processes linked to comprehending language, spoken or written, which in one way or the other, may be evident in an unsatisfactory capability to pay attention, reflect, speak, write, read, spell, or equally execute any mathematical calculations shall be eligible to have access to IEP (Ormrod, 2006). Since most of the children are identified either with one or more of the following disorders: brain injury, dyslexia, developmental aphasia, minimal brain dysfunction, perceptual disabilities, the law requires that they must not only be provided with educational facilities but be protected and provided with every opportunity that normal children receive. This is well explained by the passage of Public Law 94-142, or the "Education for All Handicapped Children's Act of 1975" reauthorized in 2004 as Public Law 108-446, or "Individuals with Disabilities Education Improvement Act" (IDEIA) which have successfully been able to bring about changes in the ways students with disabilities are treated (Lavoie, 2008). In addition, the explicit reauthorization asserts that students with disabilities also have the rights participate in all school activities. However, violations of these acts have been taking place for the reason that they do not state exactly what is meant by inappropriate implementation and under what kind of circumstances are people liable to sue the school authorities or file cases against them.

References:

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