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Education

The Delaware Developmental Disabilities Council supports the views and position of the American Association on Intellectual and Developmental Disabilities (AAIDD) and The Arc United States on education. First, we start by explaining what it means:

Individual with Disabilities Education Act

The Individual with Disabilities Education Act is a law in our country. It is usually called the IDEA. The IDEA makes sure children with disabilities get the special education and other services they need to learn and do well in school. The law says all students with disabilities should go to their neighborhood schools and learn the same things as other students whenever possible. In addition, students should be supported in the best place for them based on their Individualized Education Plan (IEP). This is called the “least restrictive environment.”

The IDEA says that having a disability is a normal part of being human. It does not take away anyone's right to be a part of the community. The goal of the IDEA is to make sure children with disabilities get a good education along with students without disabilities so they have the same opportunities in life,

Education of Students with Disabilities

Classrooms and schools that teach students with and without disabilities together are called “inclusive.” That is the goal of the IDEA. But many students with I/DD are still taught in separate classroom and schools. They spend little or no time with students who do not have disabilities.

Many students with I/DD do not get an education or services that prepare them for college, employment, or independent living. Schools are not doing a good enough job of helping students with I/DD:

- Learn.
- Be involved in school activities.
- Set goals that will help them do well in life.
- Leave school ready for life as an adult.

A lot of the time:

- Schools do not include students with I/DD and their parents when they look at the student's strengths and needs and plan for how they will be taught and supported.
- School leaders, teachers, and support staff are not getting good information and training about students' rights, abilities, and needs.
- Schools have a hard time finding and keeping good staff to teach and support students with I/DD. Support staff are not paid enough or trained to meet their students' needs.
- School leaders and staff do not believe students with I/DD can do well in school so students do not always get the support and opportunities they need.
- Schools are not always held responsible for how their students with I/DD are doing. Schools are not pushed to do better.

Position

Students with I/DD will only get the education they have a right to if everyone works together on the following things.

Schools must:

- Figure out which students have I/DD and then give them what they need to learn and do well. This includes many kinds of services.
- Use different tests to figure out what each student needs.

- Make decisions about the best way to teach each child with I/DD based on good information about them and experience with students with disabilities. Never limit what or how a student is taught just because they have a disability.
- Teach every student in the least restrictive environment. That means they go to their neighborhood school when possible. They are in the same classrooms as other students and learn the same things as much as they can. When students with I/DD are separated from other students, develop plans to change this so they are more included.
- Give all students with I/DD the education and services they need, even if they have been removed from the school because of their behavior. Make sure all students are treated fairly.
- Develop education plans and set goals with all students that help them meet their learning, employment, and independent living needs.
- Change how students are taught and tested if they are not doing well.
- Give students assistive technology when they need it. Assistive technology means tools and other support that helps students with disabilities learn better. For example, if a student has trouble reading, they might use a special computer program that reads out loud to them.
- Give all students the support and tools they need to communicate clearly.
- Make sure students with I/DD have the chance to be a part of activities during and after school with other students. Make sure they get support to do this.
- Make sure teachers and other staff are trained to meet the needs of students with I/DD in ways that have been proven to work well.
- Help students learn to be more independent, make their own decisions, and advocate for themselves. Train teachers and other school staff to support this.
- Make sure schools are safe for all students and they are not bullied (picked on, teased, or hurt).
- Not have rules about student behaviors that lead to children with I/DD being kicked out of school or sent to the criminal justice system. Always use positive

behavioral supports. Positive behavioral supports teach children to be safe, responsible, and respectful.

- Schools should not use aversives, restraints, or seclusion. They might need to use restraints in some emergencies. This should only happen if:
 - the student might hurt themselves or others,
 - nothing better will work,
 - staff are trained,
 - the restraint is not used for long, and
 - the student is watched.

“Aversives” are unpleasant treatments or actions used to stop behavior that is dangerous or that breaks school rules by causing discomfort or pain.

“Restraint” means controlling a child’s movement by doing things like holding them down, tying their hands, or giving them medication.

“Seclusion” is putting a child in a room or area where they are alone and cannot leave.

- Use universal design for learning (UDL). UDL is way of teaching that makes sure everyone can learn. It means sharing information in different ways so that each student can better understand it.
- Provide transportation for all students with disabilities. Schools must have enough transportation to make sure all students get to school on time, do not have to leave early, and do not have long rides, Drivers must be trained. Schools should make sure drivers treat students well and do not hurt them.
- Support families to be involved in their children’s education by:
 - Including them in planning.
 - Explaining things in ways they understand.
 - Giving information and support to parents with disabilities, speak other languages, or have other needs.
 - Helping students and parents find information and training that helps them understand their rights.

- Make sure students with I/DD get diplomas or certificates to show that they went to school and learned.
- Ensure that students with I/DD are not just exposed to grade level curriculums but are taught to learn at their grade levels with the correct accommodations and modifications needed for them. This includes teaching them how to read and write as well.

Charter schools and private schools that get government money must follow the same rules.

Delaware and other states must also:

Provide services and support to young children with disabilities as early as possible in their lives. These services are called “early intervention” and “preschool” because they help children before they are old enough to go to school. Young children with disabilities should be supported to be with other children in the community.

Develop and carry out plans that help students move from school to adult life. The plans should be based on people’s strengths, interests, and wishes. The plans should include college, employment, and community living.

Help make sure there are legal advocates to help people with I/DD and their families know and use their rights.

Other things that should happen:

Local, state, and federal agencies must make sure that all laws are being followed so students and their families get the education and services they have a right to.

The federal government should get enough money to make sure everything in the IDEA is done – everywhere, for every child.

**We must make sure every student is included in their neighborhood school
with the services they need to learn and succeed.**

AIDD and The Arc U.S. Position Statement on Education

Issue

People with I/DD continue to face numerous barriers in their education.ⁱ Lifelong education is essential for all individuals with I/DD to achieve the four policy goals of the Individuals with Disabilities Education Act (IDEA) and to pursue opportunities for rich lives and contribute to the public good. “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. Improving educational results for children with disabilities is an essential element of our national policy of ensuring equality of opportunity, full participation, independent living, and economic self-sufficiency for individuals with disabilities.” (IDEA, Individuals with Disabilities Education Act).

Many students with I/DD remain segregated in self-contained classrooms or separate schools, with few or no opportunities for academic achievement or social engagement in inclusive settings. Students with I/DD frequently do not have appropriately ambitiousⁱⁱ and personalized goals, challenging objectives, high quality instruction, individualized transition planning, and related services and supports necessary to engage as full members of their school learning communities. Consequently, many students with I/DD leave school unprepared for further education, employment, and independent living in the community.

Many schools have policies and practices that push youth with I/DD out of school and into the juvenile justice system (known as the “school to prison pipeline”). Further, many of those in detention facilities with qualifying disabilities are not provided special education and related services.

Many parents, families, and students themselves are excluded from systemic participation as essential partners in the evaluation of the student’s strengths and

limitations, as well as the development and implementation of their Individualized Education Programs (IEPs).

Administrators, educators, and support staff too often lack sufficient training and knowledge about the legal rights, learning needs, and abilities of these students. School districts struggle to identify, recruit, and retain qualified special education personnel. Paraprofessionals providing support in inclusive classrooms are often poorly paid and do not always receive or seek professional development relevant to students' learning needs.

Outdated, inaccurate beliefs about students with I/DD persist, leading to low expectations, segregated classrooms, inappropriate disciplinary practices, and diminished accountability for these students. In some communities, an unexamined sole focus on student performance has led to an erroneous conclusion that students with I/DD are “bringing down” test scores and are to blame when schools and school systems do not achieve adequate progress.

Position

To ensure students with I/DD receive the education to which they are legally entitled, all those involved in the education of these students must work to fully implement our nation's civil rights and education laws and accomplish the following actions.

All Means All: Zero Reject

- Assure timely evaluation, identification, and provision of education and related services to all students with I/DD, incorporating all aspects of the students' diversity, including age, gender, ethnicity, culture, language, socio-economic circumstances, sexual orientation, and family environment.
- Disciplinary actions (suspension, expulsion, segregation) and alternate placements should not exclude the student from access to appropriate education and related services.

Non-Discriminatory and Comprehensive Eligibility Evaluations and Appropriate Assessments

- Assure that the needs of the individual are considered fairly and comprehensively, including cognitive, emotional, functional, and developmental needs, as well as all areas of suspected disability and mental health needs.
- Assure that multiple assessments, including those that identify a student's strengths and abilities, are used and that IQ is not the sole measure of human functioning, nor does IQ alone determine placement or access to the general curriculum.
- Exercise clinical judgment that is built upon respect for the person and emerges from specialized training and experience in I/DD, specific knowledge of the person and his/her environments, extensive data, and use of critical thinking skills.
- Assure that any predictions about a student's potential learning are evidence-based and founded in high expectations for further education, employment, and independent living.
- Assure that all educators implement appropriately ambitious goals and challenging objectives and use measurements of progress that are aligned to the unique ways that students with I/DD learn. Develop adaptations for assessment and grading, when necessary, that accurately capture the strengths and limitations of students with I/DD.

High Expectations and Free Appropriate Public Education (FAPE)

- Develop and implement IEPs with high expectations that include appropriately ambitious personalized goals and challenging objectives and that build on a student's strengths; meet the student's learning, employment, and independent living needs; and offer related services and supplementary services necessary and likely, based on evidence, to ensure the student will make progress toward achieving the nation's four policy goals.
- Ensure that all students have access to the general education curriculum. General education includes the academic curriculum, extracurricular activities, and other school activities.
- Incorporate evidence-based, peer-reviewed instructional strategies and interventions, provided by professionally qualified teachers, related services personnel, and other

staff, all of whom receive the training, preparation, and supports they need to be effective professionals.

- Ensure that a range of appropriate technology options are made available in a timely and culturally and linguistically appropriate manner to all students who could benefit from them, and that the necessary training for use of the technology is provided immediately and consistently.

Autonomy, Self-Determination, and Decision-Making Supports

- Incorporate and support the development of autonomy, self-determination, self-advocacy, and leadership skills throughout students' educational experiences, including meaningful participation in the student's IEP.
- Assure that school policy and semi-annual in-service training emphasizes autonomy, self-determination, and decision-making supports, and that teachers and other non-lawyers do not give families legal advice related to guardianship.

Inclusion and the Least Restrictive Environment (LRE)

- To the maximum extent appropriate, every student has a right to be educated in their inclusive neighborhood school and in the general education curriculum in that school. Any exception should be rare and considered only when education in the general education classroom cannot be satisfactorily achieved. Each student has a right to the related services, supplementary aids and services, accommodations, and modifications needed to learn alongside students without disabilities. Students and Families should be presented with all alternatives to guardianship.
- Assure that the student is integrated in academic and social aspects of the general curriculum.
- Include an explicit written plan to achieve more integration in both academic and social aspects of the general curriculum when the student is currently in a restricted setting.
- Foster the development of peer relationships and membership in the school community to create a receptive, welcoming atmosphere, including extracurricular activities and school trips.

- Avoid the long-term costs of segregating students with I/DD, including the reduced opportunities for learning, employment, independent living, and social engagement.
- Ensure that all teachers and related services personnel are trained, prepared, and supported to teach and support students effectively in the general education curriculum and in inclusive settings.

Safe and Supportive Education Environments

- Ensure safe school environments that provide mental health supports and protection against bullying.
- Ensure that all students with I/DD have effective culturally and linguistically appropriate communication systems and technology that reduces the need to use behavior to communicate and maximize educational engagement.
- Assure development and ongoing use of school-wide and system-wide intervention models, including school-wide positive behavioral supports and using the principles of universal design for learning (UDL) in designing curricula, materials, instruction, and assessments to create maximum access to learning environments for students with diverse abilities and learning styles.
- Avoid harsh policies and procedures, such as “zero tolerance”, that lead to exclusion, injury, loss of education, or involvement with the criminal justice system by implementing school-wide positive behavior support that includes students with disabilities to prevent or eliminate such situations. Assure appropriate evaluations and IEPs, and avoid the criminalization of behaviors that are the manifestation of the student’s disabilities.
- Prohibit the use of mechanical or chemical restraint, isolation, or aversives.
Emergency, time-limited, monitored restraint may be used only by trained personnel and only when the student’s behavior presents an imminent danger of serious physical harm to the student or others and less restrictive interventions are insufficient to mitigate the imminent danger of serious physical harm. Physical restraint which restricts airflow, including prone restraint, and mechanical restraint must be prohibited.

- Ensure that supports and strategies are planned and implemented to successfully reintegrate a student who has been restrained or secluded back into the school or classroom environment.
- Assure that students are not disciplined for the manifestation of their disabilities.
- Assure safe school transportation for all students with disabilities, provided by trained and monitored drivers with background checks, in order to avoid abuse and maltreatment of students. Schools must assure the sufficient allocation of transportation resources such that transportation is not used to justify early departures, late arrivals, or excessive travel times.

School Choice

- Charter schools and private schools that accept public funds through a voucher or voucher-like system must comply with IDEA, the Americans with Disabilities Act (ADA), and Section 504 of the Rehabilitation Act (Section 504). Specifically, they must provide zero reject and free appropriate public education in the least restrictive environment, including nondiscriminatory evaluation, individualized appropriate education plan, access to the general curriculum (academic, extracurricular, and other school activities), procedural safeguards, and parent participation.
- Ensure that school choice efforts do not diminish the resources and effectiveness of public school systems in which they operate.

Family and Student Participation

- Ensure the meaningful participation of students, families, and their chosen advisors in the evaluation of students and the design and monitoring of the students' IEPs.
- Assure that parents with special needs, including those with disabilities or language or cultural differences, receive the information, supports, services, and full ADA/504 rights to effectively exercise their rights to partner in the education of their children.
- Expediently connect students and families with information, resources, and training that help them understand and exercise their rights under the IDEA, Section 504, the

ADA, Family Educational Rights and Privacy Act (FERPA), and the Every Student Succeeds Act (ESSA).

- Assure that school personnel provide timely explanations that are understandable and use functional descriptive language for special education and related services being proposed for the student.

Lifelong Education, Transition, and Post-Secondary Education

- Provide early intervention and preschool services to infants, toddlers, and preschool-age children with disabilities alongside their typical peers and provide transition planning for children to ensure access to the general education curriculum and full integration in neighborhood schools as they move to kindergarten or first grade.
- Develop and implement transition plans based on student strengths, preferences, and interests to facilitate each student's successful movement from school to adult life, including postsecondary and vocational education, competitive integrated employment, independent living, and community participation.
- Develop an individualized postsecondary and/or pre-employment program, including choices and creative career exploration through apprenticeships and internships, in coordination with IDEA and the Workforce Innovation and Opportunity Act (WIOA).
- Ensure that all students receive meaningful evidence of their school achievements including diplomas.

System Capacity Development, Funding, Oversight, and Accountability

- Assure that the training, preparation, compensation, supports, and accountability systems needed to build a cadre of effective professional teachers, other education personnel such as school principals, related services personnel, paraprofessionals, and other staff are evidence-based and effective to meet the child's specific needs.
- Assure a cadre of effective lay and legal advocates to assist families and individuals to exercise their rights.

- Increase active monitoring and enforcement through local, state, and federal agencies to ensure that the IDEA, ADA, Section 504, and state special education laws and mandates are met.
- Fulfill the federal commitment to fully fund the IDEA.
- Ensure that all students with disabilities, including those with the most significant cognitive disabilities, continue to be included in public school, district, and state level accountability systems. Ensure that states are not allowed to exempt more than 1% of students (that is, exempt only those students that the state determines have the most significant cognitive disabilities up to 1%) from their general accountability data.

ⁱ “People with intellectual disability (ID)” refers to those with “significant limitations both in intellectual functioning and in adaptive behavior as expressed in conceptual, social, and practical adaptive skills. This disability originates before age 18”, as defined by the American Association on Intellectual and Developmental Disabilities (AAIDD) in its manual, *Intellectual Disability: Definition, Classification, and Systems of Supports* (Schalock et al., 2010), and the *Diagnostic and Statistical Manual of Mental Disorders, 5th Edition (DSM-5)*, published by the American Psychiatric Association (APA, 2013). “People with developmental disabilities (DD)” refers to those with “a severe, chronic disability of an individual that- (i) is attributable to a mental or physical impairment or combination of mental and physical impairments; (ii) is manifested before the individual attains age 22; (iii) is likely to continue indefinitely; (iv) results in substantial functional limitations in 3 or more of the following areas of major life activity: (I) Self-care, (II) Receptive and expressive language, (III) Learning, (IV) Mobility, (V) Self-direction, (VI) Capacity for independent living, (VII) Economic self-sufficiency; and (v) reflects the individual’s need for a combination and sequence of special, interdisciplinary, or generic services, individualized supports, or other forms of assistance that are of lifelong or extended duration and are individually planned and coordinated,” as defined by the Developmental Disabilities Assistance and Bill of Rights Act 2000. In everyday language people with ID and/or DD are frequently referred to as people with cognitive, intellectual and/or developmental disabilities.

ⁱⁱ In March 2017, the U.S. Supreme Court issued a unanimous decision in *Endrew F. v. Douglas County School District RE-1* clarifying the test for determining whether school districts have met their obligation to provide a free appropriate public education (FAPE) to students with disabilities guaranteed by the Individuals with Disabilities Education Act. The Court ruled that a child’s educational program must be “appropriately ambitious in light of his circumstances,” a more demanding standard than the “merely more than de minimis” test applied by the Tenth Circuit.