


# Special Education Advocacy for Children in Oregon



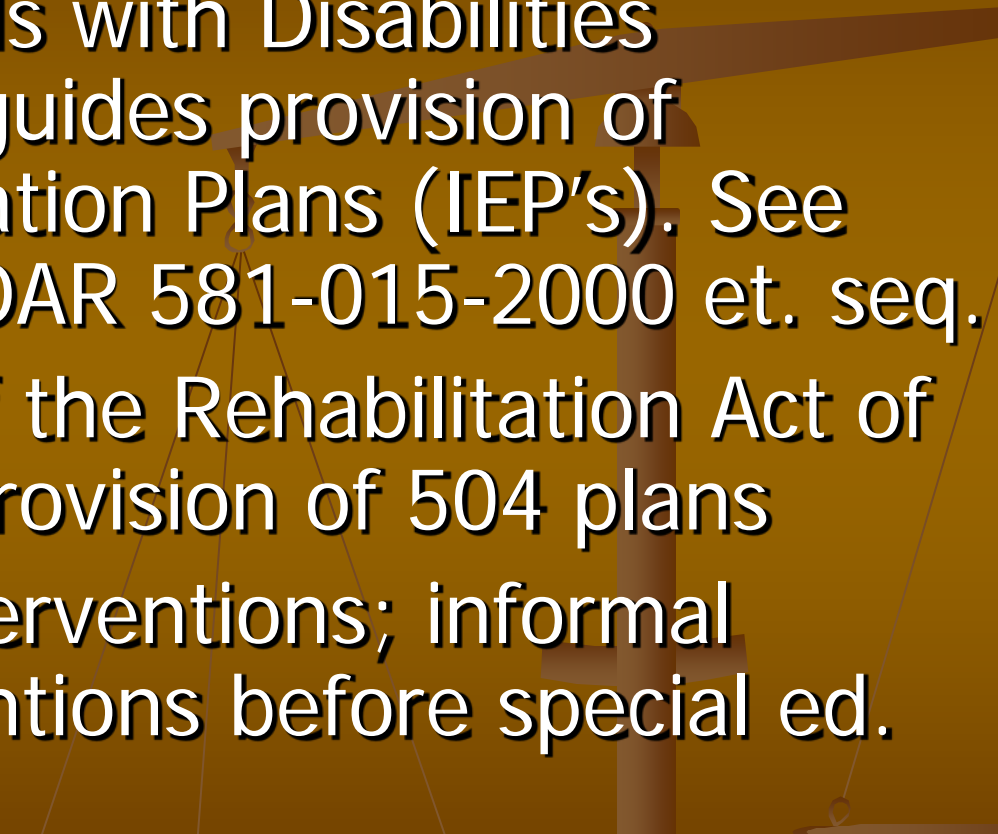
Brian V. Baker, Juvenile Rights Project, Inc.  
& Joel Greenberg, Oregon Advocacy  
Center, Inc.

# Goals



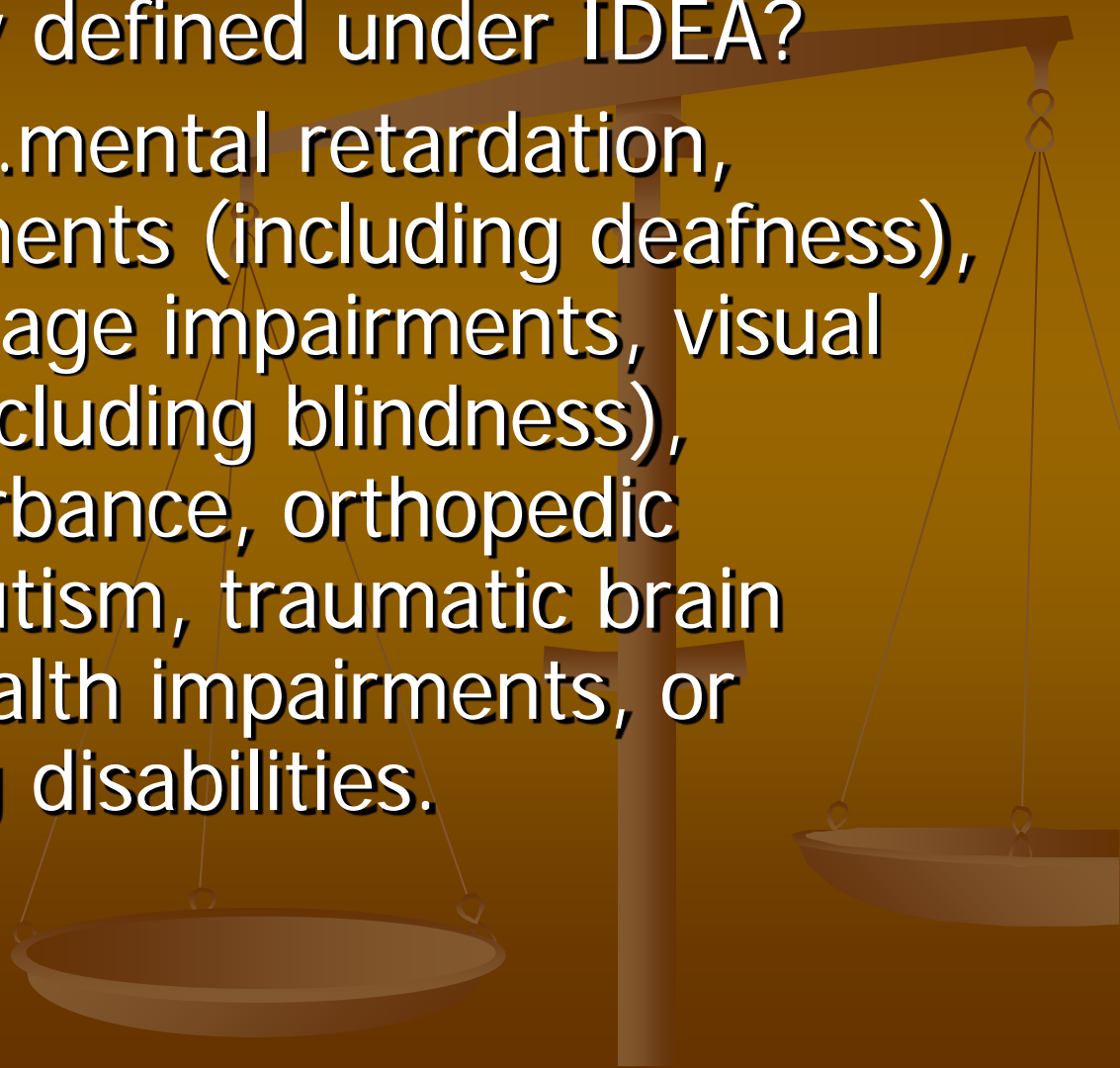
- Understand eligibility for special education and Section 504 accommodations.
- Understand how students are identified for special education and 504.
- Understand how to craft an IEP that includes the appropriate instruction, supports, services, accommodations, modifications, goals and school placement for an eligible student.

# Special Education Definitions

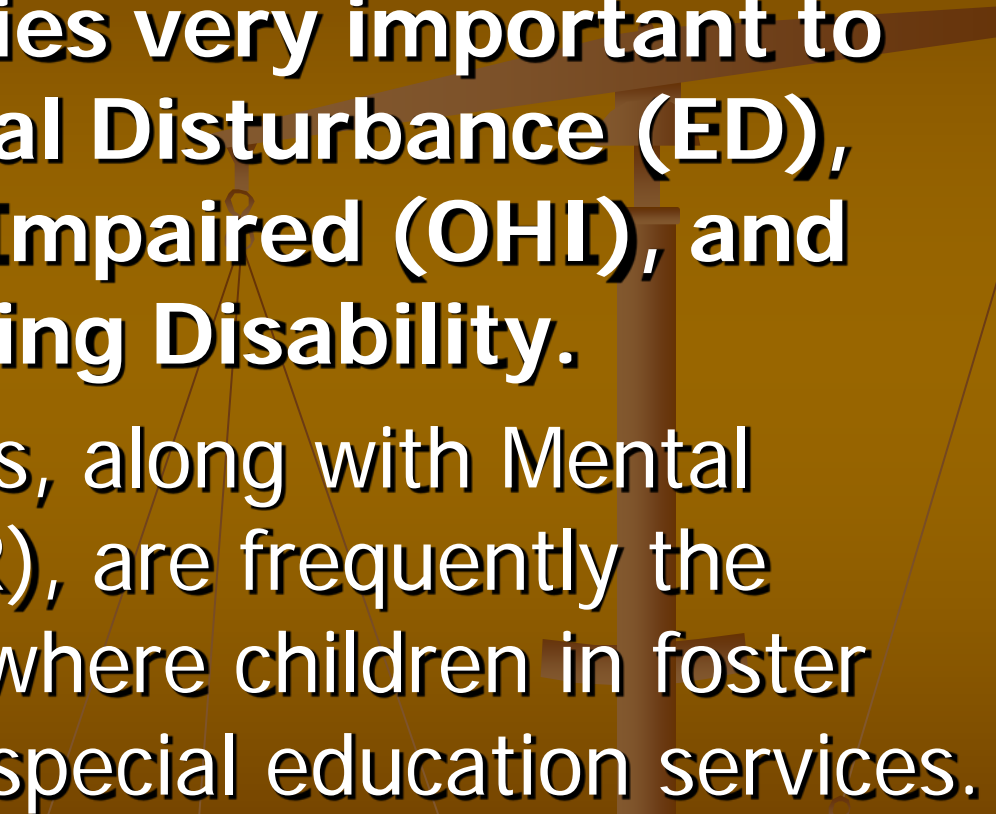
- IDEA: Individuals with Disabilities Education Act; guides provision of Individual Education Plans (IEP's). See ORS 343...and OAR 581-015-2000 et. seq.
  - Section 504: (of the Rehabilitation Act of 1973); guides provision of 504 plans
  - Pre-Referral Interventions; informal building interventions before special ed. evaluation
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# IDEA: Definitions

- How is disability defined under IDEA?
- 11 Categories: ...mental retardation, hearing impairments (including deafness), speech or language impairments, visual impairments (including blindness), emotional disturbance, orthopedic impairments, autism, traumatic brain injury, other health impairments, or specific learning disabilities.



# IDEA definitions:

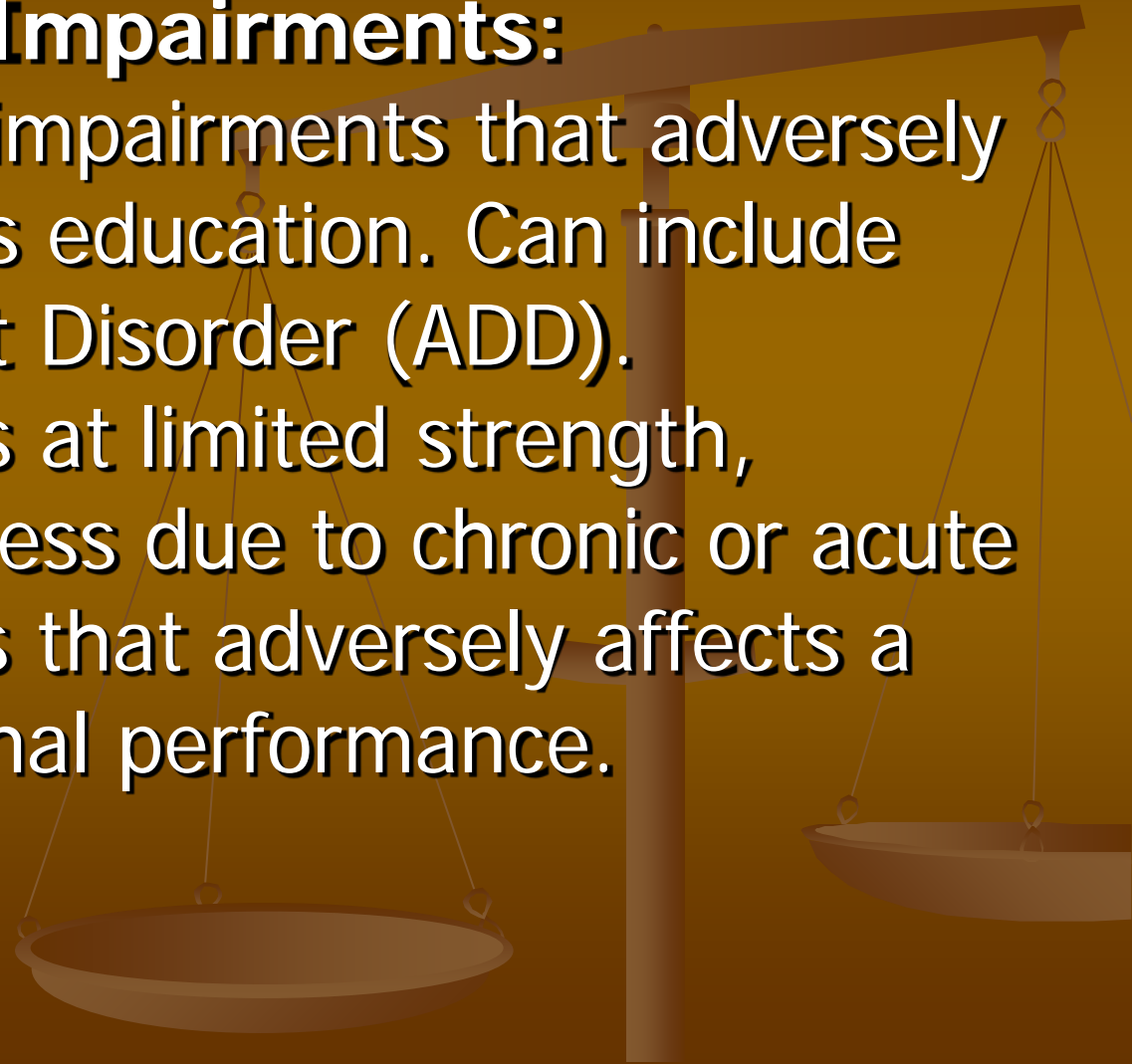
- **Three categories very important to DHS: Emotional Disturbance (ED), Other Health Impaired (OHI), and Specific Learning Disability.**
  - These categories, along with Mental Retardation (MR), are frequently the disability areas where children in foster care qualify for special education services.
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# IDEA definitions:

- **Emotional Disturbance:** focus on mental health conditions, present for a long period, that affect educational performance to a marked degree: inability to learn, to build or maintain interpersonal relationships, inappropriate behavior, unhappiness or depression, physical symptoms or fears assoc. with school.

# IDEA definitions

- **Other Health Impairments:** medical/health impairments that adversely affect the child's education. Can include Attention Deficit Disorder (ADD). Evaluation looks at limited strength, vitality or alertness due to chronic or acute health problems that adversely affects a child's educational performance.



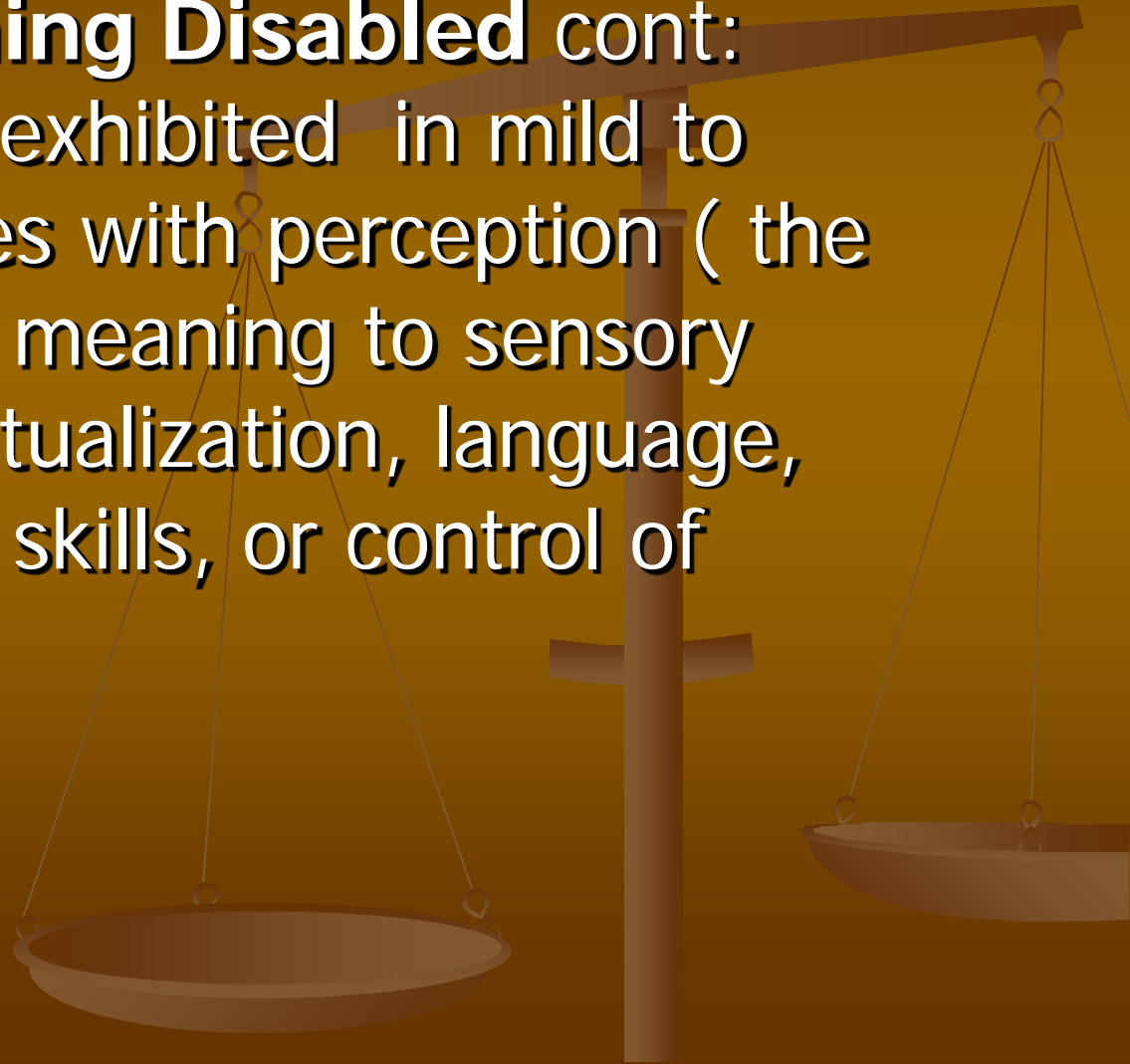
# IDEA definitions

- **Specific Learning Disabled:** means a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, that may manifest itself in an imperfect ability to listen, think, speak, read, write, spell, or to do mathematical calculations. The term includes such conditions as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia.



# IDEA definitions

- **Specific Learning Disabled** cont: deficits may be exhibited in mild to severe difficulties with perception ( the ability to attach meaning to sensory stimuli), conceptualization, language, memory, motor skills, or control of attention.

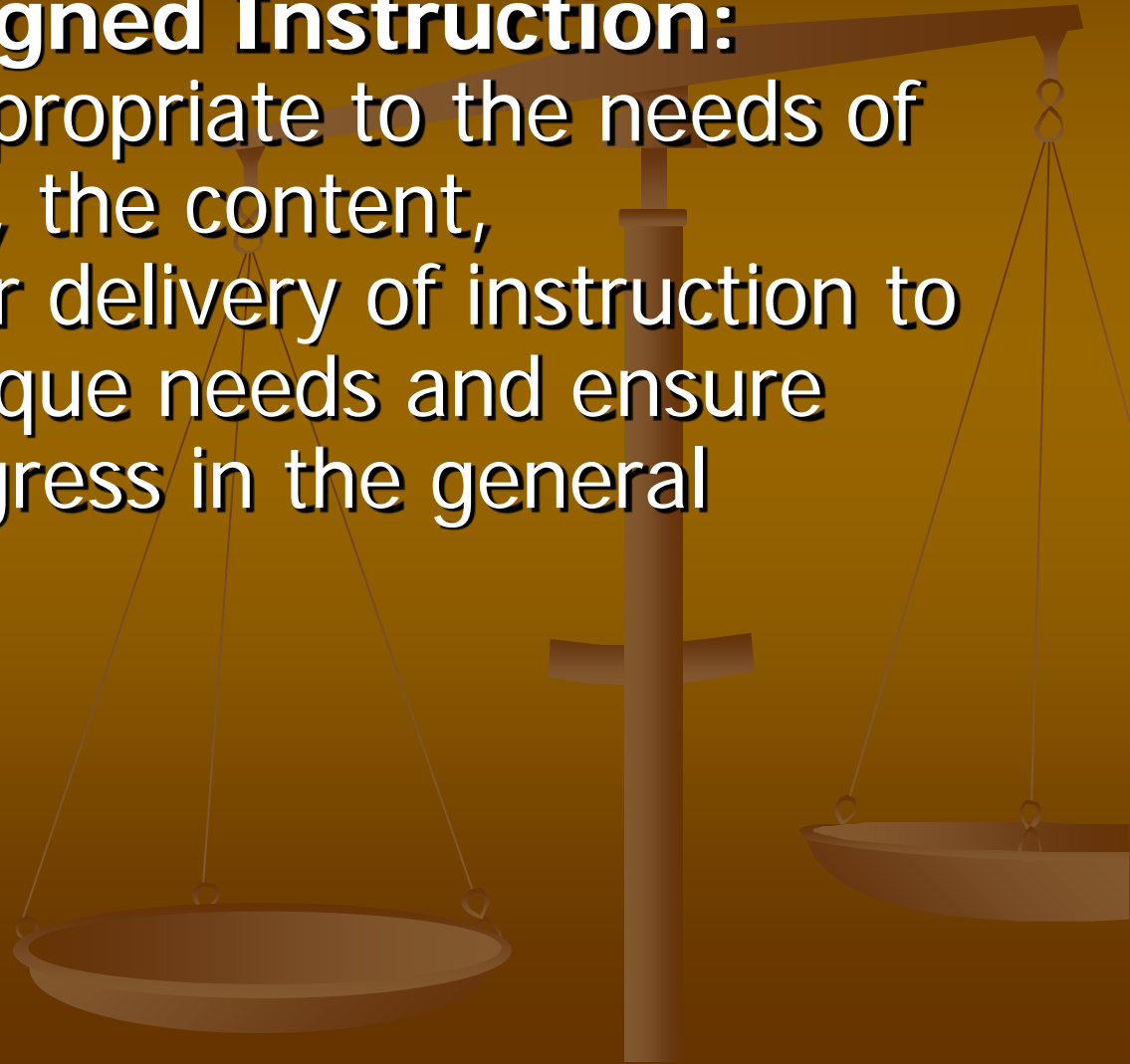


# IDEA: Definitions

- **Child with a disability** under IDEA falls within one or more of the Eleven categories of disability; and requires special education and related services.
- **Special Education: means specifically designed instruction**, at no cost to parents, to meet the unique needs of a child with a disability.

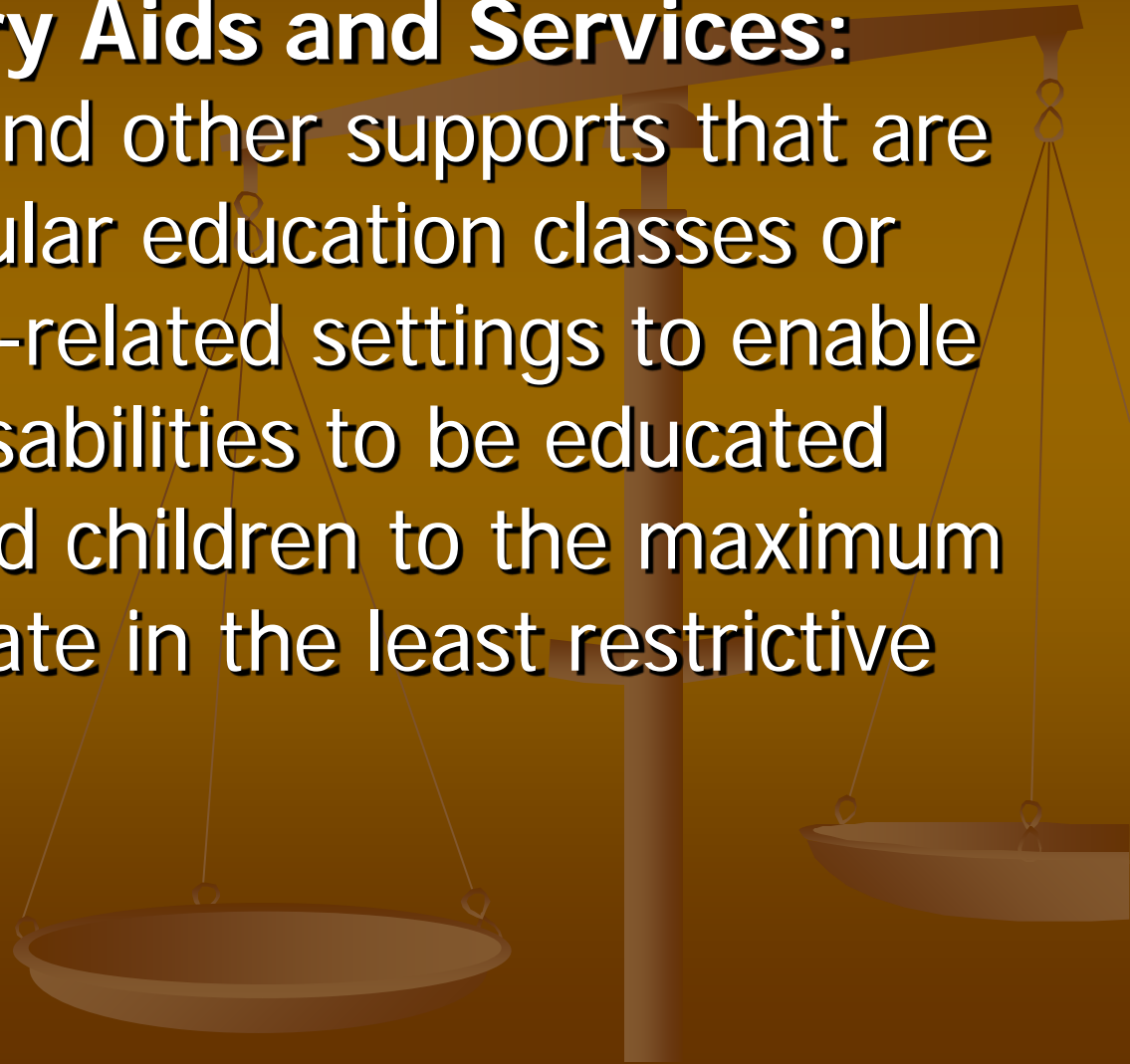
# IDEA: Definitions

- **Specially Designed Instruction:** adapting, as appropriate to the needs of an eligible child, the content, methodology, or delivery of instruction to meet child's unique needs and ensure access and progress in the general curriculum.



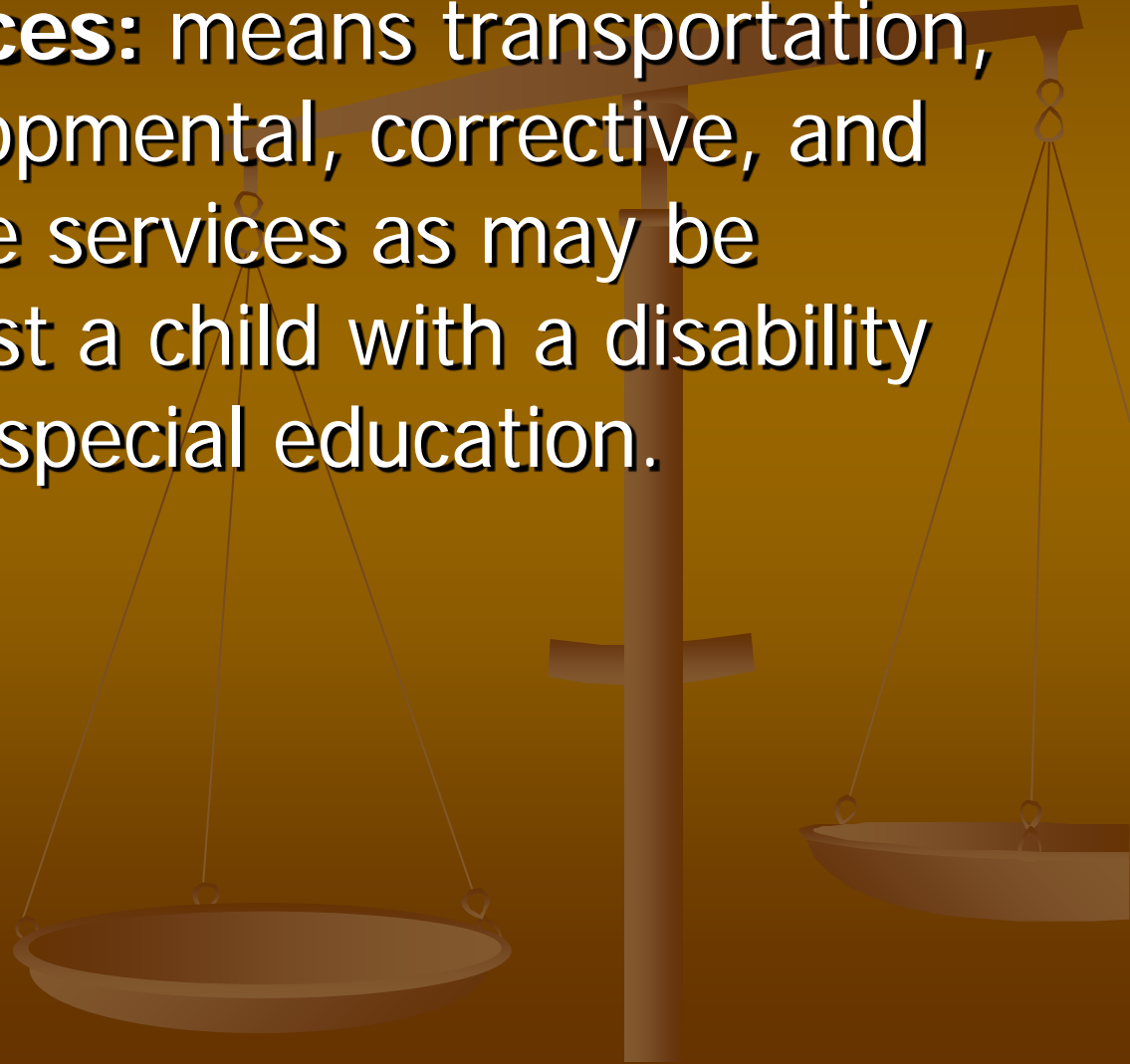
# IDEA: Definitions

- **Supplementary Aids and Services:** aids, services, and other supports that are provided in regular education classes or other education-related settings to enable children with disabilities to be educated with nondisabled children to the maximum extent appropriate in the least restrictive environment.



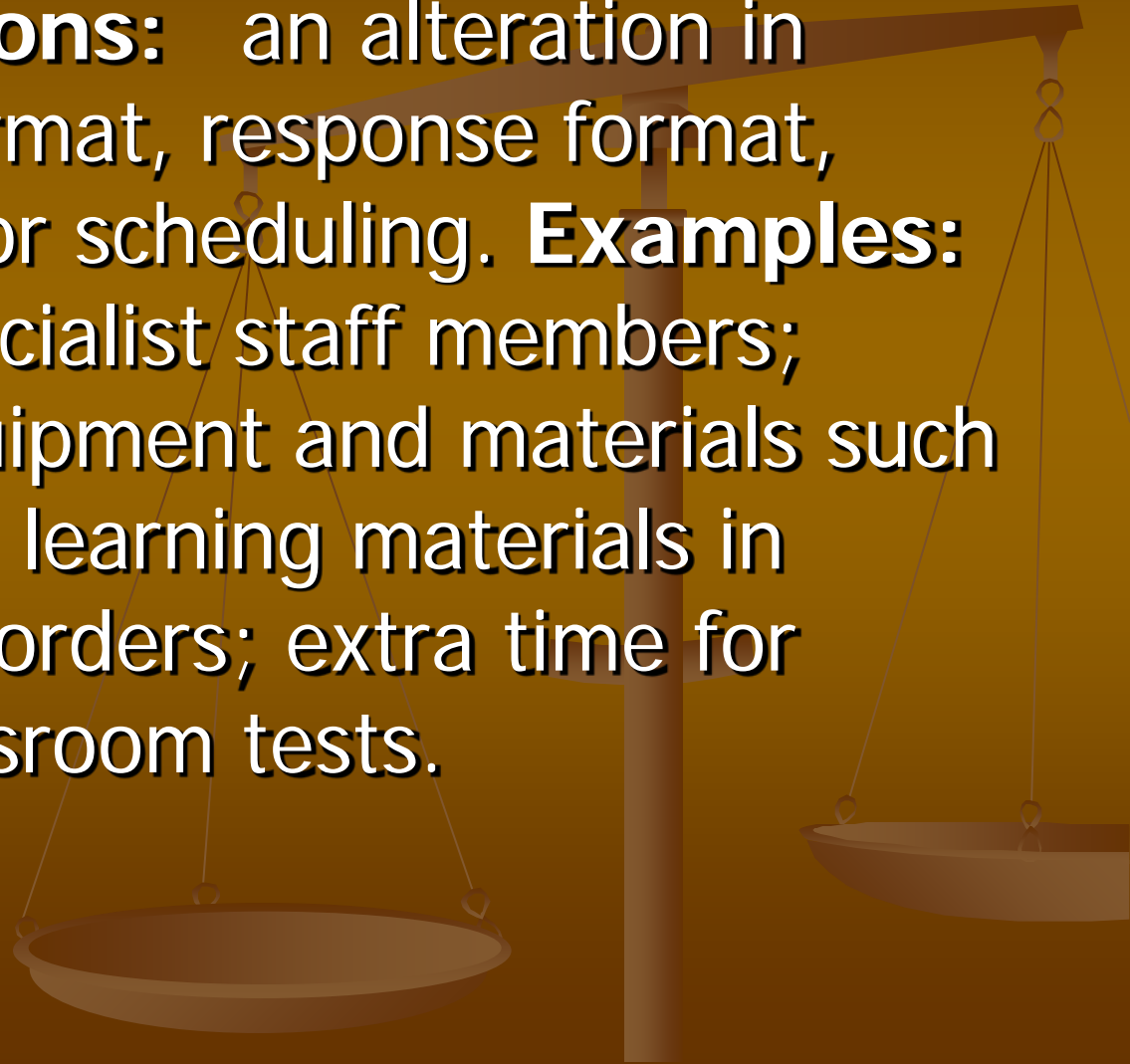
# IDEA: Definitions

- **Related Services:** means transportation, and such developmental, corrective, and other supportive services as may be required to assist a child with a disability to benefit from special education.



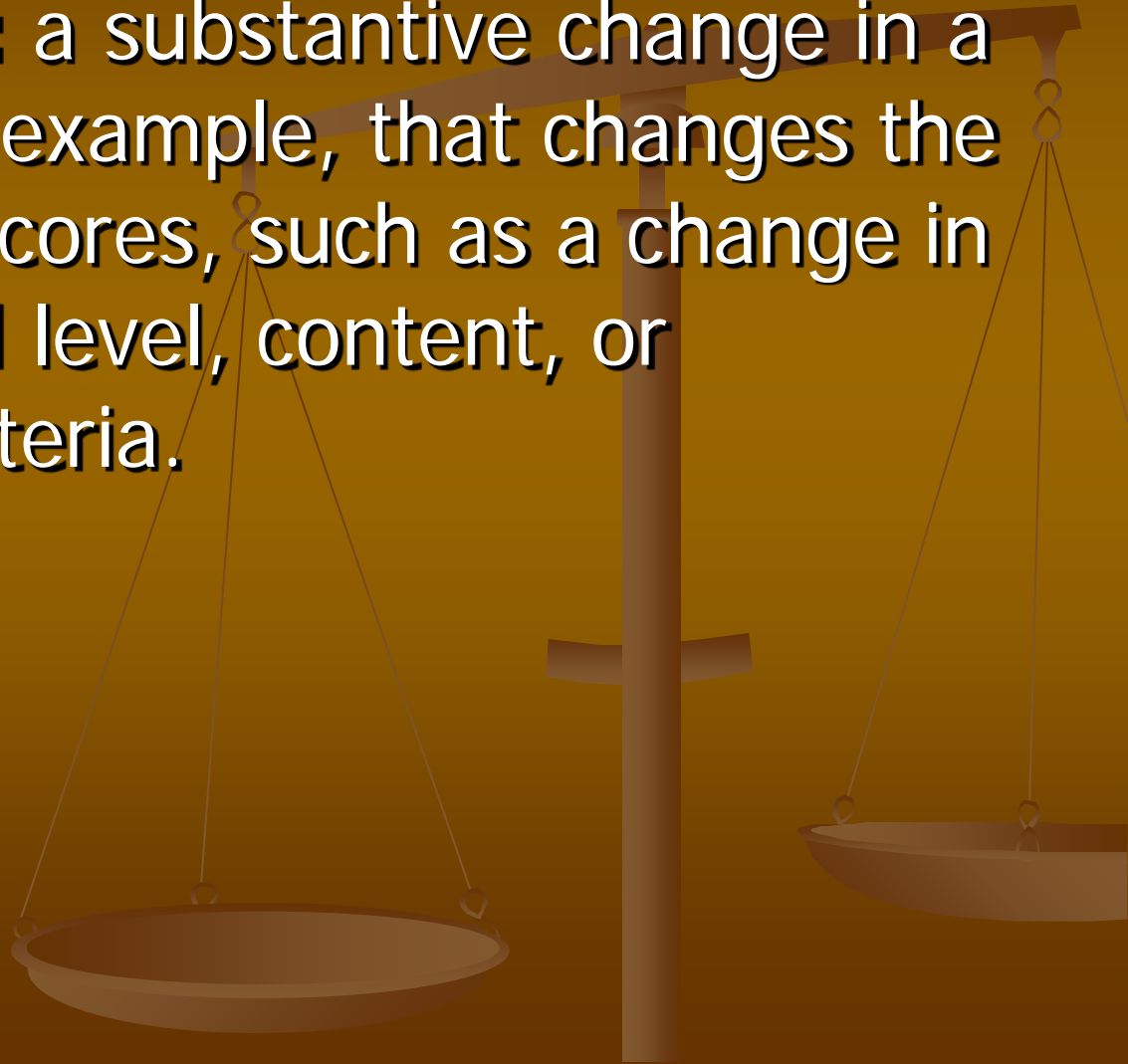
# IDEA: Definitions

- **Accommodations:** an alteration in presentation format, response format, setting, timing or scheduling. **Examples:** provision of specialist staff members; provision of equipment and materials such as hearing aids, learning materials in Braille, tape recorders; extra time for completing classroom tests.



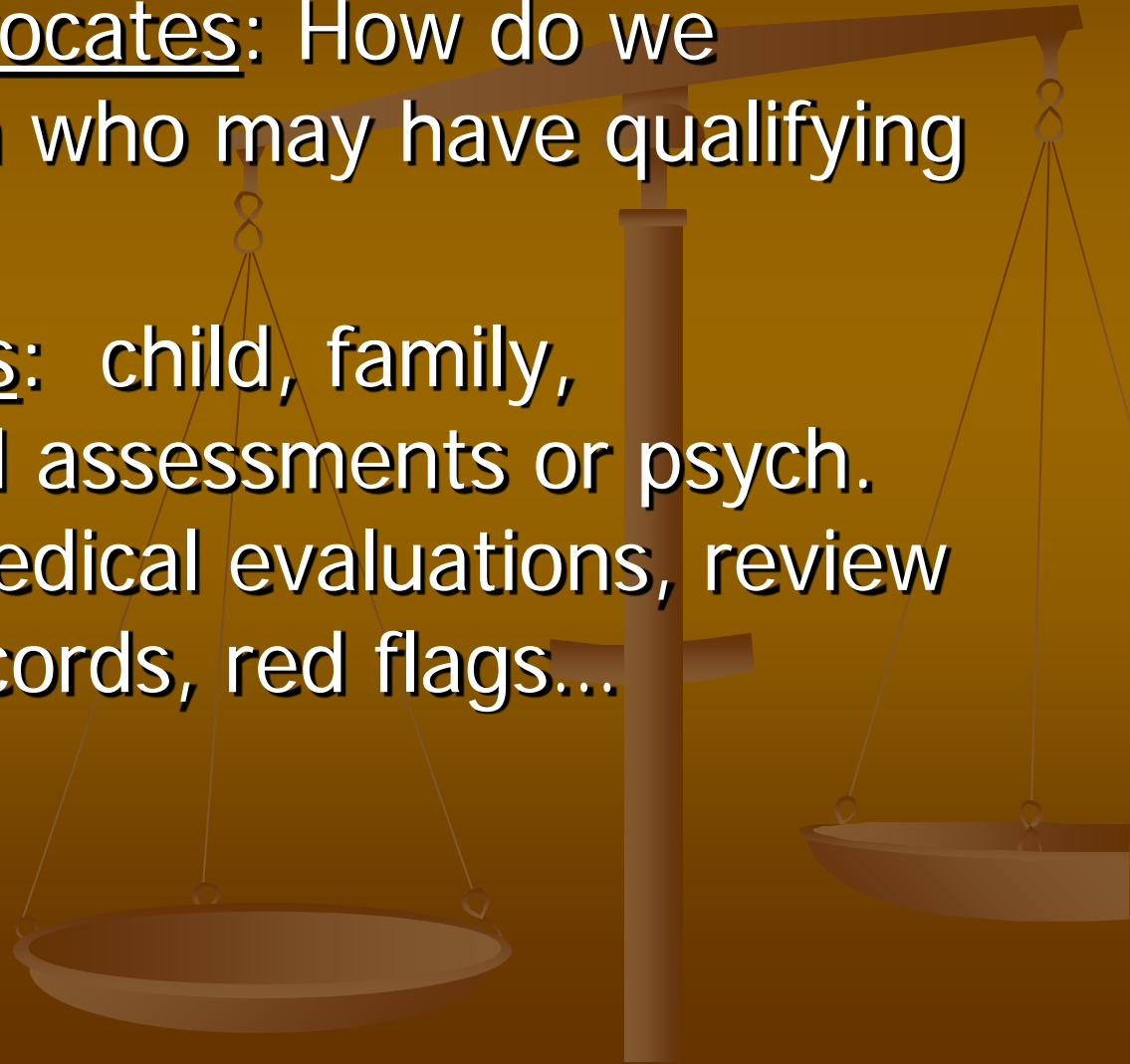
# IDEA: Definitions

- **Modifications:** a substantive change in a test format, for example, that changes the validity of test scores, such as a change in the instructional level, content, or performance criteria.



# IDEA RoadMap: Identification

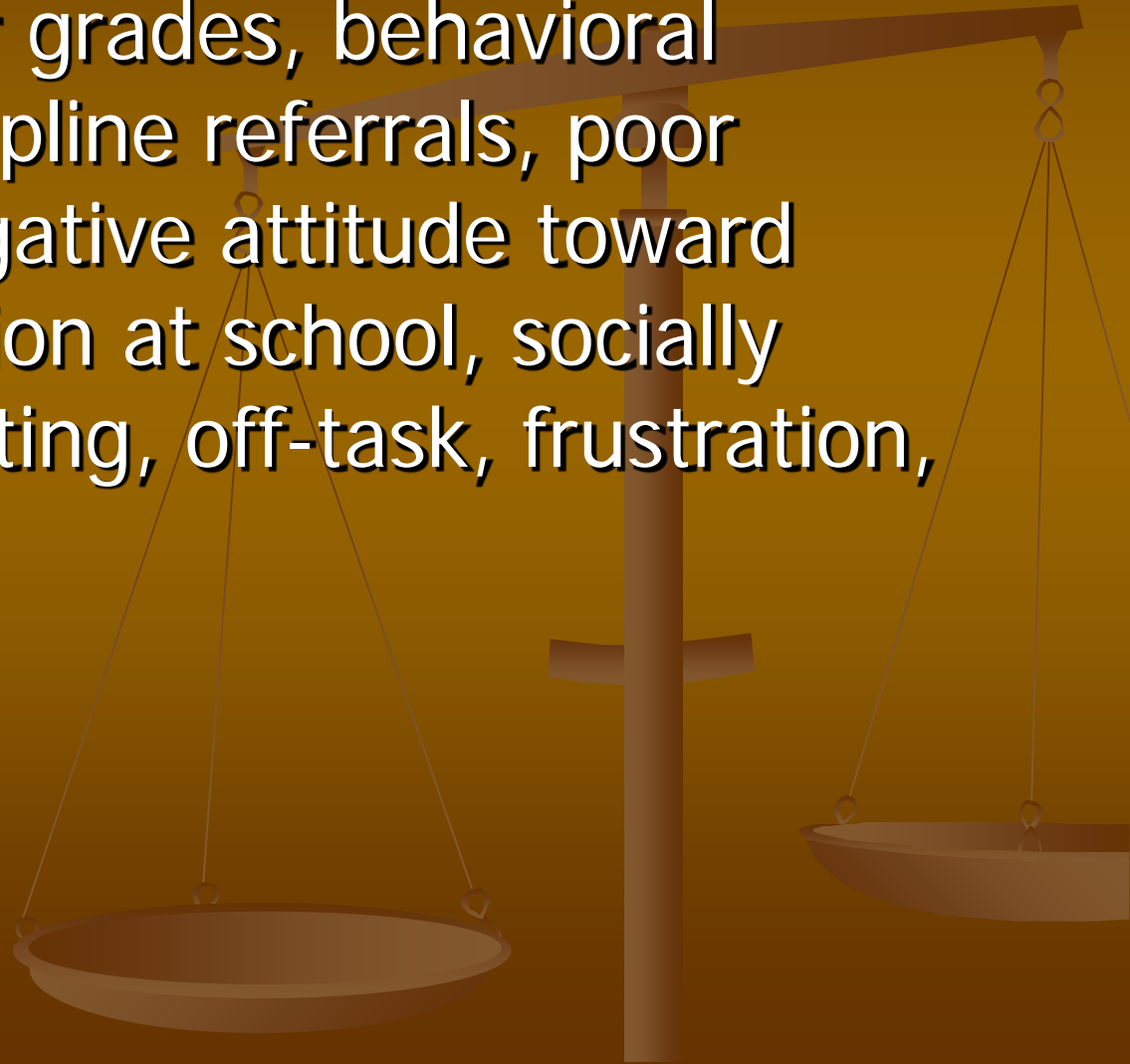
- Community Advocates: How do we identify children who may have qualifying disabilities?
- Multiple Sources: child, family, evaluations (MH assessments or psych. Evaluations), medical evaluations, review of education records, red flags...





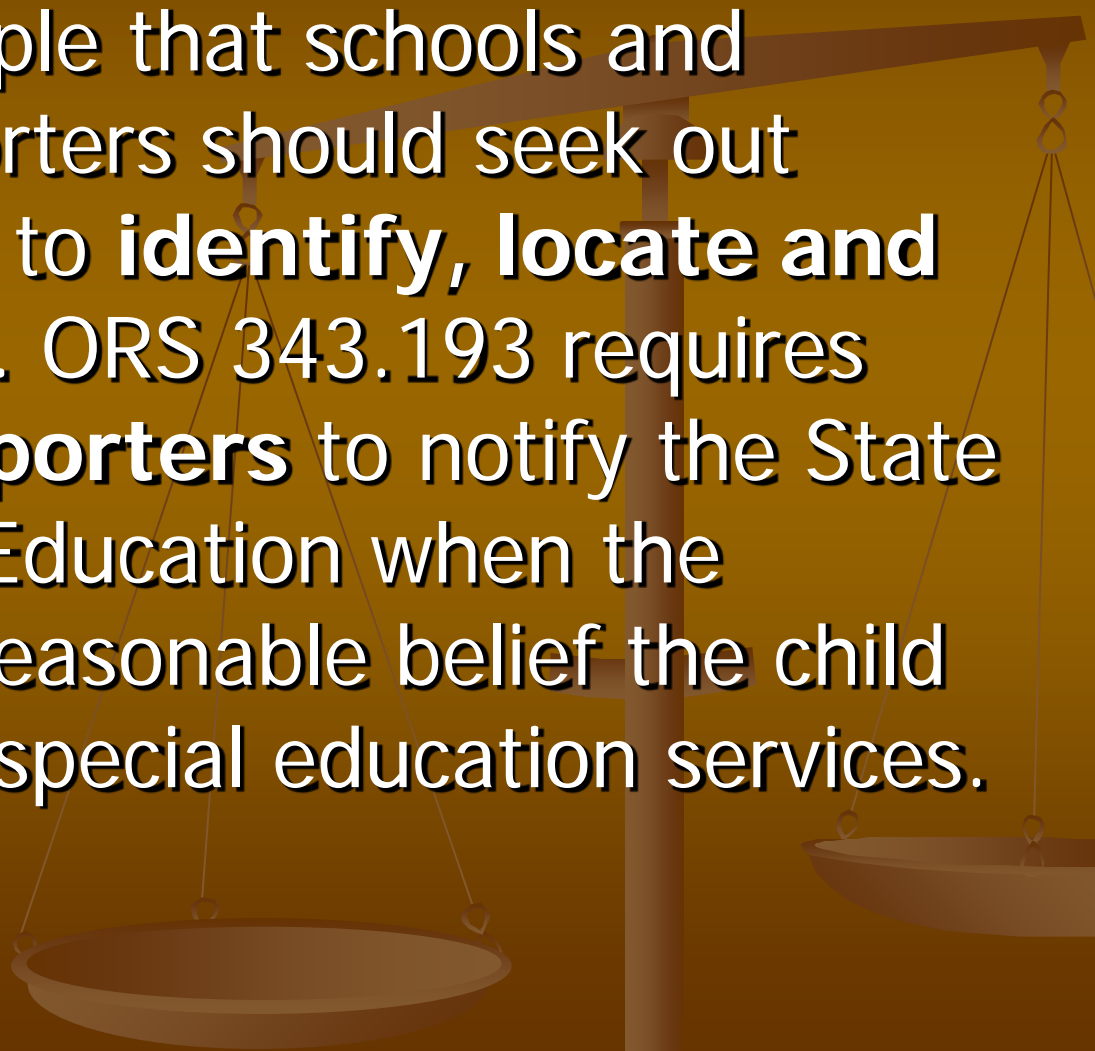
# IDEA RoadMap: Identification

- Red-Flags: poor grades, behavioral difficulties, discipline referrals, poor attendance, negative attitude toward school, inattention at school, socially withdrawn, fighting, off-task, frustration, fear, etc.



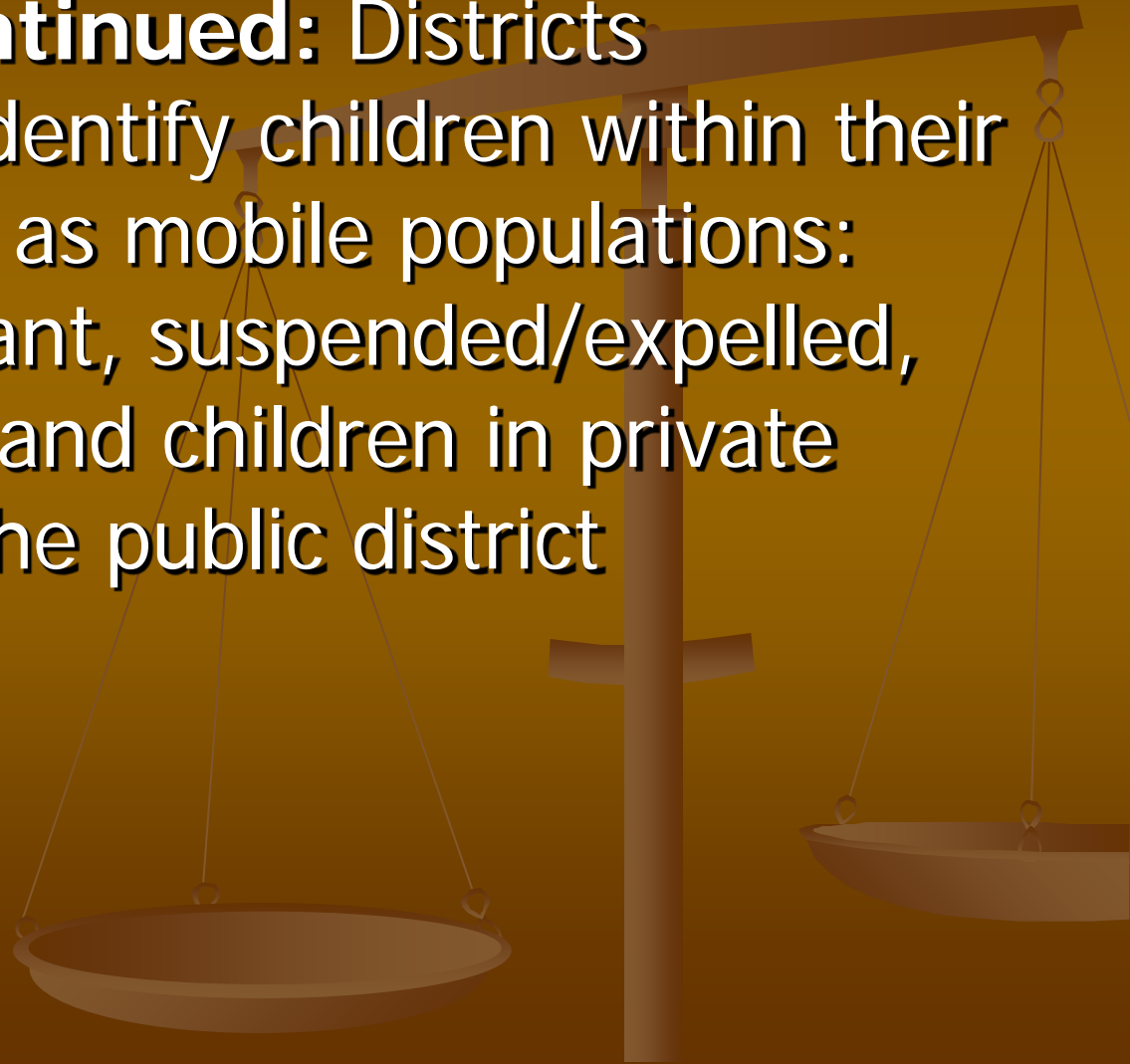
# IDEA RoadMap: Identification

- Childfind: Principle that schools and mandatory reporters should seek out eligible children to **identify, locate and evaluate** them. ORS 343.193 requires **mandatory reporters** to notify the State Department of Education when the reporter has a reasonable belief the child may qualify for special education services.



# IDEA Roadmap: Identification

- **Child Find Continued:** Districts responsible to identify children within their schools, as well as mobile populations: homeless, migrant, suspended/expelled, alternative ed., and children in private schools within the public district boundaries.



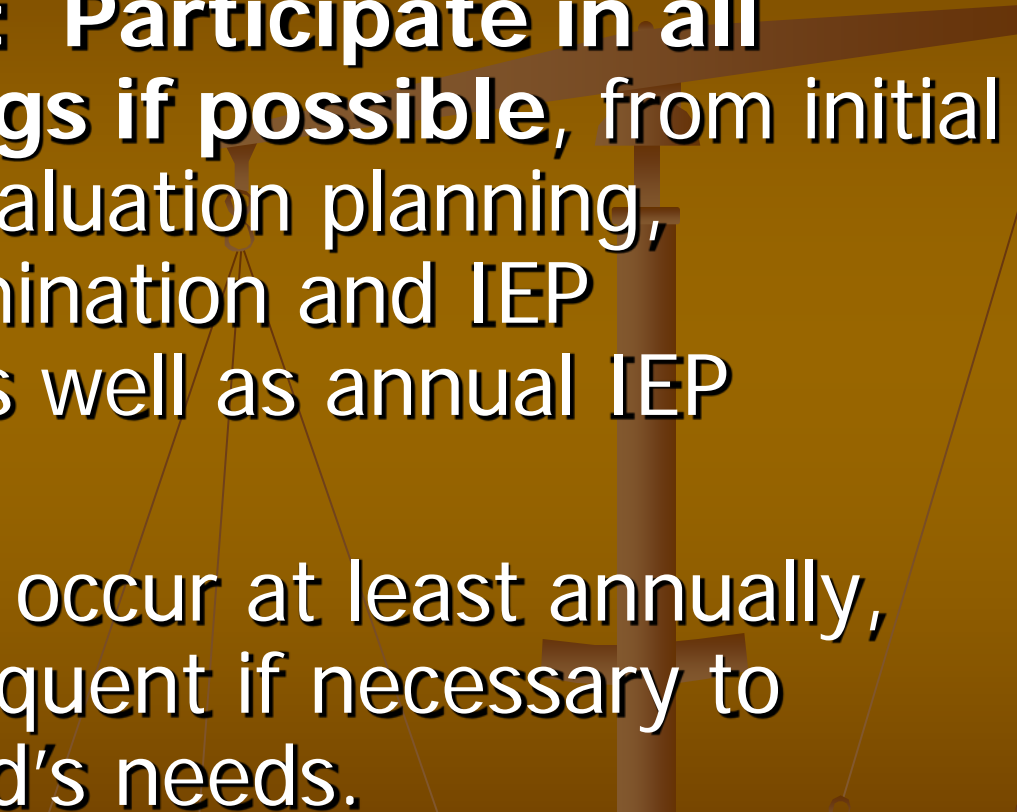
# IDEA Roadmap: Identification

- **Advocate role: Communicate** early and frequently with child's school screening committee regarding evaluation. Communicate in writing and by phone. **Keep documentation** of your contact with school. Assist with identification of **education surrogate** if necessary. Provide verbal input and/or records(redacted) for evaluation purposes. See ORS 419A.255 on records confidentiality.

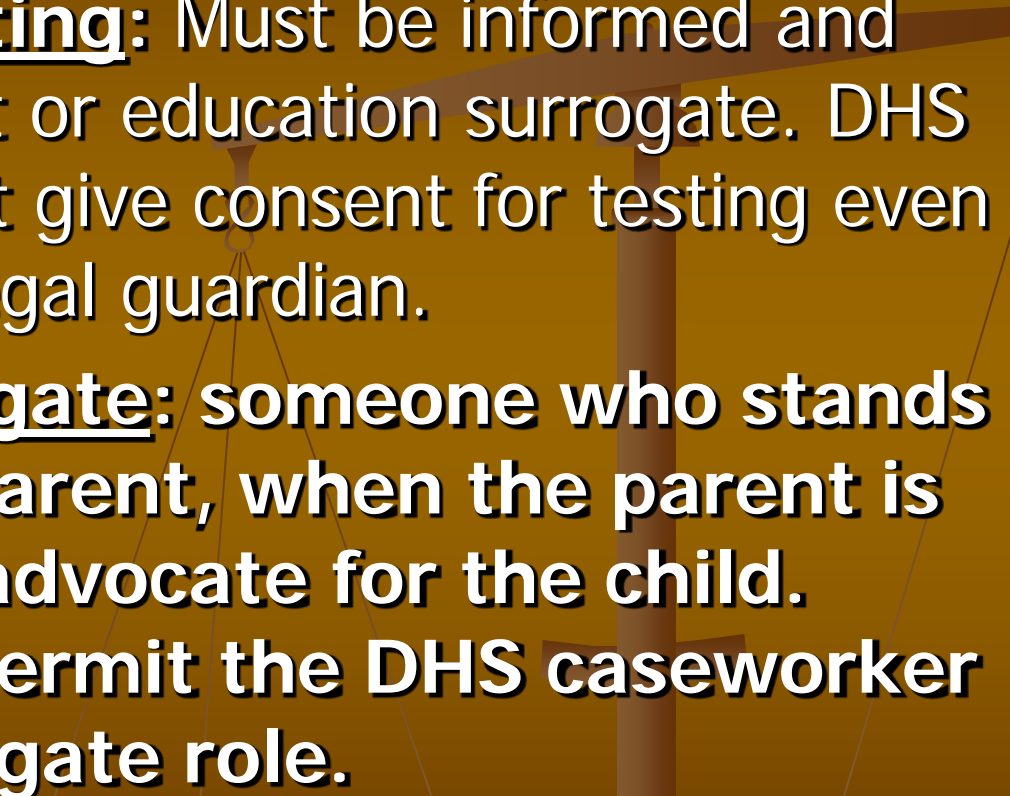
# IDEA Roadmap: Identification

- **Advocate role cont.: obtain and review** school file of child—including cumulative file, discipline file and special education records. Use the **FERPA** (family education rights privacy act) for access: get permission from parent/foster parent surrogate for records; or use FERPA exceptions—court order, PS health/safety exception of ORS 336.187.

# IDEA Roadmap: Identification

- **Advocate role: Participate in all school meetings if possible**, from initial screening, to evaluation planning, eligibility determination and IEP development, as well as annual IEP meeting.\*
  - **IEP Meetings:** occur at least annually, can be more frequent if necessary to address the child's needs.
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# IDEA Roadmap: Identification

- **Consent for Testing**: Must be informed and received by parent or education surrogate. DHS caseworker cannot give consent for testing even though they are legal guardian.
  - **Education surrogate**: someone who stands in place of the parent, when the parent is unavailable, to advocate for the child. IDEA does not permit the DHS caseworker to assume surrogate role.
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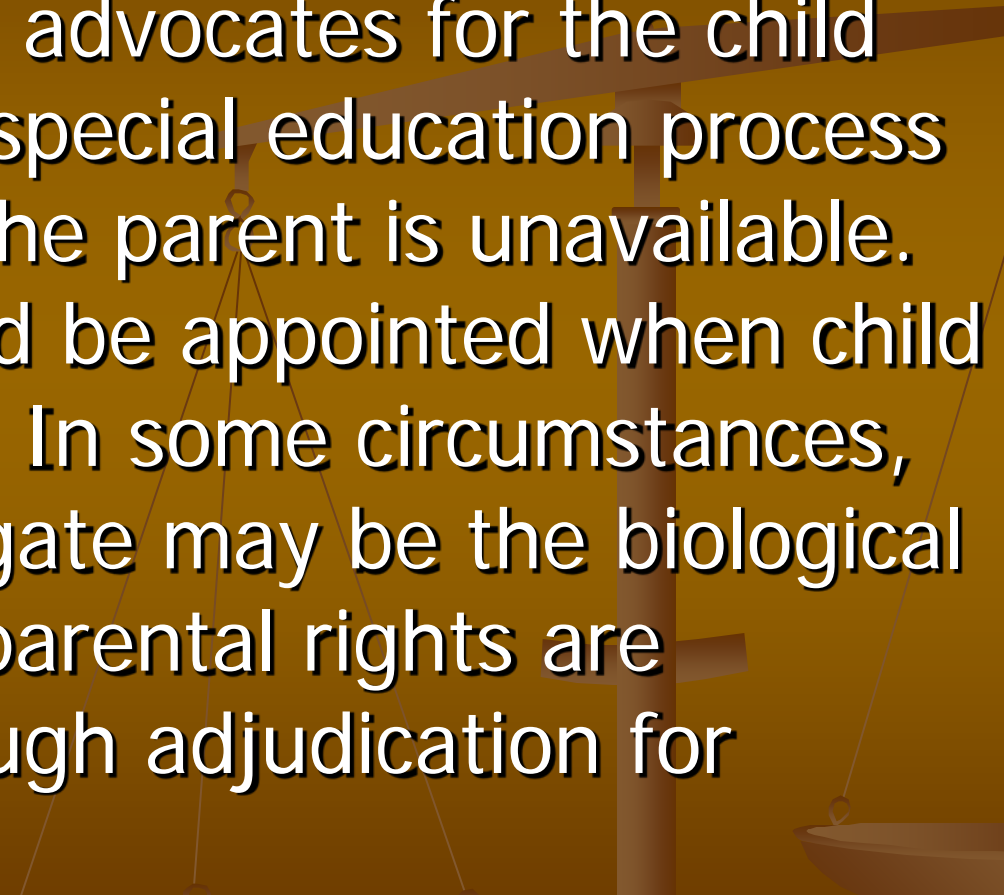
# IDEA Roadmap: Identification

- **Surrogacy Cont.:** monitor closely designation of surrogate—that it happens in a timely fashion and designee is familiar with child and his/her needs and independent of the school district. Surrogates may be foster parent, CASA, relative, family friend, school designee or Court designee. Oregon has dual appt. authority: school or Court can appt. surrogate for ward of the court.



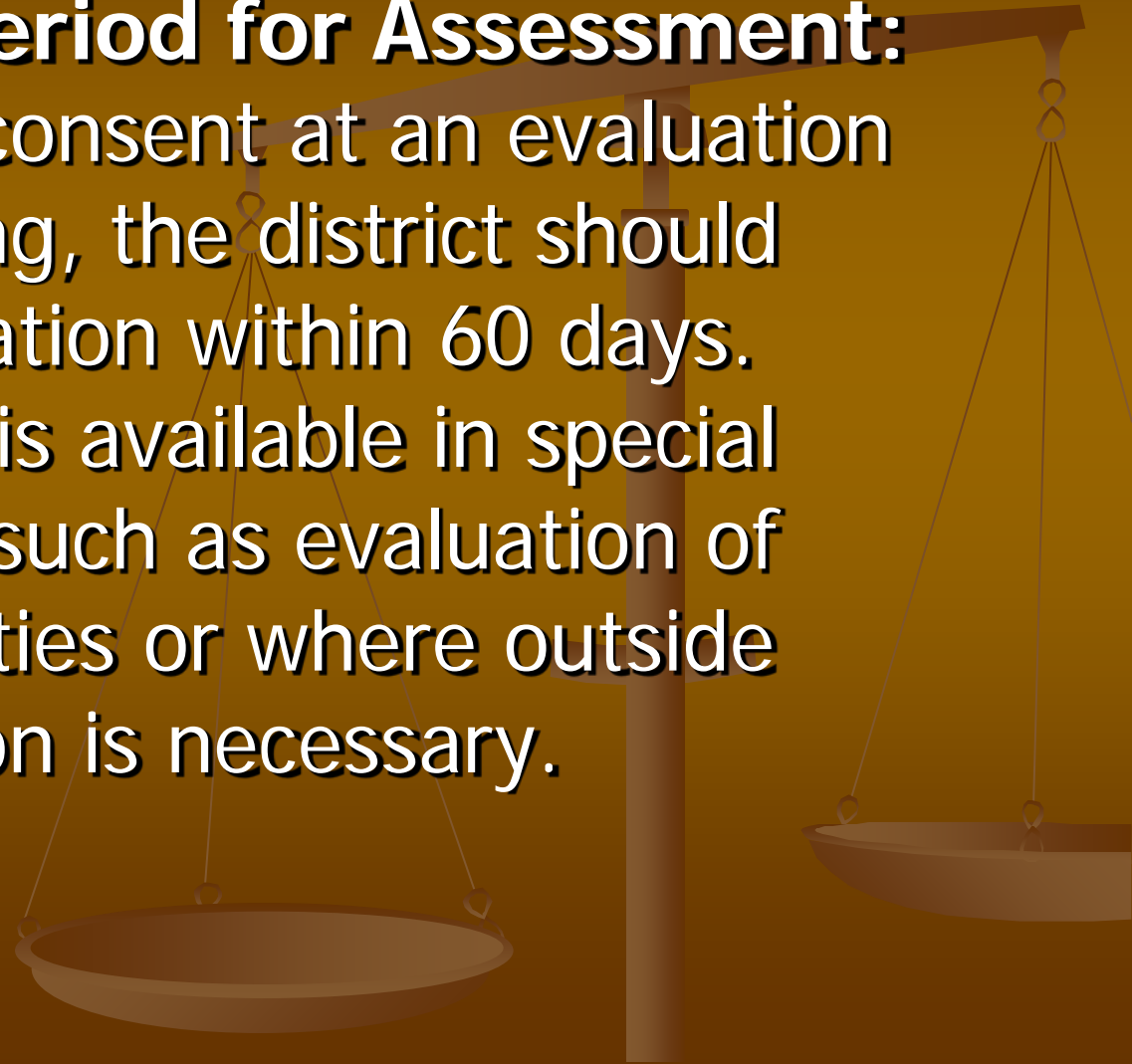
# IDEA Roadmap: Identification

**Surrogacy cont:** advocates for the child throughout the special education process and as long as the parent is unavailable. Surrogate should be appointed when child is made a ward. In some circumstances, the name surrogate may be the biological parents whose parental rights are diminished through adjudication for wardship.

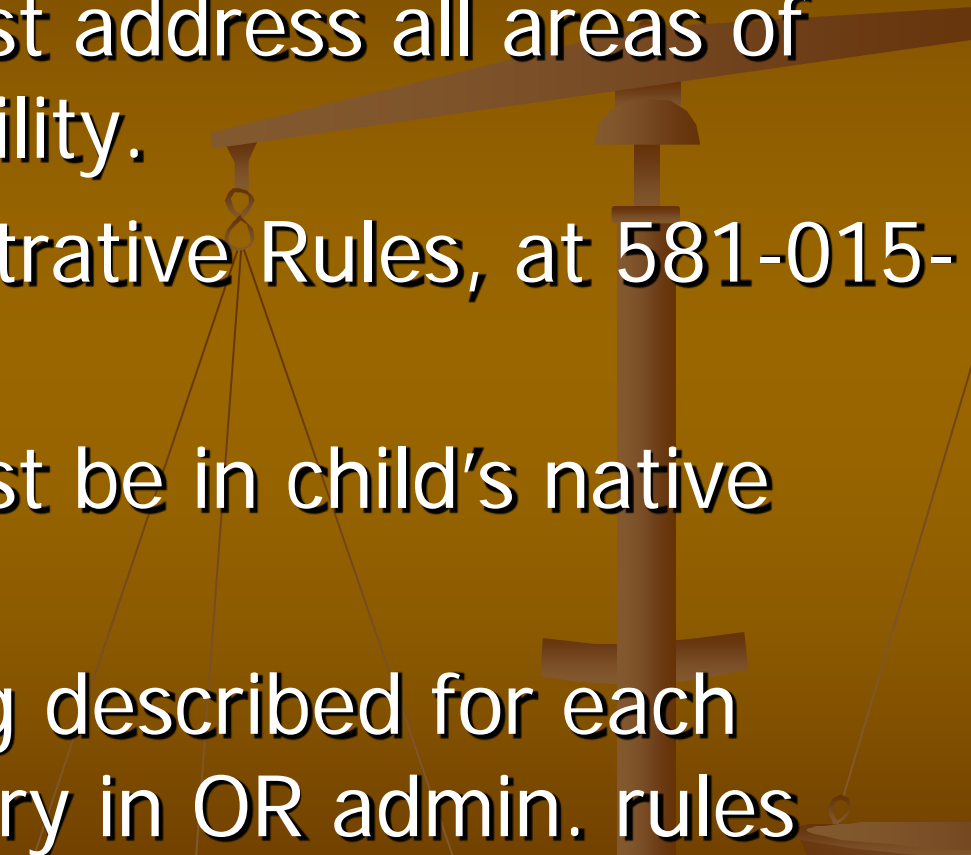


# IDEA Roadmap: Assessment

- **Reasonable Period for Assessment:** after receiving consent at an evaluation planning meeting, the district should complete evaluation within 60 days. Additional time is available in special circumstances, such as evaluation of multiple disabilities or where outside expert evaluation is necessary.



# IDEA Roadmap: Assessment

- Assessment must address all areas of suspected disability.
  - Oregon Administrative Rules, at 581-015-2000 et seq.
  - Assessment must be in child's native language
  - Minimum testing described for each disability category in OR admin. rules
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# IDEA Roadmap: Eligibility



- **Individual Education Plan:** in writing, based on assessment and addresses all areas of concern.
- **Timing:** IEP must be held within 30 days of eligibility determination. Eligibility meeting after assessments completed.
- **Frequency:** IEP must be held at least annually. Parent/surrogate may request an IEP meeting at any time and no limit on number of meetings within a school year.

# IDEA Roadmap: IEP

- **Individual Education Plan/Program:** (Brian's quick and dirty definition)-- individualized, written education plan with **short-term objectives** and **measurable annual goals** in all necessary academic and social-emotional areas...includes supplementary aides and services and related services and indicates minimum time for specially designed instruction.

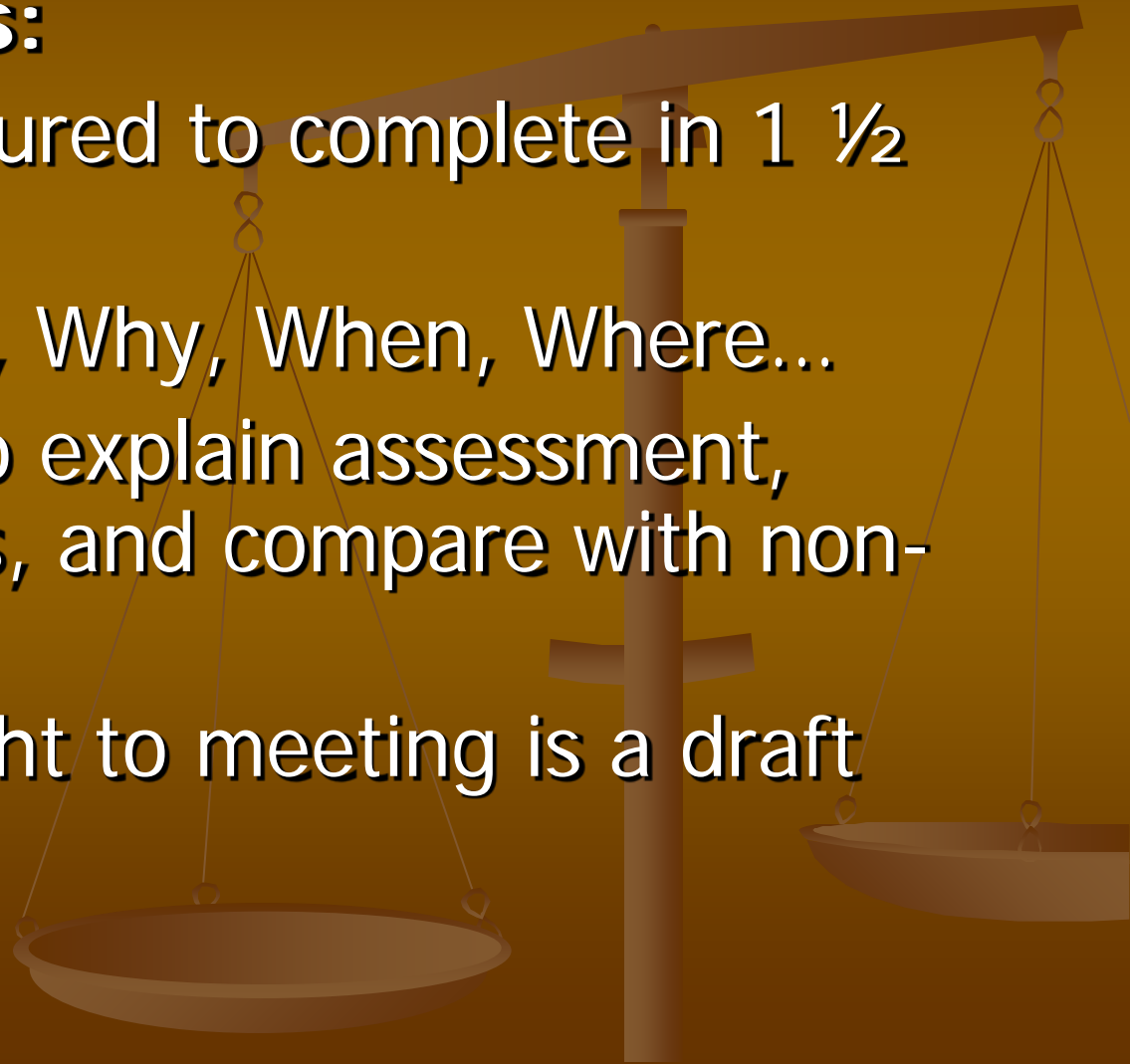
# IDEA Roadmap: IEP

- **IEP Team:** anyone school or parent/surrogate invites; one regular ed. teacher of the child; one special ed. teacher, district representative, an individual who can interpret the instructional implications of evaluation results, and when appropriate, the child.

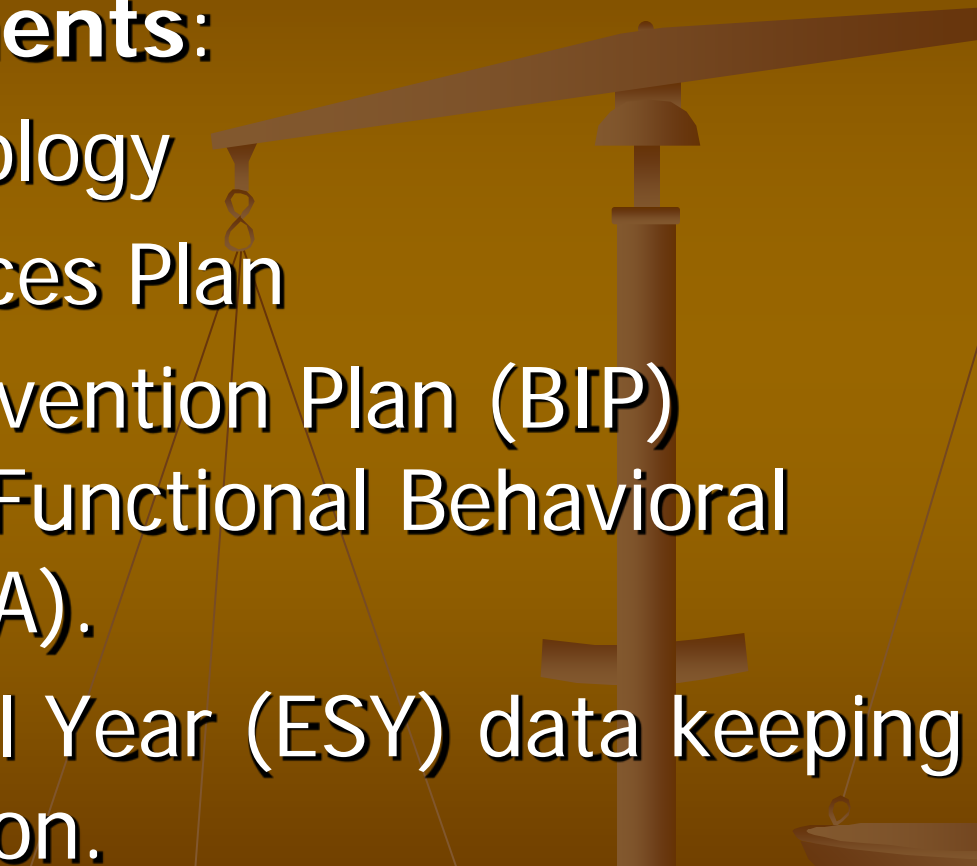
# IDEA Roadmap: IEP

## ■ IEP Strategies:

- Don't feel pressured to complete in 1 ½ hours...
- Ask Who, What, Why, When, Where...
- Ask evaluator to explain assessment, purpose, results, and compare with non-disabled peer...
- Draft IEP brought to meeting is a draft only.



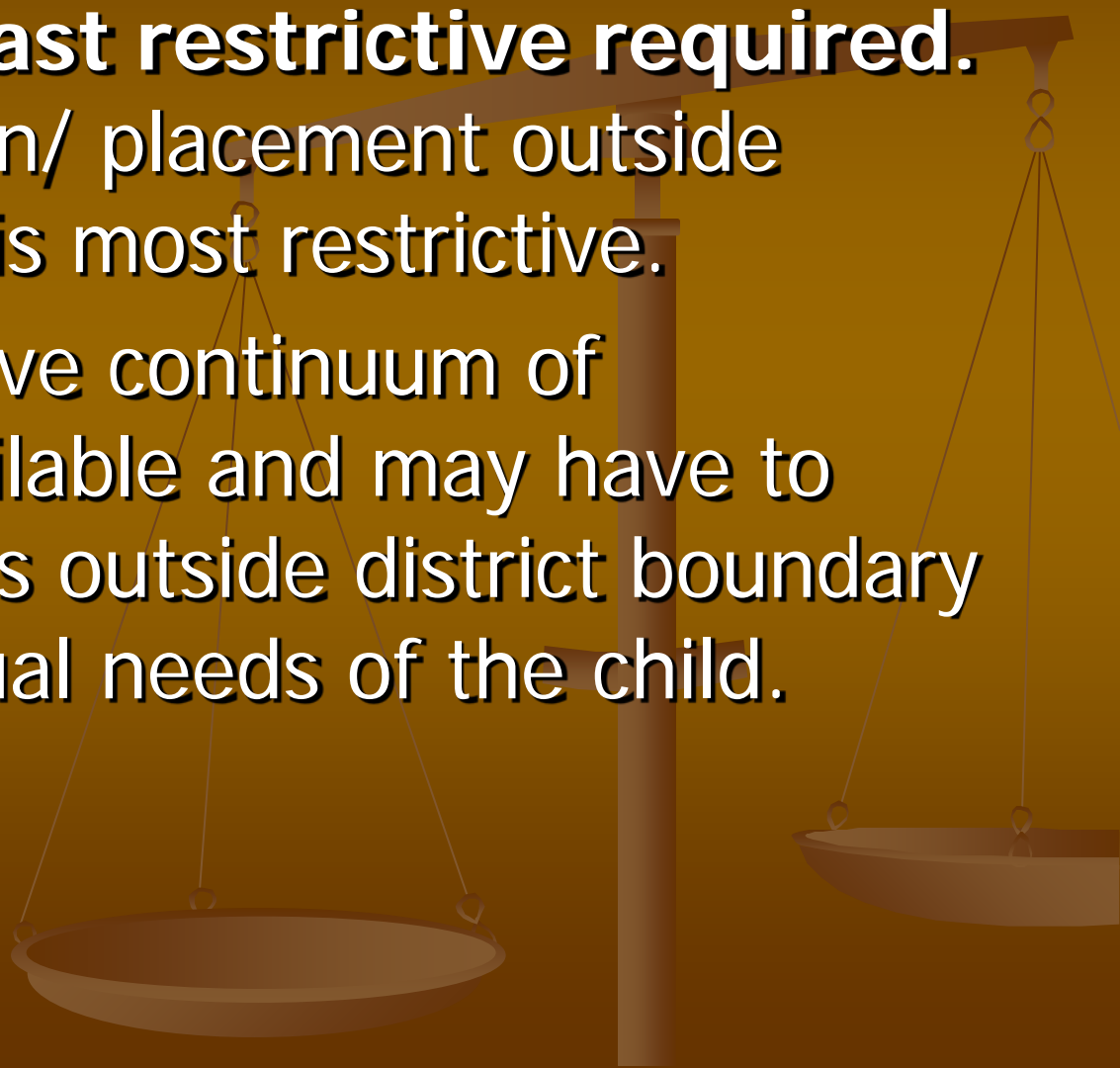
# IDEA Roadmap: IEP

- **Other components:**
  - Assistive Technology
  - Transition Services Plan
  - Behavioral Intervention Plan (BIP) supported by a Functional Behavioral Assessment (FBA).
  - Extended School Year (ESY) data keeping and determination.
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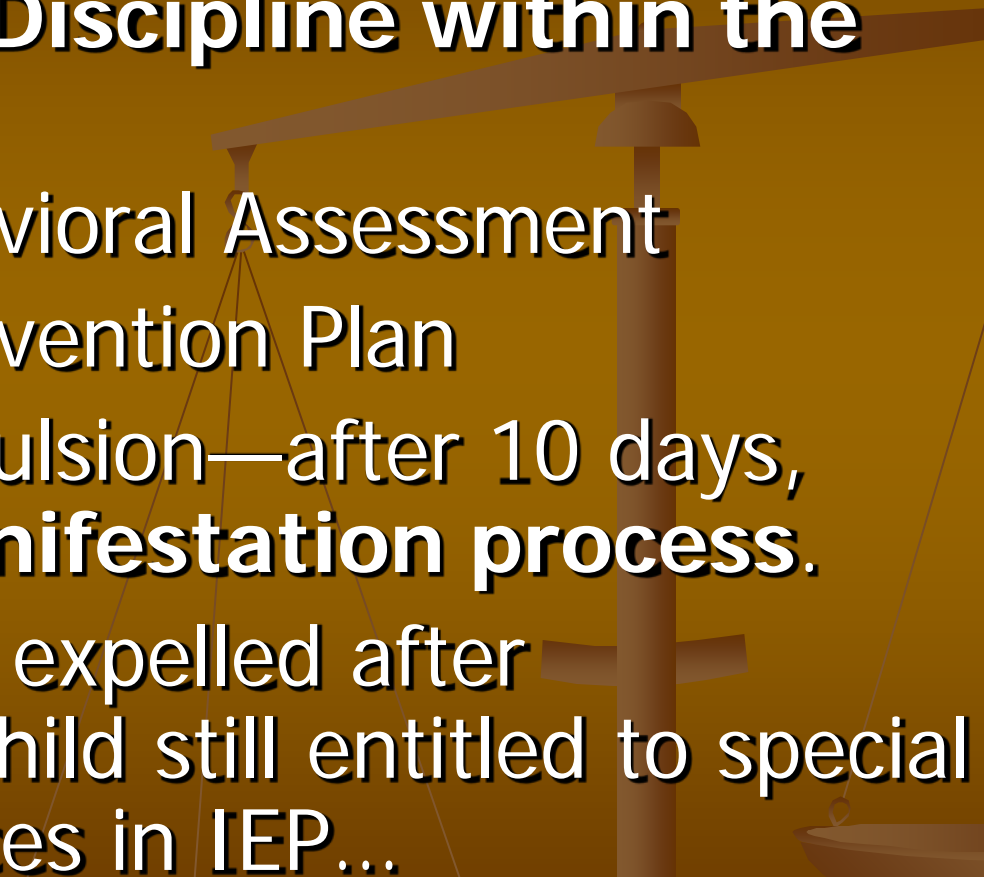


# IDEA Roadmap: IEP

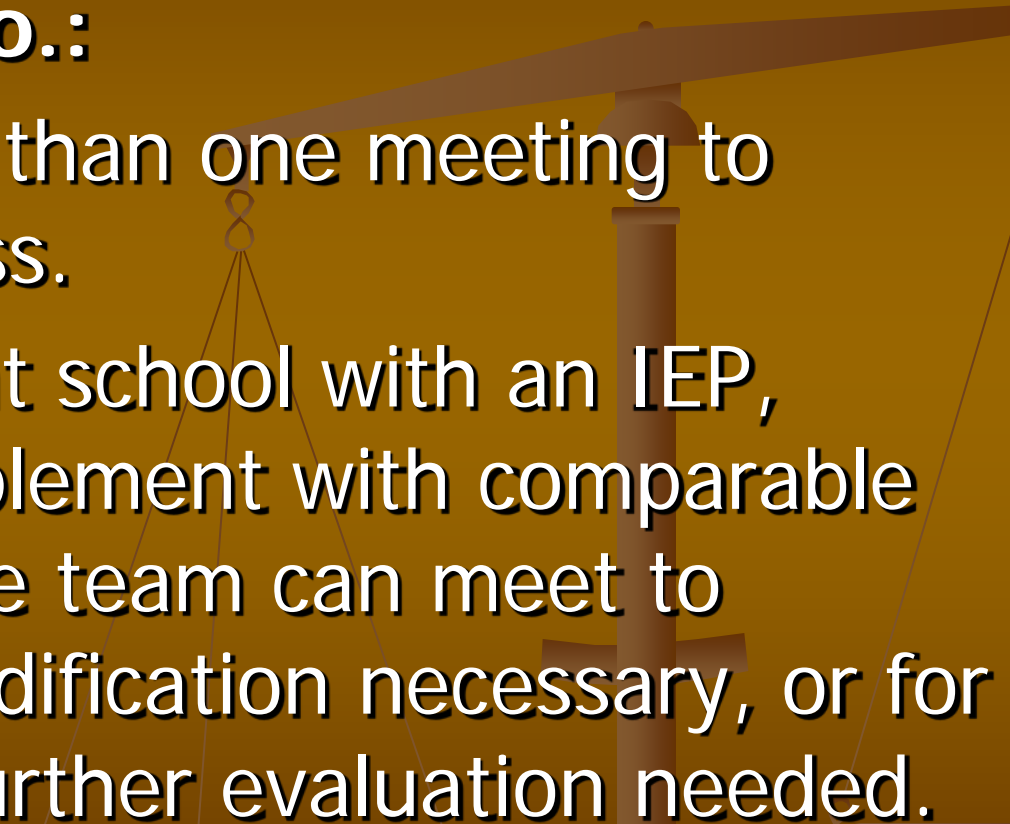
- **Placement: least restrictive required.**  
Home instruction/ placement outside school building is most restrictive.
- District must have continuum of placements available and may have to access resources outside district boundary to meet individual needs of the child.



# IDEA Roadmap: IEP

- **Behavior and Discipline within the IEP:**
  - Functional Behavioral Assessment
  - Behavioral Intervention Plan
  - Suspension/Expulsion—after 10 days, must follow **Manifestation process.**
  - Even if properly expelled after manifestation, child still entitled to special education services in IEP...
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# IDEA Roadmap: IEP

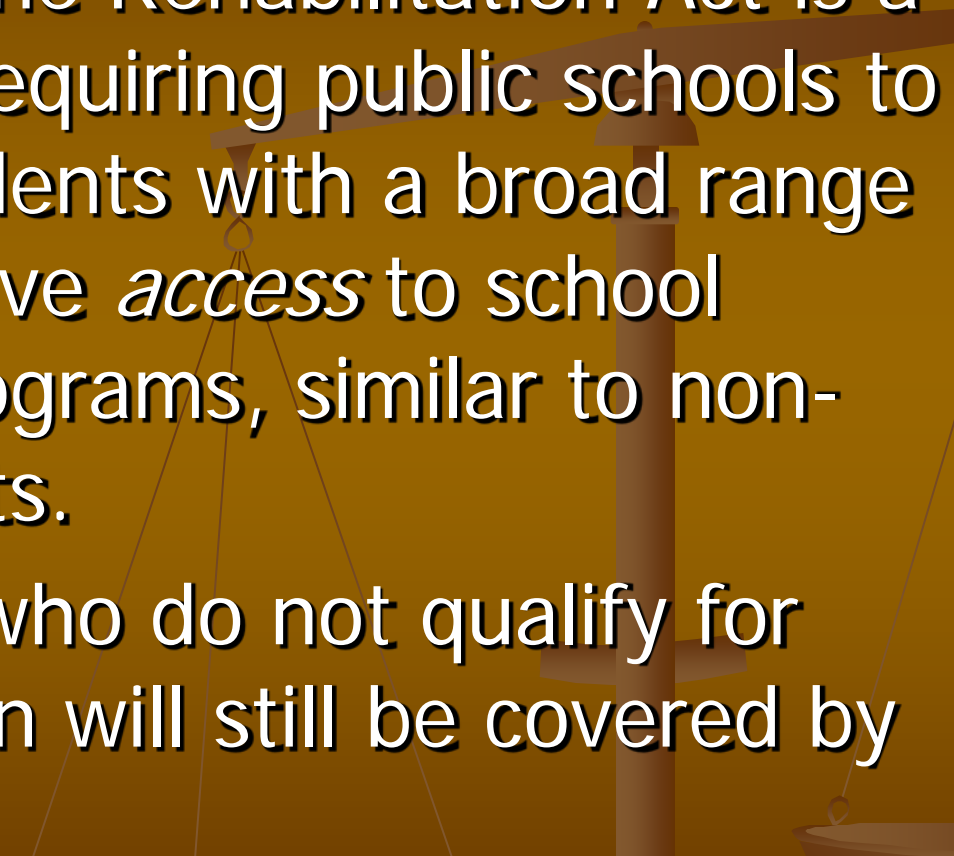
- **Additional Info.:**
  - May need more than one meeting to complete process.
  - If child arrives at school with an IEP, school must implement with comparable services until the team can meet to determine if modification necessary, or for out-of-state if further evaluation needed.
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# IDEA Roadmap: IEP



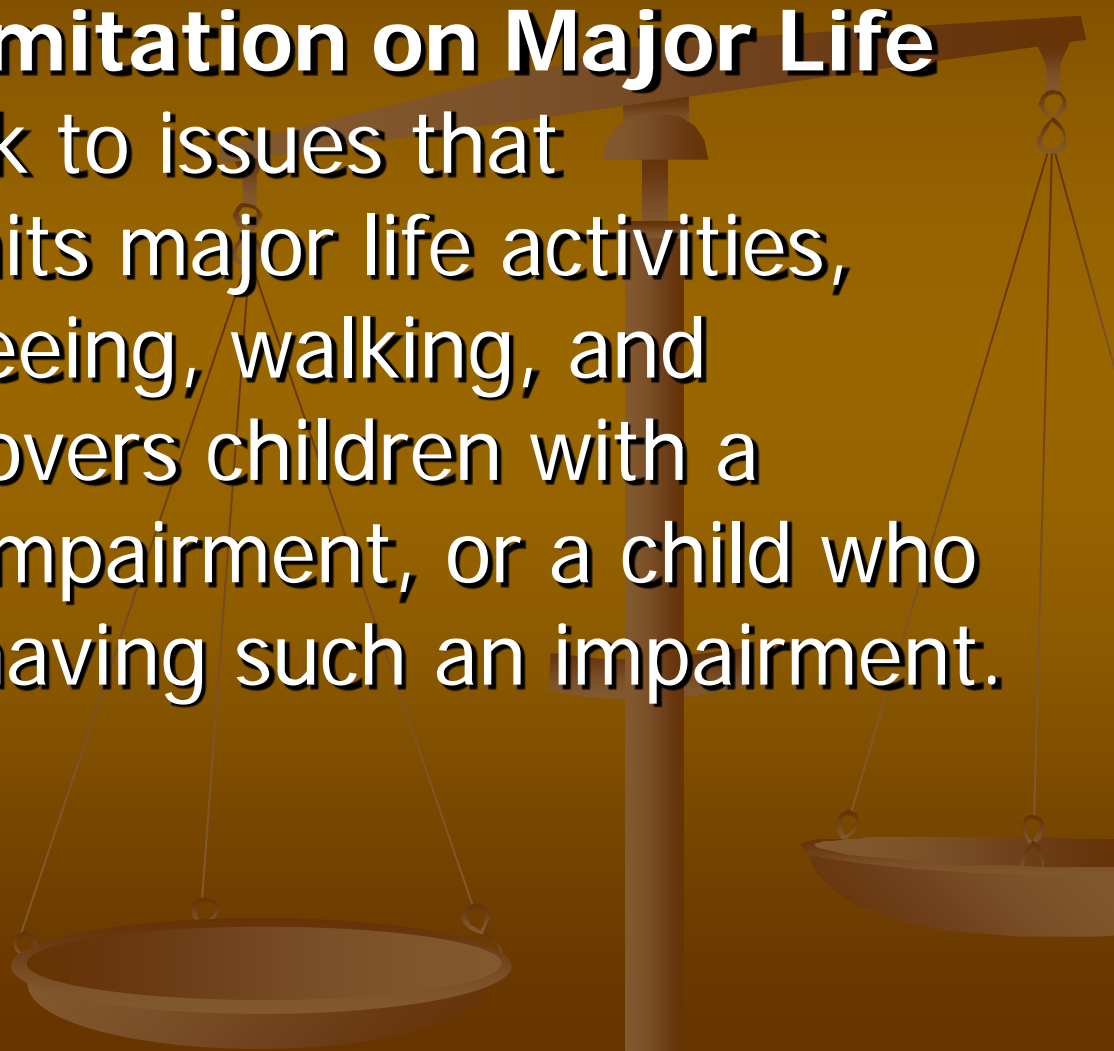
- **Dispute Resolution:** consider working up chain of command from local to state...
- **Complaint Investigation;**
- **Due Process Hearing;**
- **Mediation**
- **Settlement (formal and informal)**

# Other Federal Law: Section 504

- Section 504 of the Rehabilitation Act is a civil rights law requiring public schools to ensure that students with a broad range of disabilities have *access* to school facilities and programs, similar to non-disabled students.
  - Many students who do not qualify for special education will still be covered by Section 504.
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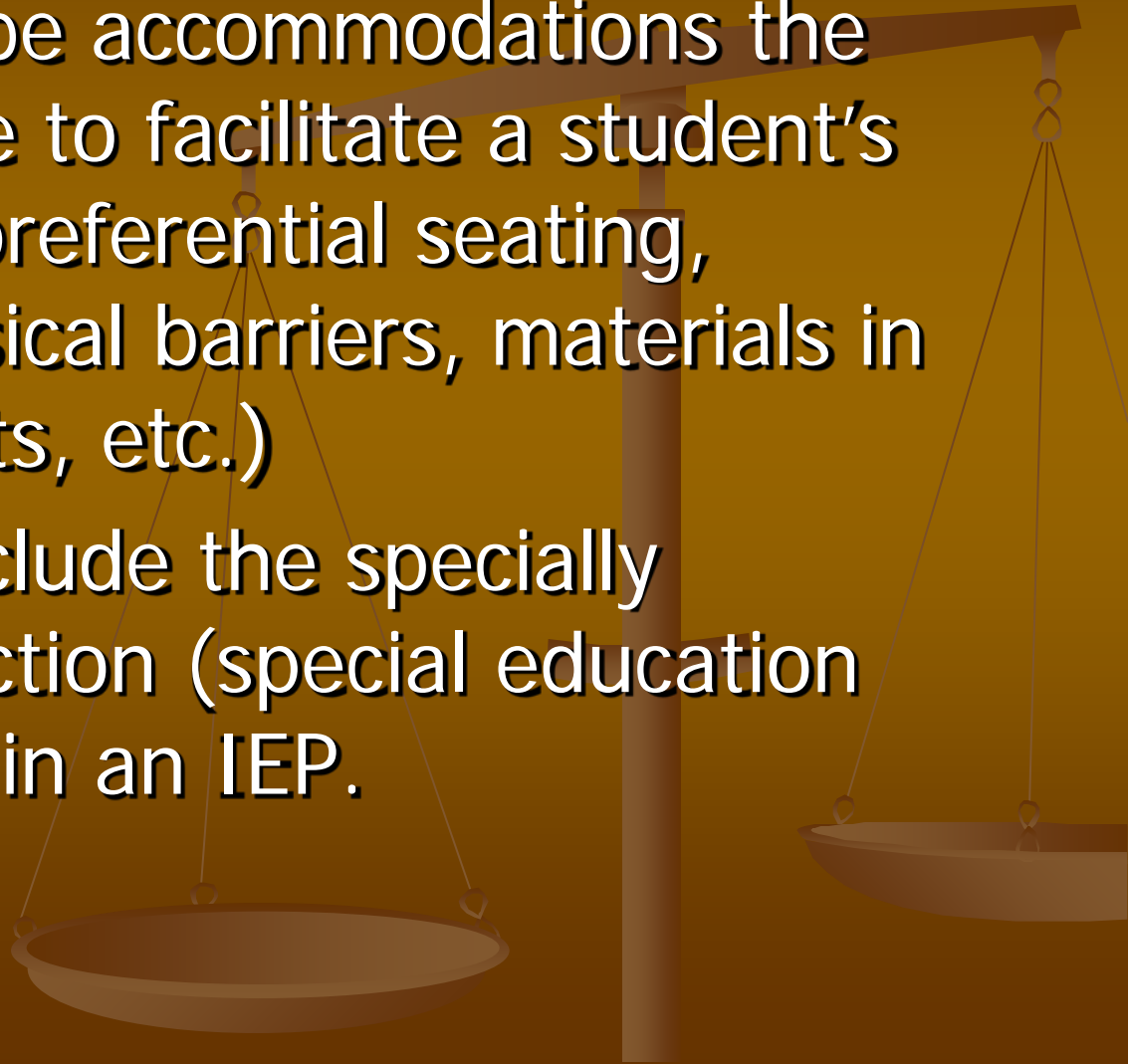
# Section 504:

- **Substantial Limitation on Major Life Activities:** Look to issues that substantially limits major life activities, such hearing, seeing, walking, and learning. Also covers children with a record of such impairment, or a child who is regarded as having such an impairment.



# 504 Plans

- Typically describe accommodations the school will make to facilitate a student's learning (e.g., preferential seating, removal of physical barriers, materials in alternate formats, etc.)
- Often do not include the specially designed instruction (special education services) found in an IEP.



# Section 504:

- 504 procedures should mirror IDEA processes: consent, evaluation, 504 meeting, written plan with modifications and accommodations, and possibly specially designed instruction. Disputes can be addressed locally, at the state level, and/or the federal level.

