

II. Core Competencies of a Special Education Advocate

The SEAT Project is built on the assumption that a professional Special Education Advocate must meet the following competencies.

A. Legal Foundation of Special Education Law

The SEAT Trainee will:

1. Describe the **historic basis** of special education rights
2. Describe the **key federal law** (primary resource) (Civil Rights Act of 1964, PL 94-142/IDEA, Section 504 of the Rehab Act, ADA, FERPA/HIPPA, NCLB) as follows:
 - a. Provide an overview and purpose of each law.
 - b. Compare and contrast these laws and how they can be utilized to access special education supports and services
3. Describe **key landmark court decisions** underlying special education law (Brown v. board of Education, PARC v. Pennsylvania, Mills v. Board of Education of the District of Columbia).
4. Describe **how federal law is implemented within states** and the impact of state-specific laws and regulations.
 - a. Describe the interface of federal and state laws, i.e., conformity and preemption
 - b. Identify and describe State special education code/laws/regulations that significantly add to the rights conferred by IDEA.
 - c. Identify procedural rules specific to the local jurisdiction.
 - d. Identify and describe types of other relevant state processes, agencies, and agency responsibilities that affect access to related services for school-aged children (primary source), e.g., access to mental health services, medical/health services, technology, etc.
5. Describe the **difference between laws, statutes, regulations, case law and policy**
6. Describe the legal foundation and broad mechanisms for **procedural safeguards** under IDEA and Section 504 and **how states may differ** in implementation

- a. An overview of Procedural Safeguards
- b. Complaint Filing.
- c. One/two-tier Due Process/Formal Hearings
- d. Statutes of limitations

B. Fundamental Principles and Components of Special Education Law

The SEAT Trainee will:

1. Define the following **ESSENTIAL PRINCIPLES/COMPONENTS** of special education law and give examples of each:
 - a. Zero reject
 - b. Non Discriminatory Evaluations
 - c. Free and Appropriate Public Education
 - d. LRE
 - i. Accommodations and Modifications
 - ii. Supplemental Aides and Services
 - e. Procedural Due Process
 - f. Parent participation
2. Name the **major components of CHILD FIND**, including who can refer a child, and the federal and state time line is for a referral.
3. Identify the licensing, credential or other requirements for all the **MEMBERS of the IEP TEAM** (state specific)
4. Have functional knowledge of the required components of **EVALUATION and ASSESSMENT**, as demonstrated by:
 - a. Describing the typical evaluations and assessments used within the general/special education system
 - b. Describing when assessments are needed
 - c. Evaluating the adequacy of a report using the following criteria for analysis
 - i. Subjective (interview)
 - ii. Objective (measurable)
 - iii. Assessment (data information)
 - iv. Plan (recommendations)
 - v. Qualifications of assessor

- d. Describing the steps and legal requirements for a triennial reevaluation
- e. Describe the assessment process for a student whose primary language is other than English.
- f. Describing the steps and legal requirements to obtain an IEE
5. Describe and define special education **ELIGIBILITY**
 - a. Under IDEA
 - b. Under Section 504 and the ADA
6. Describe and articulate the components of the **IEP Process**
 - a. Parent Participation
 - b. The IEP Team
 - c. The IEP document
 - d. Procedural safeguards related to the IEP process
7. Competently analyze and determine whether the IEP document contains the elements and meets the **criteria for federal and state COMPLIANCE**, i.e.,
 - a. Individualized to the child's needs
 - b. Contains specific, measurable, appropriate goals
 - c. Services are provided within the least restrictive environment
 - d. Etc.
8. Name and describe the continuum of **OPTIONS for PLACEMENT** under the IDEA and within the SEA.
9. Identify and describe the **required components of PART "C"** under state and federal law, and how Part C is administered in his/her local jurisdiction.
10. Identify and describe the required components of **TRANSITION PLANNING and SERVICES** under state and federal law.
11. Identify and describe specific issues and strategies related to **DISCIPLINE, long-term suspensions and expulsions**.
12. Describe the additional procedural safeguards specific to parents whose **PRIMARY LANGUAGE is OTHER THAN ENGLISH**
13. Identify and describe the required components of special education rights in connection to students in the **juvenile system**.

14. Identify and describe the required components and issues related to the need for and availability of **assistive technology** for students with disabilities.

C. Practicing Advocacy with Ethics and Integrity:

The SEAT Trainee will:

1. Articulate guidelines for and **demonstrate an understanding of ethical conduct in advocacy practice**, as indicated by the following:
 - a. Practicing within the boundaries of his/her competence based on relevant education, training, or experience
 - b. Demonstrating adequate knowledge of federal and state education laws and systems
 - c. Disclosing his/her status as a non-lawyer.
 - d. Preserving and protecting the confidences, disclosures, and information (written or oral) of a potential, current or prior client and/or attorney which have been disclosed to the advocate.
 - e. Preserving and protecting as privileged all communications received in connection with the representation
 - f. Avoiding conflicts of interest and immediately disclosing in writing any potential conflicts.
 - g. Providing assistance and legal information within the standard of care for unlicensed Practitioners within the advocates' jurisdiction.
 - h. Providing assistance and legal information being cognizant of cultural, individual and role differences.
 - i. Managing his/her advocacy business in accordance with generally accepted financial and risk management practices and applicable federal, state and local requirements
 - j. Regular and ongoing participation in continuing education in order to ensure knowledge and skills which are current and considered best practice in the field.
2. Identify the limitations on lay advocacy as determined by the **Unauthorized Practice of Law (UPL)**, based on jurisdiction,

- a. Applicable state statutory scheme & case law
3. Demonstrate **skills to effectively work with parents/students** by:
 - a. Providing competent “education and assistance” services.
 - b. Assisting parents to prepare for meetings.
 - c. Recognizing cultural and individual differences in individual/family comfort with the basic guarantees and promises of special education law (e.g., least restrictive environment, parent participation in the IEP, conflict resolution, self-advocacy and advocacy services, etc.) and modifying his/her practice to respect these differences yet maintain the best interest of the student.
 - d. Providing access to information in consumer friendly language, orally and in writing
 - i. Reading/comprehension level (Explaining complex information appropriately to families from diverse educational backgrounds)
 - ii. In the language of comfort where possible
 - e. Providing emotional support to families going through dispute resolution and/or aspects of the process which are uncomfortable
 - f. Describe and demonstrate methods and strategies for creating a trusting advocate/client relationship
 - g. Describe and demonstrate methods and strategies for preventing a breakdown in the advocate/client relationship.
- D. **Basic Skills of a Special Education Advocate**
 1. Describe and demonstrate effective strategies for **client interviews and intake**
 2. Write a **case analyses report** which includes:
 - a. Information from documents and records obtained at the client interview
 - b. Clarifies the client’s expectations
 - c. Outlines the merits of the case
 - d. Develops an plan of action for achieving the client’s goals
 - e. Determines the scope of the representation by the advocate
 5. Demonstrate knowledge of the **LEA and the special education system** and list: SELPA, CDE, CAC; Directors, Program specialists; Board policies; Local Plan, and how the system works.

6. Demonstrate **competent oral and written communication skills** to in all aspects of special education advocacy practice, including but not limited to:
 - a. Communicating the parents' position to an LEA (stating a claim)
 - b. Client representation in facilitated IEPs, mediation
 - c. Assisting in preparation of cases for due process hearings.
7. Describe and demonstrate use of a **comprehensive template for communicating with the SEA and LEA**, including but not limited to:
 - a. Requesting educational records
 - b. Requesting interagency agreements
 - c. Requesting relevant policy/procedural documents from the LEA/SEA, including but not limited to special education policies and procedures, Minutes of School Board decisions and other policymaking bodies
 - d. Scheduling IEP meetings, informal
 - e. meetings, resolution sessions, etc.
8. Describe and demonstrate use of a **comprehensive template for communicating with other sources of relevant information** (e.g., clinician reports)
9. Appropriately interact and **communicate with attorneys, consultants, and school district personnel**
10. Identify and apply **special education case law** (primary source)
 - a. Locate sources
 - b. Outline court cases (Issue, Holding, Reasoning, Dicta)
 - c. Determine the relevance as it relates to special education
 - d. Determine if the case is applicable in local jurisdiction
11. Locate a specific topic within the law using a variety of **research methods** (book index, Lexis, Westlaw, LRP, Findlaw)
12. Locate and provide a minimum of two (2) **secondary sources** on a designated topic (i.e.-state and federal policy letters, or expert opinions)
13. Describe and deliver a list of **local, state, regional and national resources** for field specific information and services, including but not limited to:
 - a. Issues of diversity and elimination of bias

- b. Alternative Dispute Resolution
 - c. Translation and interpreting services
 - d. Protection and Advocacy agencies
 - e. OSEP
 - f. Alliance for PTI's and CPRCs
 - g. Disability Organizations
14. Describe and deliver a list of local, state, regional and national resources for parents and students for **self-directed learning, peer support, and other needed services**
- a. Parent Training and Information (Parent Training and Information Centers, Family Resource Centers, Family Voices, etc.)
 - b. Peer support
 - c. Ethnic/linguistic--specific parent/consumer groups
 - d. Disability specific parent/consumer groups
 - e. Community building
 - f. Legislative awareness and action.

E. Conflict Resolution in Special Education

The SEAT Trainee will:

1. Define and distinguish among the following **ALTERNATIVE and FORMAL DISPUTE OPTIONS** guaranteed under IDEA and/or Section 504
 - a. Informal negotiations during IEP meetings and other informal meetings
 - b. Facilitated IEP
 - c. Complaint Filing
 - d. Resolution Session
 - e. Mediation
 - f. Due Process/Formal Hearings.
2. Articulate and describe **effective strategies** for :
 - a. Facilitation
 - b. Negotiation
 - c. Mediation
3. **Competently prepare :**

- a. Parents for an adversarial IEP meeting
- b. Yourself for an adversarial IEP meeting
- c. for Resolution Sessions, Mediation and negotiations

F. The Business of Advocacy:

The SEAT Trainee will:

1. Describe and demonstrate an understanding of what a **“standard of practice”** is as it relates to special education advocacy.
2. Describe and demonstrate appropriate use of an **appropriate case management system**.
 - a. Timeline management - Tracking Deadlines, 30 IEP Request, 15/50 Day Assessment, etc.
 - b. Client information & intake/contact details.
 - c. Preparation of a case history
 - d. Preparation of a case plan by setting priorities, creating strategies and timelines for achieving client’s goals
 - e. Document management - Maintaining the Client File including handling of sensitive and privileged content.
 - f. File retirement and storage
3. Describe and demonstrate **appropriate interaction with attorneys and other professionals within the special education system**.
 - a. Knowing when to refer to an attorney
 - b. Communications with the Hearing Office/Mediator
 - c. Preparing a case file for referral
4. Describe and demonstrate an understanding of **procedures for maintaining client confidentiality**
5. Describe and demonstrate an understanding of how to **limit the scope of his/her advocacy representation**
6. Identify and describe basic components of and options for **fee agreements with clients**.

- a. Contract basics
 - b. Limiting scope of work
 - c. Retainer options
7. Describe the need for and availability of **liability limiting strategies**:
- a. Professional liability insurance
 - b. Entity structure to segregate business personal activities from business activities.
8. Describe issues related to **earning a living as a Special Education Advocate**
- a. Maintaining a sustainable ratio of pro bono cases.
 - b. Managing debt and business credit
 - c. Securing alternative sources of funding - Grants, foundations and NGOs
 - d. Maintain Billing practices, including time tracking, timely issue of statements, and conformity with retainer.