

**TESTIMONY ON THE IMPACT OF INDIVIDUALS  
WITH TRAUMATIC BRAIN INJURY  
LONG-TERM CARE COMMITTEE**

**Wednesday, July 14, 2010**

**By Gerry Teevens, Special Education Regional Coordinator  
Department of Public Instruction  
701-328-2277**

---

Mr. Chairman and members of the committee:

Good morning Chairman Kreidt and members of the Long-Term Care Committee. My name is Gerry Teevens and I work in the office of special education at the North Dakota Department of Public Instruction. I was invited to share information with the committee regarding educational services provided to children who have traumatic brain injuries. DPI is responsible for the general supervision of the Individuals with Disabilities Education Act, commonly referred to as I.D.E.A. The I.D.E.A. is our nation's federal special education law.

There are thirteen disability categories specified in the I.D.E.A. These include high incidence disabilities such as Specific Learning Disabilities (SLD), Emotional Disturbance, and Speech or Language Impairments. It also includes low-incidence disabilities such as Deaf-Blindness, Visual Impairment including Blindness, and Traumatic Brain Injury (TBI).

Each December 1<sup>st</sup> the Department of Public Instruction requires an official count of children identified with a disability and who are receiving special education services in our state. The 2009-2010 public enrollment special education child count for North Dakota is presented in the following table:

**2009-2010 ND School Age Children by Disability Category**

| <b>Disability</b>                     | <b>Number of Students</b> |
|---------------------------------------|---------------------------|
| Autism                                | <b>586</b>                |
| Deaf-blindness                        | <b>5</b>                  |
| Emotional Disturbance                 | <b>913</b>                |
| Hearing Impairment including Deafness | <b>125</b>                |
| Mental Retardation                    | <b>801</b>                |
| Non-Categorical Delay (3-5)           | <b>740</b>                |
| Non-Categorical Delay (6-9)           | <b>671</b>                |
| Other Health Impairment               | <b>1,606</b>              |
| Orthopedic Impairment                 | <b>115</b>                |
| Speech Impairment                     | <b>3,439</b>              |
| Specific Learning Disability          | <b>4,159</b>              |
| <b>Traumatic Brain Injury</b>         | <b>50</b>                 |
| Visual Impairment including Blindness | <b>51</b>                 |
| <b>Total:</b>                         | <b>13,261</b>             |

As you can see the number of students who have a traumatic brain injury and who are eligible for special education and related services is comparatively small. However, each of these 50 students has been evaluated by a multidisciplinary team and determined to be in need of these services. The I.D.E.A. regulations define a traumatic brain injury as follows:

**§300.8 Child with a disability. (c)**

(12) ***Traumatic brain injury*** means an acquired injury to the brain caused by an external physical force, resulting in total or partial functional disability or psychosocial impairment, or both, that adversely affects a child's educational performance. Traumatic brain injury applies to open or closed head injuries resulting in impairments in one or more areas, such as cognition; language; memory; attention; reasoning; abstract thinking; judgment; problem-solving; sensory, perceptual, and motor abilities; psychosocial behavior; physical functions; information processing; and speech. Traumatic brain injury does not apply to brain injuries that are congenital or degenerative, or to brain injuries induced by birth trauma.

Special education means specially designed instruction, at no cost to the parents, to meet the unique needs of a child with a disability. Special education can include classroom instruction, instruction in hospitals or institutions or other

settings. Special education may be supplemented by related services such as transportation and developmental, corrective, and other supportive services required to assist a child with a disability to benefit from special education.

Related services include:

- Speech-language pathology and audiology services;
- Interpreting services;
- Psychological services;
- Physical and occupational therapy;
- Recreation, including therapeutic recreation;
- Early identification and assessment of disabilities in children;
- Counseling services, including rehabilitation counseling;
- Orientation and mobility services; and
- Medical services for diagnostic or evaluation services.

For purposes of explaining what these services might include for a student who has a TBI, please find attached to this document, the regulation that defines what special education means and could entail for a student who has a TBI.

In addition to the related services identified in the bulleted paragraph above, a student with TBI may require adaptations to the regular physical education program in order to participate in the regular curriculum with their nondisabled peers. This may include special physical education, adapted physical education, movement education and motor development.

Within the disability classification of TBI there is a great deal of diversity with regard to the severity of deficits, types of skills and problem areas, and intellectual functioning among students. Students with TBI also differ from students with other disabilities in the onset of the disability, the complexity, and the recovery process. Students often demonstrate inconsistent patterns of performance. In addition, the fact that the effects of a brain injury may not

become evident until a later developmental phase, further complicates the profile of any one student (Cohen et, al., 1988).

The determination of which special education and related services a student should receive is made by a team of people that develops an individualized education program (IEP). (Please find attached also to this document the Federal regulation regarding IEP Team membership).

The IEP team includes: The parents of the child, at least one regular education teacher, at least one special education teacher, a representative of the school district who is qualified to make decisions regarding the provision of specially designed instruction, and an individual who can interpret the instructional implications of educational results. The team may also include, at the discretion of the parent or the school, any other individuals who have knowledge or special expertise regarding the child. When appropriate the team should also include the child with a disability. The I.D.E.A. requires that the child with a disability be invited by the school to attend the IEP meeting if the purpose of the meeting will be the consideration of the postsecondary goals for the child and the transition services needed to assist the child in reaching those goals. These transition services must begin no later than the child's 16<sup>th</sup> birthday.

Service coordination occurs with a well-informed team to address the complex and interrelated problems of student with TBI.

A key concept of the services that are provided through special education is that they must be individually determined for each eligible student. Assessments, IEP development and reviews, and program planning require special considerations in light of the characteristics common to TBI. In order for those services to match the needs of a student who has a traumatic brain injury, a school district must also ensure that the variety of educational programs and services available to nondisabled children in the area served by the district, including art,

music, industrial arts, consumer and homemaking education, and vocational education, are also made available to students with disabilities.

**§ 300.39 Special education.**

(a) *General.* (1) *Special education* means specially designed instruction, at no cost to the parents, to meet the unique needs of a child with a disability, including—

(i) Instruction conducted in the classroom, in the home, in hospitals and institutions, and in other settings; and

(ii) Instruction in physical education.

(2) *Special education* includes each of the following, if the services otherwise meet the requirements of paragraph

(a)(1) of this section—

(i) Speech-language pathology services, or any other related service, if the service is considered special education rather than a related service under State standards;

(ii) Travel training; and

(iii) Vocational education.

(b) *Individual special education terms defined.* The terms in this definition are defined as follows:

(1) *At no cost* means that all specially designed instruction is provided without charge, but does not preclude incidental fees that are normally charged to nondisabled students or their parents as a part of the regular education program.

(2) *Physical education* means—

(i) The development of—

(A) Physical and motor fitness;

(B) Fundamental motor skills and patterns; and

(C) Skills in aquatics, dance, and individual and group games and sports (including intramural and lifetime sports); and

(ii) Includes special physical education, adapted physical education, movement education, and motor development.

(3) *Specially designed instruction* means adapting, as appropriate to the needs of an eligible child under this part, the content, methodology, or delivery of instruction—

(i) To address the unique needs of the child that result from the child's disability; and

(ii) To ensure access of the child to the general curriculum, so that the child can meet the educational standards within the jurisdiction of the public agency that apply to all children.

(4) *Travel training* means providing instruction, as appropriate, to children with significant cognitive disabilities, and any other children with disabilities who require this instruction, to enable them to—

(i) Develop an awareness of the environment in which they live; and

(ii) Learn the skills necessary to move effectively and safely from place to place within that environment (e.g., in school, in the home, at work, and in the community).

(5) *Vocational education* means organized educational programs that are directly related to the preparation of individuals for paid or unpaid employment, or for additional preparation for a career not requiring a baccalaureate or advanced degree.

(Authority: 20 U.S.C. 1401(29))



### **§ 300.321 IEP Team.**

(a) *General.* The public agency must ensure that the IEP Team for each child with a disability includes—

- (1) The parents of the child;
- (2) Not less than one regular education teacher of the child (if the child is, or may be, participating in the regular education environment);
- (3) Not less than one special education teacher of the child, or where appropriate, not less than one special education provider of the child;
- (4) A representative of the public agency who—
  - (i) Is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children with disabilities;
  - (ii) Is knowledgeable about the general education curriculum; and
  - (iii) Is knowledgeable about the availability of resources of the public agency.
- (5) An individual who can interpret the instructional implications of evaluation results, who may be a member of the team described in paragraphs (a)(2) through (a)(6) of this section;
- (6) At the discretion of the parent or the agency, other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate; and
- (7) Whenever appropriate, the child with a disability.

(b) *Transition services participants.*

- (1) In accordance with paragraph (a)(7) of this section, the public agency must invite a child with a disability to attend the child's IEP Team meeting if a purpose of the meeting will be the consideration of the postsecondary goals for the child and the transition services needed to assist the child in reaching those goals under § 300.320(b).
- (2) If the child does not attend the IEP Team meeting, the public agency must take other steps to ensure that the child's preferences and interests are considered.
- (3) To the extent appropriate, with the consent of the parents or a child who has reached the age of majority, in implementing the requirements of paragraph (b)(1) of this section, the public agency must invite a representative of any participating agency that is likely to be responsible for providing or paying for transition services.

(c) *Determination of knowledge and special expertise.* The determination of the knowledge or special expertise of any individual described in paragraph (a)(6) of this section must be made by the party (parents or public agency) who invited the individual to be a member of the IEP Team.

(d) *Designating a public agency representative.* A public agency may designate a public agency member of the IEP Team to also serve as the agency representative, if the criteria in paragraph (a)(4) of this section are satisfied.

(e) *IEP Team attendance.* (1) A member of the IEP Team described in paragraphs (a)(2) through (a)(5) of this section is not required to attend an IEP Team meeting, in whole or in part, if the parent of a child with a disability and the public agency agree, in writing, that the attendance of the member is not necessary because the member's area of the curriculum or related services is not being modified or discussed in the meeting.

(2) A member of the IEP Team described in paragraph (e)(1) of this section may be excused from attending an IEP Team meeting, in whole or in part, when the meeting involves a modification to or discussion of the member's area of the curriculum or related services, if—

- (i) The parent, in writing, and the public agency consent to the excusal; and
- (ii) The member submits, in writing to the parent and the IEP Team, input into the development of the IEP prior to the meeting.