

ADVOCACY HANDBOOK

A Parent's Guide for Special Education

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through the generosity of*

**THE ACLD FOUNDATION
&
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*In memory of
Patti Richards
passionate advocate for children and adults
with learning disabilities
whose vision and resolution inspired this publication*

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WHAT IS A LEARNING DISABILITY?

“Specific Learning Disability” means a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, which 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 handicaps, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. The term does not include children who have learning problems which are primarily the result of visual, hearing, or motor handicaps, of mental retardation, of emotional disturbance, or of environmental, cultural or economic disadvantage.”

*The Individuals with Disabilities
Education Act Amendments of 1997*



Specific Learning Disabilities is a chronic condition of presumed neurological origin which selectively interferes with the development, integration, and/or demonstration of verbal and/or non-verbal abilities.

Specific Learning Disabilities exists as a distinct handicapping condition and varies in its manifestations and in degree of severity.

Throughout life, the condition can affect self-esteem, education, vocation, socialization, and/or daily living activities.

Learning Disabilities Association of America



INTRODUCTION

The Learning Disabilities Association of America (LDA) is a non-profit organization of volunteers including individuals with learning disabilities, their families and professionals. LDA is dedicated to identifying causes and promoting prevention of learning disabilities and to enhancing the quality of life for all individuals with learning disabilities and their families by encouraging effective identification and intervention, fostering research, and protecting rights under the law. LDA seeks to accomplish this through awareness, advocacy, empowerment, education, service and collaborative efforts.

The purpose of this handbook is to provide information and resources which will help parents advocate for appropriate education and services for their children with learning disabilities.

The focus of this handbook is on the **Individuals with Disabilities Education Act Amendments of 1997 (IDEA)** (originally Public Law 94-142, the Education of All Handicapped Children Act of 1975), the federal special education law. IDEA promises a free appropriate public education to eligible students with learning disabilities to meet their unique needs. One of the most important principles of IDEA is that parents are to be considered equal partners in the special education process. Parents and students, when appropriate, are to participate in decision-making regarding special education services.

Under IDEA parents must be an equal participant on teams which decide such important issues as eligibility for special education services, the development of the Individualized Education Program (IEP), and the extent to which a child will receive special education services in the least restrictive environment.

Thus, it is clear that Congress, in enacting IDEA, anticipated an important role for parents as participants and partners in the special education process. We hope that this handbook will help you become informed and enable you to successfully carry out these responsibilities.



TABLE OF CONTENTS

PART I: GENERAL PRINCIPLES AND CONCEPTS OF THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT (IDEA)

Chapter 1	Principles of IDEA.....	5
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PART II: THE SPECIAL EDUCATION PROCESS (IDEA)

Chapter 2	Referral (Child Find) Referring Children for Consideration for Special Education Services.....	12
Chapter 3	Evaluation Evaluating Children Who Have Been Referred to Determine Eligibility for Special Education Services and Requirements for Reevaluation	14
Chapter 4	Eligibility Determining Whether a Child is Eligible for Special Education Services.....	17
Chapter 5	The Individualized Education Program (IEP) Developing and Implementing the IEP.....	22
Chapter 6	Placement Determining Where The Student Eligible for Special Education Services Will Be Served.....	31

PART III: SPECIAL ISSUES RELATED TO SERVING STUDENTS WITH LEARNING DISABILITIES IN SPECIAL EDUCATION

Chapter 7	Discipline in Schools For Students with Learning Disabilities	38
Chapter 8	State and District-wide Assessment Programs	45
Chapter 9	When Parents Disagree with the School.....	49

PART IV: OTHER SECTIONS OF IDEA THAT MAY BE IMPORTANT TO PARENTS OF STUDENTS WITH LEARNING DISABILITIES

Chapter 10	Serving Infants & Toddlers, Birth Through Age Two	56
Chapter 11	Services for Preschool Children, Ages Three Through Five.....	60

PART V: OTHER LAWS THAT IMPACT STUDENTS WITH LEARNING DISABILITIES

Chapter 12	Rehabilitation Act of 1973 (RA) Section 504.....	62
Chapter 13	Americans with Disabilities Act (ADA).....	69
Chapter 14	Family Educational Records Privacy Act (FERPA).....	71

Chapter 15	The Role of States In the Delivery of Special Education Services	72
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CHARTS & SPECIAL ITEMS

The Legislative History of Special Education.....	4
First Steps for Parents When School Problems are Observed	10
Steps in the Special Education Process.....	11
IEP Check List for Parents.....	28
Classroom Accommodations	29
Responsibilities of Parents of Children with Learning Disabilities in the Special Education Process.....	35
Accessing Education Records.....	37
Frequently Asked Questions about Discipline Issues for Students with Disabilities	43
IDEA/504 Flow Chart.....	65
Comparison of the Rehabilitation Act of 1973, Section 504 and IDEA.....	66
Tips for Writing Letters of Request.....	76

APPENDIX

Appendix A	Sample Letters	
A1	Request for Evaluation for Special Education Services.....	77
A2	Request for Reevaluation	78
A3	Request for Reevaluation for a Triennial Review.....	79
A4	Request for Additional Testing.....	80
A5	Request for An Independent Educational Evaluation (IEE).....	81
A6	Request for Change in Student’s Records.....	82
A7	Request for Records from School.....	83
A8	Request for Mediation	84
A9	Filing a Complaint with the State Education Agency	85
A10	Request for Impartial Due Process Hearing.....	86
Appendix B	Acronyms.....	87
Appendix C	Related Agencies	89
Appendix D	Other Resources.....	90
Appendix E	References	91
INDEX.....		92

PART I

GENERAL PRINCIPLES AND CONCEPTS OF THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT (IDEA)

Chapter 1 Principles of IDEA

What is the Individuals with Disabilities Education Act?

Public Law 105-17, the Individuals with Disabilities Education Act Amendments of 1997 (IDEA), is the federal special education law. IDEA was signed into law in June 1997, with final federal regulations published in March 1999. This law replaces all earlier versions of Public Law 94-142, the Education of All Handicapped Children Act of 1975.

IDEA guarantees to each child with a disability and in need of special education services, the right to a free appropriate public education (FAPE) in the least restrictive environment (LRE) appropriate. IDEA includes four main parts:

- Part A - General provisions, including definitions of disabilities
- Part B - Assistance to states for the education of all handicapped children, including all of the provisions related to identifying children with disabilities and providing them with a free appropriate education
- Part C - Infants and toddlers with disabilities
- Part D - National assistance to improve the education of children with disabilities

What are the six main principles of IDEA?

The following six main principles of IDEA embody the underlying spirit and intent of IDEA and provide the framework around which special education services are designed and provided to students with disabilities:

1. Free Appropriate Public Education — IDEA guarantees that each child with a disability, eligible for special education, will be entitled to a free appropriate public education (FAPE).

Free requires that the education of each child with a disability must be provided at public expense and at no cost to the child's parents. The only exception is that incidental fees normally charged to non-disabled students or their parents as part of the regular education program may also be charged to students with disabilities and their parents.

Appropriate means that each child with a disability is entitled to an education that is “appropriate” for his or her needs. “Appropriate education” is determined on an individual basis and may not be the same for each child with a disability.

Public refers to the public school system. Children with disabilities, regardless of the nature or severity of their disabilities, have the same right to attend the public schools as their non-disabled peers. The public school system must educate students with disabilities, respond to their individual needs, and help them plan for their future.

Education - IDEA is an education act that guarantees that eligible children with disabilities will receive a public education that includes special education and related services as directed by the child's Individualized Education Program (IEP), based on the child's individual needs.

2. Appropriate Evaluation — IDEA requires that each child suspected of having a disability receive an appropriate evaluation:

- In all areas of suspected disability.
- By a team of evaluators knowledgeable and trained in the use of the tests and other evaluation materials they use.
- Employing a variety of sound evaluation materials and procedures selected and administered so as not to be racially or culturally discriminatory.
- Without subjecting a child to unnecessary tests and assessments.
- Including the gathering of relevant information from a variety of sources.
- Based on information that is useful instructionally in planning for the child’s education.

An appropriate evaluation provides information to be used to determine the child’s eligibility for special education and related services and the educational needs of the child.

3. Individualized Education Program (IEP) — In order to ensure that students with disabilities receive an appropriate and individualized education, IDEA requires that, after drawing upon current evaluation information, the IEP team develop a written document, the IEP, designed to meet the unique educational needs of each student with disabilities. IDEA contains clear language about:

- The information which the IEP must contain.
- Who develops the IEP.

- The public agency’s obligation to provide the special education and related services identified in the IEP.

4. Least Restrictive Environment (LRE) — IDEA guarantees that a child with a disability will receive a free appropriate public education in the least restrictive environment (LRE) appropriate. This principle reflects IDEA’s strong preference for educating students with disabilities in general education classes with the access to general education curriculum. Placement in the general education classroom is the first placement option the IEP team must consider.

When considering placement in the general education classroom, the team is required to explore the range of modifications and supplementary aids and services that are needed to ensure that the student can receive a satisfactory education in the general education classroom. If the IEP team determines that the student can be appropriately educated in the general education classroom using modifications/supplementary aids and services, this is the LRE for that particular student.

However, the IEP team may determine that the student cannot be educated satisfactorily in the general classroom, even with the provision of modifications and supplementary aids and services. The team must then consider other placements outside of the general classroom in order to provide FAPE for the child. The range of such placements that each school system is required to have available is commonly referred to as the “continuum of alternative placements.” Thus, like all other components of a student's special education, the LRE must be determined for each student based upon **that child’s individual needs**.

5. Parent and Student Participation in Decision Making — This principle reinforces the belief that the education of children with disabilities is made more effective by strengthening the role of parents in the special education process. IDEA requires that parents (and students, as appropriate) participate in each step of the special education process. Students must be invited to participate in IEP meetings where transition services are to be discussed. Parent involvement includes:

- Equal partnership in the decision-making process.
- The right to receive notice.
- The right to give consent for certain activities such as evaluations, changes in placement; and release of information to others.
- The right to participate in all meetings concerning their child's special education.

6. Procedural Safeguards — Procedural safeguards are a set of activities whose purpose is to ensure that:

- The rights of children with disabilities and their parents are protected.

- All information needed to make decisions about the provision of a free appropriate public education to the student is provided to parents of children with disabilities and to the student when appropriate.
- Procedures (mediation and due process) are in place to resolve disagreements between parties.

Some procedural safeguards under IDEA include the right of parents to:

- Inspect and review their child's educational records.
- Obtain an independent educational evaluation (IEE).
- Be given written prior notice on matters regarding the identification, evaluation, or educational placement of their child.
- Request mediation and an impartial due process hearing.
- Be given a full explanation of all of the procedural safeguards under IDEA and State complaint procedures.
- Appeal the initial hearing decision to the State Education Agency (SEA) if the SEA did not conduct the hearing; (also the right of the public agency).
- Have child remain in his/her present educational placement, unless the parent and the public agency agree otherwise, while administrative or judicial proceedings are pending.
- Bring a civil action in an appropriate State or Federal court to appeal a final hearing decision; (also the right of the public agency).
- Request reasonable attorney's fees from a court for actions or proceedings brought under the IDEA under certain circumstances.
- Give or refuse consent before their child is evaluated or reevaluated.
- Participate in (and in some cases to appeal) discipline decisions regarding students with disabilities.

**FIRST STEPS FOR PARENTS
WHEN SCHOOL PROBLEMS ARE OBSERVED**
(Not Required by IDEA)

What are the first steps for parents when school problems are observed? What is meant by “pre-referral” or “problem-solving?”

If a student is having unusual difficulty in school the parent should discuss the situation with the teacher and other school personnel. Although not a requirement of IDEA, most schools have a problem-solving team which works with families in reviewing and solving problems that affect school performance before beginning a formal process of referral for special education and related services as described in IDEA. Problem-solving activities or strategies used by the regular education teacher to address the child’s difficulty may consist of changes in the physical environment, changes in instructional approaches, short-term remedial activities, peer tutoring, or behavioral management plans.

Who serves on the problem-solving team?

Members of the problem-solving team usually include the child’s teacher, a building level administrator, guidance counselor, the school psychologist, social worker, or consultant. The special education teacher may also be included. Most schools have a problem-solving team that includes general education staff member/s.

What do parents need to know about problem-solving efforts?

- Parents should request to participate in all meetings of the team.
- Parents should receive ongoing information regarding the child’s progress with the strategies in place.
- Parents should provide documentation and results of previous interventions tried.
- Length of time interventions will be attempted prior to referral for consideration for special education. (Time is usually from three to nine weeks)
- Who will implement the intervention, needed materials, frequency, and setting of the interventions.
- Date for follow-up meeting to review progress.
- Parents can stop problem-solving at any time and request referral for consideration for special education and related services. The school must provide parents with a formal notice of their agreement or disagreement.

Prior to, during, or after a period of “problem-solving” efforts in the regular classroom, the child may be referred for consideration for special education and related services.

PART II

THE SPECIAL EDUCATION PROCESS (IDEA)

Chapter 2

Referral (Child Find)

Referring Children for Consideration for Special Education Services

Referral is the beginning of the special education process. At the time of referral, the school district must notify the parents in writing about the process it will follow to determine whether a child has a disability and needs special education services.

What is child find?

IDEA requires that all children with disabilities (birth through twenty-one) residing in the state, including children with disabilities attending private schools, regardless of the severity of their disability, and who may be in need of special education and related services, must be identified, located, and evaluated by the public agency responsible and a practical method developed and implemented to determine which children with disabilities are currently receiving needed special education and related services.

Who should refer a child suspected of having a disability for formal evaluation and consideration for special education and related services?

If a child is suspected to have special needs because of a disability, he or she may be referred to the school to be considered for special education and related services. This referral may be made by parents, teachers, doctors, a community agency, an individual, a group, or an organization that may have worked with the student or school. Referral may also be the result of district-wide testing or screening.

What are the steps in the referral process?

Steps in the referral process include the following:

- At the time of referral, the school district must notify the parents in writing about the process it will follow to determine whether a student has a disability and needs special education services.
- Information gathered during the referral process is used to determine whether the school will test a student to determine if he/she has a disability and needs special education.
- If the school decides to test the child, the school is to notify the parents in writing about the assessment process and get written consent from the parent before the assessment begins.

- If the school decides not to test the child for special education eligibility, the school must notify the parents about this decision. Parents may challenge the school district's refusal to assess the child.

Chapter 3 Evaluation

Evaluating Children Who Have Been Referred to Determine Eligibility for Special Education Services and Requirements for Reevaluation

When and why does a child receive a full and individual initial evaluation?

When the referral process indicates that a child may need special education services, IDEA requires that each public agency shall ensure that a full and individual initial evaluation be conducted **to determine if the child is a “child with a disability,” as defined under IDEA, and the educational needs of the child.**

What are the responsibilities of the public agency to parents prior to the full and individual initial evaluation?

The public agency must provide prior written notice to the parent when proposing to initiate, change or refuse to initiate or change the identification, **evaluation**, or educational placement of the child. Prior written notice shall include:

- A description of the action proposed or refused by the agency.
- An explanation of why the agency proposes or refuses to take the action.
- A description of other options considered by the agency and why action was rejected.
- A description of each evaluation procedure, test, record, or report used as a basis for the proposed or refused action.
- A description of any other factors relevant to the agency’s proposal or refusal.
- A statement that the parents of a child with a disability have protection under the procedural safeguards of the law and the means by which parents can obtain a full explanation of those protections and State complaint procedures.
- Sources parents can contact to obtain assistance in understanding the provisions of IDEA.

Is parental consent required prior to the individual initial evaluation?

Yes. Parents must give informed consent prior to the individual initial evaluation.

What are the requirements in conducting the evaluation?

In conducting the individual initial evaluation, the local education agency shall:

- Ensure that tests and other evaluation materials used to assess a child are selected and administered so as not to be discriminatory on a racial or cultural basis and are provided and administered in the child’s native language or other mode of communication, unless it is clearly not feasible to do so.
- Use a variety of assessment tools and strategies to gather relevant functional and developmental information about the child, including information provided by the parent, that may assist in determining whether the child is a child with a disability and the content of the child’s individualized education program, including information related to enabling the child to be involved in and progress in the general curriculum or, for preschool children, to participate in appropriate activities.
- Ensure that any standardized tests that are given to a child have been validated for the specific purpose for which they are used and are administered by trained and knowledgeable personnel in accordance with any instructions provided by the producer of the tests.
- Not use any single procedure as the sole criterion for determining whether a child is a child with a disability or determining an appropriate education program for the child.
- Ensure that the child is assessed in all areas related to the suspected disability.
- Use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors.
- Assure that assessment tools and strategies are used that provide relevant information that directly assists persons in determining the education needs of the child.

How are the evaluation results used?

- When the administration of tests and other evaluation materials is completed, the determination of whether the child is a “child with a disability” and in need of special education services shall be made by a team of qualified professionals and the parents of the child. (See Chapter 4 - Eligibility)
- A copy of the evaluation report (and the documentation of determination of eligibility) will be given to the parent.

What happens if there is disagreement about the evaluation results?

If parents disagree with the school district’s evaluation results, they have a right to:

- Have someone outside the school system evaluate their child (Independent Educational Evaluation [IEE]).
- Help select the person/persons who will do the evaluation.

- Have the testing done at no cost to the parents/family.

The school district must either have the child evaluated at no cost to the parents or show, at a hearing, that the school's evaluation is appropriate. If a hearing is convened and a final decision finds the school's evaluation to be appropriate, parents still have the right to an IEE, but not at public expense. If parents obtain an IEE at private expense, the IEE results must be considered by the public agency in planning the IEP, if the evaluation meets agency criteria. The IEE may be presented as evidence in a due process hearing.

What does IDEA say about reevaluations?

A triennial evaluation must be done every three years after a child has been placed in special education. Reevaluation can occur more frequently if conditions warrant, or if the parent or teacher request a reevaluation. For example, parents might request a reevaluation when they do not feel their child is progressing within the current program, instruction, services, or goals.

IDEA makes provisions to have a “no questions” reevaluation. This is when the full team, including the parents, feel that the present program is working and simply needs to continue in the same manner. If there are no questions, then no assessments are made and the triennial reevaluation simply confirms progress. ***Parents need to be sure that their questions are not overlooked in the “no questions” reevaluations. This is especially true of the last reevaluation the child receives before leaving high school. The child may need current test data to receive services in post secondary education.***

Is parental consent required for reevaluation?

Informed parental consent is required prior to conducting reevaluation of a child with a disability.

What does reevaluation involve?

Existing evaluations and information provided by parents are reviewed during the reevaluation. On the basis of the review, the team, including the parents and other qualified professionals as appropriate, identify additional needed data to determine whether the child continues to be a child with a disability and in need of special education and related services.

Chapter 4

Eligibility

Determining Whether a Child is Eligible for Special Education Services

When is a child's eligibility for special education and related services determined?

The eligibility of a child for special education and related services is considered upon completion of the administration of tests and other evaluation materials.

Who makes the decision about whether a child is eligible for special education and related services?

The parent of the child and a team of qualified professionals must determine whether the child is a child with a disability and in need of special education and related services.

(The determination of whether a child suspected of having a *specific learning disability* is a child with a disability, must be made by the child's parents and a team of qualified professionals which must include the child's regular teacher; or a regular classroom teacher qualified to teach a child of his or her age if the child does not have a regular teacher; or, for a child of less than school age, an individual qualified by the SEA to teach a child of his or her age; and at least one person qualified to conduct individual diagnostic examinations of children, such as a school psychologist, speech-language pathologist, or remedial reading teacher.)

What must the team consider in determining eligibility?

In interpreting evaluation data for the purpose of determining if a child is a child with a disability and in need of special education, each public agency is to draw upon information from a variety of sources, including aptitude and achievement tests, parent input, teacher recommendations, physical condition, social or cultural background, and adaptive behavior.

Are there additional procedures for evaluating children and determining the existence of a specific learning disability?

Yes. IDEA includes the following additional procedures when evaluating and determining the existence of a specific learning disability:

1. A team may determine that a child has a specific learning disability if:
 - The child does not achieve commensurate with his or her age and ability levels in one or more of the areas listed below, if provided with learning experiences appropriate for the child's age and ability levels; and
 - The child has a severe discrepancy between achievement and intellectual ability in one or more of the following areas: Oral expression; listening comprehension; written expression; basic reading skill; reading comprehension; mathematics calculation; mathematics reasoning.

2. The team may not identify a child as having a specific learning disability if the severe discrepancy between ability and achievement is primarily the result of:
 - A visual, hearing, or motor impairment;
 - Mental retardation;
 - Emotional disturbance; or
 - Environmental, cultural or economic disadvantage.
3. Observation:
 - At least one team member other than the child's regular teacher shall observe the child's academic performance in the regular classroom setting.
 - In the case of a child of less than school age or out of school, a team member shall observe the child in an environment appropriate for a child of that age.
4. Written report — For a child suspected of having a specific learning disability, the documentation of the team's determination of eligibility must include a statement of:
 - Whether the child has a specific learning disability.
 - The basis for making the determination.
 - The relevant behavior noted during the observation of the child.
 - The relationship of that behavior to the child's academic functioning.
 - The educationally relevant medical findings, if any.
 - Whether there is a severe discrepancy between achievement and ability that is not correctable without special education and related services.
 - The determination of the team concerning the effects of environmental, cultural, or economic disadvantage.

Each team member shall certify in writing whether the report reflects his or her conclusion. If it does not reflect his or her conclusion, the team member must submit a separate statement presenting his or her conclusions.

What are the two components that must be present in order for a child to be eligible for special education and related services?

In order for a child to be declared eligible for special education and related services it must be determined that *the child is a “child with a disability” and is in need of special education and related services.*

How does the law define a “child with a disability?”

The term “a child with a disability” means:

- A child evaluated according to IDEA as having mental retardation, a hearing impairment including deafness, a speech or language impairment, a visual impairment including blindness, serious emotional disturbance (referred to in IDEA as emotional disturbance), an orthopedic impairment, autism, traumatic brain injury, an other health impairment, a specific learning disability, deaf-blindness, or multiple disabilities, and
- Who, by reason thereof, needs special education and related services.

Is there a non-categorical designation of a child with a disability in addition to the above categories?

At the discretion of the State and Local Education Agencies, a “child with a disability,” ***aged three through nine***, may include a child who is experiencing ***developmental delays***, as defined by the State and as measured by appropriate diagnostic instruments and procedures, in one or more of the following areas: physical development, cognitive development, communication development, social or emotional development, or adaptive development, and who, by reason thereof, needs special education and related services.

What does IDEA require when determining eligibility for special education and related services based on “developmental delay?”

When determining eligibility for special education and related services based on “developmental delay” rather than a specific category, IDEA requires the following:

- If the state decides to allow eligibility based on developmental delay, local districts will be able to choose whether or not they wish to follow suit. If the state does not adopt the developmental delay category, local districts may not use the category for establishing eligibility for special education and related services.
- *States may not require local districts to adopt and use the term “developmental delay” for any of its students.*
- States that adopt the developmental delay category may apply it to children aged three through nine or a subset of that age range, e.g. aged three through five
- States and local districts who choose to use the developmental delay category may also use one or more of the specific categories.
- States may adopt a common definition of developmental delay for its programs under IDEA, Parts B and C.

- If a local district uses the developmental delay category, it must conform to the state's definition of developmental delay and the age range adopted by the state.

What are possible implications for students with learning disabilities when they are identified as having a developmental delay?

The use of a “developmental delay” category to determine whether a child is eligible for special education and related services could make it possible to identify some children early before they experience failure in school and fall behind their peers. Many children with learning disabilities show delays in one or more of the areas specified. There is, however, some concern that children with learning disabilities will be included in the “developmental delay” category without identifying the specific processing disorder/s present and, thus the specific intervention strategies needed will not be provided. ***Parents should ensure that:***

- Assessment tools and strategies used gather relevant functional and developmental information.
- Tests and other evaluation materials used include those tailored to assess specific areas of educational need.
- Assessment tools and strategies provide relevant information that directly assists persons in determining the education needs of the child.

Since States and Local Education Agencies are not mandated to follow a certain course, but can make a choice regarding whether to use “developmental delay” for children aged three to nine, parents need to determine the eligibility criteria used by their State and Local Education Agencies. Contact special education administrators at the State Department of Education or the local school district for this information.

Are there other non-categorical designations?

Some states have expanded the non-categorical age past the “developmental delay” age span (3 through 9 years) to include students birth through twenty-one years of age. If states use a designation instead of categorical disabilities, certain guidelines must be followed. While the state determines the criteria for eligibility, the team must provide a comprehensive evaluation of the child that could determine a disability as defined by IDEA.

What if there is disagreement about eligibility between parents and the school?

See Chapter 9

Chapter 5

The Individualized Education Program (IEP)

Developing and Implementing the IEP

Parents of a child with special education needs should learn how to use the IEP process as an effective tool to obtain appropriate special education and related services for the child. Each IEP must be a truly individualized document designed for one student. See IEP Check List For Parents at the end of this chapter.

What is an Individualized Education Program (IEP) ?

An Individualized Education Program (IEP) is:

- A written record of the decisions reached at the IEP meeting.

- A commitment to services needed to meet a student's special learning needs.

- A communication tool for parents and school personnel.

Who are members of the IEP team?

IDEA requires that the IEP team be made of, at least, the following:

- (1) Parents of the student
- (2) At least one special education teacher
- (3) A representative of the school with the authority to commit district resources
- (4) A person who can interpret evaluation data
- (5) At least one regular education teacher as appropriate
- (6) The student when it is appropriate
- (7) Representatives of any other agencies that may be responsible for paying for or providing transition services (if the student is 16 years or, if appropriate, younger)
- (8) Others invited by the school district or parents

An IEP team member may fill more than one of the positions if properly qualified. For example, the school system representative may also be the person who can interpret the child's evaluation results.

What is the IEP meeting?

An IEP meeting is a meeting in which all decisions regarding the provision of special education and related services are made.

What is the role of parents in the IEP process?

Parents are equal members of the IEP team and assist in identifying and stating the child's needs clearly on the IEP and selecting appropriate services and placement. They know their child very

well and can talk about their child's strengths and needs as well as their ideas for enhancing their child's education. They can share insights about how their child learns, the child's interests, and other things that only a parent would know. They can listen to the ideas of others about what their child needs to work on at school and share their suggestions. They can also report on whether the skills the child is learning at school are being used at home. Parents may ask that the IEP meeting be postponed until a later date if the team cannot agree. If the child's placement is decided by a different group than the IEP team, the parents must be part of that group as well.

If the parents have a limited proficiency in English or are deaf, they may need an interpreter in order to understand and be understood. Therefore, if parents need an interpreter for a meeting to discuss their child's evaluation, eligibility for special education, or IEP, they should let the school know ahead of time. Telling the school in advance allows the school to make arrangements for an interpreter so that parents can participate fully in the meeting.

What are the requirements related to scheduling an IEP meeting?

A meeting to write the IEP must be held within 30 calendar days of deciding that the child is eligible for special education and related services. The school staff has the responsibility to:

- Contact the participants, including the parents.
- Notify parents early enough to make sure they have an opportunity to attend.
- Schedule the meeting at a time and place agreeable to parents and the school.
- Tell the parents the purpose, time, and location of the meeting.
- Tell the parents who will be attending.
- Tell the parents that they may invite people to the meeting who have knowledge of or special expertise about the child.

What are the required contents of the IEP?

The IDEA requires certain types of information to be included in every child's IEP. Other information may be required depending on the specific needs of the student. Each child's IEP is different and is prepared for one child only. It describes the individualized education program designed to meet one child's needs.

Also, some states and local school systems often include additional information in IEPs not required by IDEA, in order to document that they have met certain aspects of federal or state law. Because of the flexibility that states and school systems have to design their own IEP forms, IEPs may look different from school system to school system or state to state.

IDEA requires that all IEPs contain the following information regarding the child with a disability:

- **Present levels of educational performance** — The IEP must state how the child is currently doing in school. This information usually comes from classroom tests and assignments, individual tests given to decide eligibility for services or during reevaluation, and observations made by parents, teachers, related service providers, and other school staff. The statement also explains how the child’s disability affects his or her involvement and progress in the general curriculum.
- **Measurable annual goals** — These are goals that the child can reasonable accomplish in a year. The goals are broken down into short-term *objectives* or *benchmarks*. Goals may be academic, address social or behavioral needs, related to physical needs, or address other educational needs. The goals must be measurable, meaning that it must be possible to measure whether the student has achieved the goals.
- **Special education and related services** — The IEP must list the special education and related services to be provided to the child or on behalf of the child. This includes supplementary aids and services that the child needs. It also includes modifications (changes) to the program or supports for school personnel, such as training or professional development that will be provided to assist the child.
- **Participation with non-disabled children** — The student should be educated with non-disabled peers to the maximum extent appropriate. The IEP must explain the extent, if any, to which the child will not participate with non-disabled children in the regular class and other school activities.
- **Plan for delivering services and modifications** — The IEP must state **when** services will begin, **how often** they will be provided, **where** they will be provided, **who** will provide them, and **how long** they will last.
- **Measuring and reporting progress** — The IEP must state how the child’s progress will be measured and how parents will be informed of that progress.
- **The degree of access to general curriculum, including the amount of time spent participating in general education.**

What are special considerations which must be documented?

Academic and Non-academic activities — If the IEP team decides that a child needs a particular device, support, or service (often called an *intervention, accommodation, or other program modification*), the IEP team must include this information in the written IEP. This requirement covers not only all activities during the school day, but extracurricular services and activities that other students receive free as part of their education. This includes counseling services (if the school provides them for others), athletics, transportation, health services, recreational activities, and special interest groups or clubs sponsored by the school. Any referrals to agencies providing services and the employment of students must also be accessible by all students.

Assistive technology devices or services — The IEP team must *always* consider the child’s need for *assistive technology devices or services*. If a child needs such devices or services, they must be listed in the IEP and the school must make sure that the devices and services are made available to the child at no cost to the child or the child’s parents. In some cases, the school may purchase assistive technology devices for use in the home or outside the school.

Participation in state and district-wide tests — Most states and districts give achievement tests to children in certain grades or age groups. The IEP must state what accommodations and modifications the child will need to take the tests. If a test is not appropriate for the child, the IEP must state why the test is not appropriate and how the child will be tested instead. (*Please see Chapter 8 — State and District-Wide Assessment Programs*)

Transition planning — Beginning when the student is *age 14* (or younger, if appropriate), the IEP must address the school courses the student needs to take to reach his or her post-school goals. Beginning when the child is *age 16* (or younger, if appropriate) the IEP must state what transition services are needed to help the child prepare for leaving school.

Transition services will be different for each student. Transition services must take into account the student’s interests and preferences. Evaluation of career interests, aptitudes, skills and training may be considered.

Students and parents should always be included in IEP meetings where transition is discussed. Other participants might include school vocational or counseling staff or representatives from agencies outside the school that provide services. Some examples of transition services are activities that lead to postsecondary education, vocational training, vocational rehabilitation, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation.

Age of majority — Some states transfer rights to a youth when he or she reaches a certain age called the “age of majority.” Beginning at least one year before the child reaches the age of majority, the IEP must include a statement that the student has been told of any rights that will transfer to him or her at the age of majority. (This statement would be needed only in states that transfer rights at the age of majority.)

Behavioral assessment and plans — If the child’s *behavior* interferes with his or her learning or the learning of others, the IEP team will consider assessments, strategies and supports to address the child’s behavior and to help the student learn how to control or manage his or her behavior.

Extended school year services (EYS) — EYS refers to the provision of special education services during times when school is not in session (typically during the summer). Guidelines_____ for extended year services are determined by the state. Every identified child must be considered annually for EYS. Most states have guidelines that include only those children that are very severe and will lose significant learning and not gain it back if not provided extended year services. Transportation must be provided by the district if the child qualifies.

English Language Learners — If the child has *limited proficiency in English*, the IEP team will consider the child’s language needs as these needs relate to his or her IEP.

Braille instruction — If the child is *blind or visually impaired*, the IEP team must provide for instruction in Braille or the use of Braille, unless it determines after an appropriate evaluation that the child does not need this instruction.

Communication needs — If the child has *communication needs*, the IEP team must consider these needs. If the child is deaf or hard of hearing, the IEP team will consider his or her language and communication needs. This includes the child’s opportunities to communicate directly with classmates and school staff in his or her usual method of communication (for example, sign language).

Teacher support — If school staff need additional training in order to adequately assist the student, such training should be documented in the IEP as a support.

What are related services?

Related services are all the services needed for a child with a disability to benefit from his specialized instruction. They are not the actual instruction, but can be thought of as non-educational services necessary to make the educational services accessible and effective. Related services include, but are not limited to:

- ✓ Transportation
- ✓ Physical and occupational therapy
- ✓ Orientation and mobility services
- ✓ Counseling
- ✓ Psychological services
- ✓ Social work services
- ✓ Recreation, including therapeutic recreation
- ✓ Rehabilitation services
- ✓ Rehabilitation counseling
- ✓ Speech, language, and audiology services
- ✓ Medical services for diagnosis and evaluation
- ✓ School health services
- ✓ Parent counseling and training

What happens after the IEP is written?

Services contained in the IEP are provided.

The school has the responsibility of making sure that the services contained in the child’s IEP are delivered as written. Parents are given a copy of the IEP. Each of the child’s teachers and service providers has access to the IEP and knows his or her specific responsibilities for carrying out the IEP. This includes the accommodations, modifications, and supports that must be provided to the child, in keeping with the IEP.

Progress is measured and reported to parents.

The child's progress toward the annual goals is measured, as stated in the IEP. His or her parents are regularly informed of their child's progress and whether that progress is enough for the child to achieve the goals by the end of the year. These progress reports must be given to parents at least as often as parents are informed of their nondisabled children's progress.

IEP is reviewed annually.

The child's IEP is reviewed by the IEP team at least once a year, or more often if the parents or school ask for a review. The IEP is revised if necessary. Parents, as team members, must be invited to attend these meetings. Parents can make suggestions for changes, can agree or disagree with the IEP goals, and agree or disagree with the placement.

If the parents do not agree with the IEP and placement, they should express their concerns to the other members of the IEP team and try to work out an agreement. If they still disagree, parents can ask for mediation, or the school may offer mediation. Parents may file a complaint with the state education agency and may request a due process hearing, at which time mediation must be available.

IEP CHECK LIST FOR PARENTS

- _____ Statement of progress student has made on IEP objectives.
- _____ Information about current educational performance.
- _____ Information about how the disability affects the student's involvement and progress in the general curriculum.
- _____ Measurable annual goals.
- _____ Short-term objectives or benchmarks for each annual goal.
- _____ Method for measuring progress toward goals and objectives and how progress will be reported to parent.
- _____ Special education and related services to be provided.
- _____ Positive behavior strategies or behavior intervention plan, if needed.
- _____ Curriculum modifications needed by student to participate in the same learning activities as other students.
- _____ Supplementary aids or services student needs to participate in regular education classes and activities.
- _____ Supports to be provided for school personnel.
- _____ Specifics about each instructional and related service, including date to begin, minutes per session, frequency of sessions, location and position of person responsible for each service in the IEP.
- _____ Special materials, equipment, resources and/or assistive technology needed, and when they will be made available.
- _____ Statement of academic/extracurricular activity in which student will not participate with non-disabled students, and reason/s why.
- _____ Modifications needed to take state mandated tests or alternative tests.
- _____ Statement of transition needs by age 14.
- _____ Individual Transition Plan (ITP) for students age 16 or over.
- _____ Signature of IEP Team members and statement of parent agreement with IEP.

CLASSROOM ACCOMMODATIONS

Accommodations provide appropriate opportunities for children with learning disabilities to access the academic environment. Accommodations are alternatives or arrangements which enable individuals to pursue an equal amount of information, educational and career opportunities, and recreational and social activities. Needed accommodations and modifications should be included in each child's Individualized Education Program. This list of accommodations is not exclusive, but offers some suggestions for consideration by parents and teachers.

Scheduling:

- ✓ Consider time of day
- ✓ Give rest breaks from tasks
- ✓ Consider length of time on task
- ✓ Allow more time to complete a task
- ✓ Schedule frequent short conferences with the student to check for understanding

Setting/environment:

- ✓ Use small groups
- ✓ Use study carrel
- ✓ Arrange individual work area
- ✓ Seat in front of the classroom
- ✓ Seat facing or near the teacher
- ✓ Seat away from distracting stimuli
- ✓ Let student select the place best to study
- ✓ Keep work area free of unnecessary materials
- ✓ Reduce extraneous noise
- ✓ Allow movement to increase physical comfort

Equipment:

- ✓ Use templates or graph paper
- ✓ Use tape recorders
- ✓ Use calculators
- ✓ Use computers
- ✓ Use typewriters
- ✓ Use video, films, multi-media
- ✓ Provide student with carbon copies of notes from teacher or peer
- ✓ Give written as well as oral directions
- ✓ Highlight important concepts in textbooks

Instruction:

- ✓ Mark answers on the original work, not a separate sheet
- ✓ Record answers by proctor or assistant
- ✓ Allow extra time to respond

- ✓ Require fewer responses to demonstrate achievement
- ✓ Allow student to tape record responses to homework
- ✓ Don't grade handwriting
- ✓ Allow cursive or manuscript writing methods
- ✓ Recognize and give credit for student's oral participation in class
- ✓ Set realistic and mutually agreed upon expectations for neatness
- ✓ Simplify complex directions
- ✓ Hand out one sheet at a time
- ✓ Break work into smaller segments
- ✓ Reduce homework assignments
- ✓ Use lots of white spaces on handouts
- ✓ Write due date in the corner of the assignment
- ✓ Provide study skills training
- ✓ Reduce number of concepts introduced at one time
- ✓ Review past learning before introducing new information

Test taking:

- ✓ Give open book exams
- ✓ Give oral exams
- ✓ Give take-home exams
- ✓ Include more objective items, fewer essays
- ✓ Allow test answers to be put on a tape recorder or to be dictated to teacher
- ✓ Allow extra time for exam
- ✓ Read test item to student
- ✓ Reduce the length of the test
- ✓ Allow frequent short quizzes avoiding long tests

Organizational:

- ✓ Arrange peer assistance with organization skills
- ✓ Provide extra set of books at home
- ✓ Provide daily or weekly progress reports to parents
- ✓ Provide homework assignment notebook
- ✓ Use checklist to help student keep organized
- ✓ Use organized notebook with sections for assignments, calendar, time schedule, to-do list, study guides, class notes

Chapter 6

Placement

Determining Where The Student Eligible for Special Education Services Will Be Served

What is meant by “placement” related to special education services?

Placement means where the student will receive the prescribed special education and related services — it is a location and a time period. After the IEP team has determined the student’s educational needs, appropriate special education and related services and other information required in the IEP, the next and last item for consideration is “placement.” Placement is only considered after the goals and objectives for the student have been written and agreed upon.

Who makes the placement decision?

Placement is determined by a group, including the parents and persons knowledgeable about the child, the meaning of the evaluation data, and placement options.

Are there special provisions in IDEA which encourage the involvement of parents in making the placement decision?

IDEA Regulations state that “Each public agency shall ensure that the parents of each child with a disability are members of any group that makes decisions on the educational placement of their child.” To ensure parental involvement, the public agency must:

- Notify parents about the IEP meeting early enough to give them opportunity to attend.
- Arrange a mutually agreed-upon time and location for the IEP meeting.
- Make reasonable efforts to ensure that parents understand and are able to participate in the meeting where placement is considered.
- Use other methods to involve the parents, if attendance by the parents at a meeting is not possible, including, individual or conference telephone calls or video conferencing.
- Record attempts to ensure parental involvement, including detailed records of telephone calls made and the results of calls; copies of correspondence to the parents and responses received; detailed records of visits made to the parent’s home or work and the results of such visits.

What must be considered when determining the placement of a student with disabilities?

The IEP team must consider the following when determining placement of the child with a disability:

- Children with disabilities are to be educated with children who are non-disabled to the maximum extent appropriate.

- The regular classroom must be considered before any other placement; however, the student must not first be required to “fail in the regular classroom” before the team considers another placement.
- Special classes or schooling or the removal of children from regular educational environments can only occur if the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.
- The placement decision must comply with the least restrictive environment provisions.
- The public agency must ensure that a continuum of alternative placements is available to meet the needs of children with disabilities for special education and related services, including regular classes, special classes, special schools, home instruction, instruction in hospitals/institutions and supplementary services to be provided in conjunction with regular class placement.
- Placement must be based on the IEP.
- Placement must be as close as possible to the student’s home.
- The student may not be removed from education in age-appropriate regular classrooms solely because he needs modifications in the general curriculum.

How often should the placement of the student be considered?

Placement must be considered by the IEP team at least on an annual basis.

What about placement of a student with a disability in a private school?

Parents may enroll their child in a private school at their own expense. The local education agency is not required to pay the cost of the private school if that agency has made a free appropriate public education (FAPE) available to the student. In the event there is a dispute between the local education agency and the parent as to whether FAPE was provided in the public school, such dispute may be resolved in conferences, mediation or even due process.

Parents may be able to secure reimbursement for the cost of their child’s private school education if a court or hearing officer finds that the public agency did not make FAPE available to the child and the private school placement is appropriate. Parents must inform the local school at the most recent IEP meeting prior to removing the student from the school that they are rejecting the placement proposed by the school, state their concerns and intent to enroll the student in a private school at public expense. Parents may also provide this information by writing to the public school at least ten days prior to removing the child and placing the child in a private school.

What happens if parents and the school disagree about placement?

- If the disagreement is because the suggested placement is not in the least restrictive environment, the parent should a) state in writing that the team's placement decision is more restrictive than necessary for the child and list the less-restrictive placement preferred; b) give ideas of how the preferred placement could be implemented by using aids, supplementary services, positive behavior management plan, etc.
- If the disagreement is because the proposed placement does not provide a free appropriate public education, the parent should a) state why the placement will not allow the child to achieve her goals and objectives during the next one year time period; b) recommend the least restrictive placement in which the goals and objectives could be achieved.
- If the parent believes FAPE will not be provided in the recommended placement but the child requires a private placement at public expense, the child should not be removed from the public school prior to a ten day period after written notice has been given to the public school. The written notice should include reasons the parent feels FAPE cannot be provided in the recommended placement. Legal assistance should be considered in developing this written notice.
- If the disagreement regarding placement cannot be resolved, the parent may file for due process. The student will remain in the last placement agreed upon by the IEP team during the due process period, unless it was an "interim alternative placement." In that event, the "stay put" placement would be the permanent placement preceding the interim placement.

Does IDEA apply to students attending charter schools?

Charter schools are public schools chartered by either the state education agency or a local school district. All charter schools are required to comply with the Individuals with Disabilities Education Act (IDEA), Section 504 of the Rehabilitation Act of 1973, and Title II of the Americans with Disabilities Act. Failure to comply with these laws would deny students with disabilities an equal educational opportunity to participate in unique experiences charter schools provide.

As public schools, charter schools may not discriminate against students with disabilities in enrollment, determination of special education eligibility, provision of educational and related services, assessment and reporting of student progress, sustained supply of certified teachers and related service providers, special transportation when needed, and administration of due process (including discipline procedures).

All procedures explained elsewhere in this handbook are the same for children attending charter schools and public schools operated by a local school district.

RESPONSIBILITIES OF PARENTS OF CHILDREN WITH LEARNING DISABILITIES IN THE SPECIAL EDUCATION PROCESS

Parents have a key role in the special education process. The following suggestions may offer some guidance and assist parents in assuming these important responsibilities:

- Develop a partnership with the school. Share information about the child's education and development. Observation of the child by parents can be a valuable resource in the child's progress.
- Ask for an explanation of any aspect of the program that is not understood.
- Make sure the Individualized Education Program (IEP) or Individualized Family Service Plan (IFSP) goals and objectives are specific to the child's needs.
- Monitor the child's progress. If the child is not progressing, discuss with the teacher and determine steps to be taken.
- Make every effort to resolve problems with the child's assessment, placement, or educational program directly with the appropriate school personnel, beginning with the teacher.

Maintaining educational records

It is important for parents to keep a file of educational records for future reference. Educational records include records or information in any format directly related to a student and collected, maintained, or used by the school system. It is important to date all information and file in chronological order. Parents may want to include the following records in a file:

- Cumulative school records, including attendance records, grades, group test scores, such as achievement tests, discipline or behavior records
- Report cards
- Notes or emails from teachers/school; copies of notes or emails from parents to the school.
- Copies of requests for meetings (date, place, who attended)
- Copies of requests for information or services
- Copies of written concerns, complaints, formal complaints, or hearing requests
- Documentation of notice of parental rights given to parents
- Records related to parental consent for evaluation, placement, and reevaluation
- Specific notices inviting parents to IEP team meetings

- Copies of assessment reports
- Reports from personal physicians (eyes/hearing tests, medical exams, etc.)
- Copies of IEP and written summaries of IEP meetings
- Individual Transition Plans, when appropriate
- Taped cassettes of IEP meetings
- Summary of conferences/teleconferences with school personnel, including date, time, participants
- Summary of personal contacts or telephone calls with school personnel

ACCESSING EDUCATION RECORDS

Do parents have a right to see educational records?

Yes, parents have the right to inspect all records relating to their child. Educational records are records or information in any format directly related to a student and collected, maintained, or used by the school system or a party acting on its behalf. Educational records must be available for inspection and review without unnecessary delay and before any meeting regarding an IEP or due process hearing, and ***in no case more than 45 calendar days after a request has been made.***

What do parents need to know about making arrangements to review educational records?

Parents should write a letter (date and keep a copy) to the school principal requesting permission to review all of their child's records, both general and special education. Parents should request explanation from the school if they have difficulty understanding anything in the records. There is no limit on the time allowed to review these records. Parents may also have their representative inspect and review educational records. The school can charge for copies requested if the fee does not prevent parents from exercising their right to inspect and review records. Records include IEPs, report cards, emails, electronically stored material, including CDs and video tapes.

What if there is an error in the records maintained by the school?

If parents think something in the educational records is wrong, misleading, or violates their child's rights, they should ask the school officials to correct it. The school official will inform the parent within a reasonable time as to whether the school will make the requested change. In case of refusal by the school to make the requested change, the parent must be notified of the refusal and informed about their right to a hearing (different from a due-process hearing). If the hearing shows the records are wrong, school officials must change the records and inform the parent in writing. If the hearing shows the school does not have to change the records, the parent is allowed to add a statement to the records explaining why they disagree.

What can parents do if they are denied access to their child's educational records?

Denial of access to the child's educational records is a violation of the procedural safeguards. If the school refuses to allow the parent to see, copy or correct the educational records on their child (under the age of 18), or if the school fails to get consent of the parent prior to releasing the records to non-school personnel, parents may forward a written, formal complaint to: FERPA Office, US Dept of Education, Room 4074, Switzer Building, 400 Maryland Avenue, SW, Washington, D.C. 20202-6186.

PART III

SPECIAL ISSUES RELATED TO SERVING STUDENTS WITH LEARNING DISABILITIES IN SPECIAL EDUCATION

Chapter 7 Discipline In Schools For Students With Learning Disabilities

How does discipline for students with disabilities differ from discipline for non-disabled students?

In order to maintain safe, well-disciplined schools with an orderly learning environment, a student with disabilities must be disciplined in the same manner as non-disabled students unless the disability is a contributing factor to the unwanted behavior. IDEA addresses two questions which need to be asked when considering discipline for students with disabilities:

- Is the behavior which gave rise to the disciplinary infraction related to or caused by the student's disabilities?
- Is the school district using discipline as a pretext for excluding students with disabilities from the educational process because of the difficulties in providing them an appropriate education?

What constitutional principles are included in IDEA limiting discipline decisions for students with disabilities?

Court-established limits on using discipline of children with disabilities as a pretext for exclusion of students who are difficult to educate included in IDEA are as detailed by the U.S. Supreme Court decision in *Honig v. Doe*.

- There must be a procedure to determine whether the behavior is manifestation of the student's disability ("manifestation determination").
- The student must "stay put" in his or her current educational placement until the manifestation determination is made.
- The student cannot be expelled or suspended for more than ten days unless the manifestation determination is made.
- In the manifestation determination, the area of inquiry must include whether or not the placement and/or the individualized educational program was appropriate.
- If expelled, the student must continue to receive a free appropriate public education.

Are there other protections for students with disabilities included in IDEA?

In the enactment of the 1997 Amendments to IDEA, Congress not only incorporated the above Constitutional principles, but added further protection for the student with disabilities before the student can be suspended, placed in another setting, expelled, or placed in an Alternative Education Program (AEP). These new common-sense procedures reflect a “balanced approach” to maintain a safe, well-disciplined school, and an orderly learning environment as well as protecting the rights of the child with disabilities. IDEA rules are designed to require an evaluation of the educational program for the child with disabilities as well as an evaluation of the relationship of the behavior to the child’s disability before removing the child with disabilities from the regular educational setting.

What about suspension, expulsion, or transfer to an alternative education program (AEP)?

Under the 1997 Amendments to IDEA, a student with disabilities may be suspended, expelled, or transferred to an alternative educational setting for not more than ten days (or 45 days if the offense involves drugs or weapons) by the unilateral action of the school administration so long as other students — those without disabilities — are also subject to this type of discipline.

However, if the removal for more than ten school days is contemplated, a manifestation determination is required to determine whether the behavior is a “manifestation” of the disability.

The manifestation determination is done by the IEP team, including the parents, and “other qualified personnel.”

The determination must be done “immediately, “ but no later than ten (10) days after the school administration decides to suspend, expel or transfer the student to the AEP.”

Are parents included in decision making regarding suspension, expulsion or removal?

In addition to suspension, expulsion or removal for disciplinary purposes, if behavior is *suspected of impeding the learning process* for the student with disabilities or other students, the matter must be considered by the IEP team of which the parent is a member. A change in placement can be considered, even though discipline procedures, are not involved.

Regardless of whether the change in placement is proposed as a disciplinary matter or a matter involving behavior which impedes the learning process of the student with disabilities or other students, parents, as part of the IEP team, are to participate in all phases of the process, i.e. the functional behavioral assessment and the development of the behavior intervention plan, the manifestation determination and any placement decisions.

What are Functional Behavior Assessments and Behavioral Intervention Plans (BIP)?

There must be a *functional behavior assessment* and the development of a *behavioral intervention plan* for students with disabilities with behavioral problems. This should be done any time it is determined that behavior is interfering with the student’s education or the education of other students. In addition, within ten days after taking a disciplinary action which involves suspension, placement in another setting, placement in the AEP for more than ten (10) days, an IEP team meeting must be convened to develop an assessment plan to address the behavior if

none had been developed before; or to review and modify the existing behavioral plan if one had been developed.

What is the procedure for the manifestation determination review?

A manifestation determination review is required for a student with disabilities for removal or suspension of the student lasting more than ten school days. The IEP team is to:

- Consider all relevant information, including evaluation and diagnostic results; information supplied by the parents; observations of the child; and the child's IEP and placement.
- Determine the following in relationship to the behavior subject to the disciplinary action:
 - Whether the child's IEP was appropriate.
 - Whether the child's placement was appropriate.
 - Whether the special education services, supplementary aids and services were appropriate.
 - Whether the behavior intervention strategies were provided consistent with the child's IEP and placement.
 - Whether the disability impaired the ability of the child to understand the impact and consequences of the behavior.
 - Whether the disability impaired the ability of the child to control the behavior.

What if the IEP team determines that the behavior is not a manifestation of the child's disability?

If the IEP team determines that the behavior is not a manifestation of the child's disability, the relevant disciplinary procedures applicable to children without disabilities may be applied; **EXCEPT**, the child with disabilities is entitled to a free appropriate public education notwithstanding the suspension, expulsion or assignment to the AEP. The child's IEP and other special education records follow the child with disabilities wherever the disciplinary placement may be.

What if the IEP team determines that the behavior is a manifestation of the child's disability?

If the IEP team determines that the behavior is a manifestation of the child's disability, the IEP, placement, or related services are changed or modified so that the child can obtain a free, appropriate public education.

Are some offenses given separate treatment in IDEA?

IDEA separates the following offenses for special handling::

1. Weapons and Drug Offenses

- Carrying a weapon to school or to a school function.
- Knowingly possessing or using illegal drugs or selling or soliciting the sale of a controlled substance while at school or school function.

In a case involving weapons or drugs, the student can be placed in an interim alternative educational setting for 45 days during which time a manifestation determination is required.

2. Children Likely to Injure Themselves or Others

For the student likely to injure himself or others, the school can unilaterally suspend or place the student in another setting for ten (10) days. However, only a due process hearings officer can make the appropriate determinations to place the student in a different interim setting up to 45 days. The school must demonstrate that:

- There is substantial evidence that the maintenance of the current placement is substantially likely to result in injury to the child or others.
- The school has made reasonable efforts to minimize the risk of harm in the current placement with the use of supplementary aids and services.

The hearings officer should consider:

- The appropriateness of the current placement.
- Whether the alternative interim placement meets the educational qualifications of the interim AEP.

What are alternative educational setting requirements?

Congress defined an appropriate alternative educational setting as one “...so as to enable the child to continue to participate in the general curriculum, although in another setting, and to continue to receive those services and modifications....that will enable the child to meet the goals set out in that IEP...and includes services and modifications designed to address the behavior...so that it does not recur.”

What happens when the parent disagrees with the IEP team’s decision?

If the parent disagrees with the IEP team’s determination that the behavior was not a manifestation of the child’s disability, or, with any decision regarding placement, the parent may request a due process hearing.

The burden of proof is on the school district to demonstrate that the child's behavior was not a manifestation of the child's disability.

What is the placement of the student during the due process hearing and appeal?

"Stay Put" applies during the due process hearing and appeal as follows:

- In weapons and drug cases, the student stays in the interim alternative educational setting for up to 45 days; and, thereafter, the child is returned to the last agreed upon placement prior to the interim alternative placement until the hearing officer's decision is given or the appeal is completed.

- In all "safety" cases where the child is likely to injure himself or others, the school district can request an expedited hearing while the child is in the interim alternative placement.

- In all other cases, the child remains in the current educational placement (prior to removal to the interim educational setting) until all appeals are completed.

For Additional Information: *Prevention Research & the IDEA Discipline Provisions: A Guide for School Administrators*, Office of Special Education and Rehabilitative Services (OSERS), U. S. Department of Education, 2001, <http://www.ed.gov/offices/OSERS/OSEP/Products/omip.html>

FREQUENTLY ASKED QUESTIONS ABOUT DISCIPLINE ISSUES FOR STUDENTS WITH DISABILITIES

In determining whether the unilateral removal of the child with disabilities has been more than ten days, what method of counting the ten days is appropriate?

Regulations define the ten days as removal for more than ten consecutive school days; or “a series of removals that constitute a pattern because they cumulate more than ten school days in a school year; and because of factors such as the length of each removal, the total amount of time the child is removed, and the proximity of the removals to one another.”

Are “in-school suspensions” (ISS’s) counted in the ten days?

Normally, ISS’s are not counted as changes in placement so long as the child is afforded the opportunity to continue to appropriately progress in the general curriculum, continue to receive the services specified on the IEP, and continue to participate with non-disabled children to the extent they would have participated in their current placement.

What is a Functional Behavior Assessment and a Behavioral Intervention Plan?

A functional behavior assessment is not defined by statute or regulation. However, the school district is to use “a variety of assessment tools and strategies.” The functional behavioral assessment could be an evaluation by a behavior specialist, or it could be a psychological or educational evaluation or no more than a review of existing data by the IEP team.

In the case of a child whose behavior impedes his or her learning or that of others, regulations mandate the IEP team to consider, if appropriate strategies, including positive behavioral interventions, strategies and supports to address that behavior. The primary focus is on the requirement of “positive behavioral interventions” as compared to “aversive behavioral management.” The strategies, including the positive behavioral interventions, strategies and supports will constitute the Behavioral Intervention Plan (BIP).

It is important to do the functional assessment and develop the BIP as soon as behavior that interferes with learning becomes a problem. The obligation to perform a functional behavioral assessment and develop a positive behavioral intervention plan is not limited to a change in placement decision. As a policy matter, it makes sense to attend to the behavior of children with disabilities that is interfering with their education and that of others so that the behavior can be addressed without a change in placement.

What protection is there for a student who has not been determined eligible for special education services?

If the school district is deemed to have knowledge that a student has a disability, i.e. the parents expressed their concerns in writing; or the behavior of the student demonstrates a need for special education; or the parent has requested an evaluation; or the teacher or other school personnel

have expressed a concern to the special education director or appropriate personnel about the need for referral; then the student is entitled to the same protection as the student identified as having a disability. If the school district is not deemed to have knowledge of the disability, then the student is subject to the same discipline measures as non-disabled students.

What about referrals to the juvenile justice system?

Nothing in IDEA prohibits a school district from reporting a crime committed by a child with a disability to the appropriate law enforcement and judicial authorities. However, copies of the special education and disciplinary records must also be forwarded to the extent permitted by the Family Educational Rights and Privacy Act (FERPA). FERPA generally allows disclosure to state juvenile authorities if state law protects against disclosure by the juvenile authorities and the educational information is needed for the juvenile justice system to effectively serve the student. Otherwise, FERPA, with some exceptions for subpoenas and summons, requires the parent's consent for disclosure of educational records to law enforcement officers. The school district still has the obligation to furnish the student with a free appropriate public education in accordance with the IEP. A school district cannot escape its duty to identify, evaluate and provide a student with disabilities with a free appropriate public education by referral of the student to juvenile court. [Morgan v Chris L, 106 F.3d 401 (6th Cir. 1997)]

Chapter 8

State And District-Wide Assessment Programs

Why do federal laws require that children with disabilities be included in state and district-wide assessment programs?

Requirements for including children with disabilities in state and district-wide assessment programs are based on a number of federal laws, including IDEA and Title I of the Elementary and Secondary Education Act. These laws recognize that assessment is often connected to student benefits such as moving to the next grade or graduating and view assessment as important in holding schools accountable for the success of all children. Because assessments are linked to benefits, excluding children with disabilities from assessments may violate these federal laws.

How will participation in assessment programs benefit children with disabilities?

Participation of students with disabilities in state and local assessments is expected to help improve teaching and learning by creating high expectations and accountability for the success of all students. Participation in assessments should also promote access to the general curriculum, allowing children with disabilities to learn what other students are learning. It is critically important that schools know how successful they are in preparing all students to meet high standards. Parents need to know this as well.

Is parental permission required for children with disabilities to participate in state and district-wide assessment programs?

In most states, parental permission is not required for students to participate in state and local assessment programs. Whatever rules apply to non-disabled children in a state would also apply to children with disabilities.

Can parents choose not to have their child participate in state or district-wide assessments?

If a state lets parents of non-disabled children “opt out” of assessment programs, then parents of children with disabilities would have the same right. However, parents and students should know the consequences of opting out of state or local assessments. For example, parents should know that state and district-wide assessments can improve accountability and promote better services, while opting out may limit opportunities for moving to the next grade, graduating or benefiting from school programs.

What is the role of the IEP team in state or district-wide assessments?

Under IDEA, the IEP team, which always includes a parent or parent representative, determines how the child participates in state and district-wide assessments of student achievement. The IEP team cannot exempt children with disabilities from participating in these assessment programs.

What happens if a student with a disability cannot participate in an assessment in the usual way?

The IEP team determines if any changes in administration are needed in order for the student to participate in the assessment. These changes are called different things in different states, and federal laws use several different terms such as “accommodations” and “modifications.”

Basically, these terms mean changes in the way a test is presented, the way a student responds, the setting in which a student takes a test, the timing and schedule for the test, or other similar changes.

What happens if a student with a disability cannot participate in the assessment even with an accommodation or modification?

IDEA requires that alternate assessments must be provided for students with disabilities who cannot participate in state or district-wide assessments. Alternate assessments are discussed more fully below. If the IEP team determines that the child will not participate in a state or local assessment (or part of an assessment), the IEP team states why the assessment is not appropriate for the child and how the child will be assessed.

What is “out-of-level” testing?

“Out-of-level” or “off-level” testing means testing students at one grade level using versions of tests that were designed for students at other grade levels. For example, a student in the 8th grade may be given a version of the test designed for the 5th grade. Some states allow out-of-level testing as an accommodation or modification.

IDEA does not ban the use of out-of-level testing, but this approach has certain weaknesses. Out-of-level testing may lower expectations, prevent students from showing their full abilities, and keep students in a lower-level curriculum with limited opportunities. It may even limit opportunities for moving to the next grade or graduating with a diploma. If out-of-level tests are used, IEP teams need to think about these issues. Also, if out-of-level tests are used, the scores should be converted to show the student’s performance at his or her actual grade level if possible, so expectations and standards will be kept as high as possible for the student.

Can the IEP statement of how the child will participate in state and district-wide assessments be changed without reconvening the iep team?

No. If the IEP team wishes to change a portion of the IEP, it must meet again to make the change.

Why is it important to consider the consequences of decisions about accommodations and modifications in assessments?

IDEA gives the IEP team the authority to determine what, if any, accommodations or modifications are needed in order for a child with a disability to participate in an assessment. However, state and local school agencies have the authority to determine how test scores are reported and used, and they may limit the use of test scores if certain accommodations or modifications are involved. When selecting individual accommodations and modifications, parents, students, and other IEP team members must understand how their decisions will affect the use of the scores. These decisions may affect the student’s chances for such things as moving to the next grade or graduating with a regular diploma.

What is an alternate assessment and who should receive it?

An alternate assessment is an assessment designed for students with disabilities who are unable to participate in a general assessment, even when accommodations or modifications are provided. The alternate assessment is a way for students, including those with the most significant disabilities, to participate in and benefit from assessment programs. The need for alternate assessments depends on the individual needs of the child, not the category of the child's disability.

What should be the content of an alternate assessment?

Alternate assessments need to line up with the general curriculum standards set for all students. This means that these assessments should test the same broad content areas (such as communication, mathematics, social studies, science, etc.) covered in the general assessment. Alternate assessments may test additional content, including functional skills.

How are the results of assessments supposed to be reported and used?

IDEA and Title I both have requirements for how school systems must use the results of assessment programs. IDEA requires that states must set goals for themselves and these goals must include the performance of students with disabilities on assessments, as well as drop-out and graduation rates. States must report to the federal government and the public every two years on their progress in meeting their goals.

Title I requires that states must use assessment systems to see if schools and school districts are helping all students reach high standards. Title I requires that students with disabilities must be included in these state systems, and that the scores from alternate assessments must be included in any reporting.

IDEA requires states to report to the public on the performance of students with disabilities on regular and alternate assessments. These reports must be as frequent and as detailed as reports on non-disabled students. Scores for individual students with disabilities must not be revealed in these public reports. But, individual scores can be revealed in private reports to teachers and parents.

IEP teams can consider individual results from state and district-wide assessments as they develop IEPs for students with disabilities. Parents can also check public reports to help hold schools accountable for having high expectations for all students.

Adapted from OSEP memorandum 01-06, 1/17/01

For Additional Information:

<http://www.dralegal.org/publications/> for the Oregon *Do No Harm* Blue Ribbon Panel case, specifically dealing with learning disabilities issues

http://ihdi.uky.edu/MSRRC/OSEP_FF_Assessment_Doc.htm (Parent-friendly assessment document)

Chapter 9

When Parents Disagree With The School

Do parents have a right to disagree with the school?

Yes. Parents may disagree with school's decisions concerning their child, including decisions about the child's:

- Identification as a “child with a disability.”
- Evaluation.
- Educational placement.
- Special education and related services provided by the school.

What about compromise?

When families and schools disagree, it is very important for both sides to first discuss their concerns and make every effort to come to a compromise. The compromise can be temporary, trying a particular program for a specific period, and determining at the end of that period whether the child was successful. The IEP team can meet at that time and decide what to do next to help the child.

What happens if agreement is not reached through compromise?

If agreement is not reached, IDEA provides ways for parents and schools to resolve disagreement, including:

- Mediation — Parents and school representatives meet with a mediator (an impartial person) and try to reach agreement.
- Due Process — Parents and school representatives present evidence before a hearing officer (impartial person) who decides how to resolve the problem.
- Filing a complaint with the State Education Agency (SEA) — Parents write to the SEA describing the requirements of IDEA the school has violated. The SEA must either resolve the complaint or have a system where complaints are filed with the school district and parents can have the district's decision reviewed by the SEA. In most cases, the SEA must resolve the parent's complaint within sixty calendar days.

States usually have specific guidelines for dealing with complainants within this framework. Parents who are considering such action should contact the local school district, special education department or the state department of education for specific instructions about filing complaints.

What is mediation?

Mediation is a process for reaching agreement; it is a form of negotiation in which the parties select an experienced neutral who helps explore different means of resolving their differences. Mediation is voluntary. The role of the mediator is to facilitate resolution of the dispute. The mediator generally is permitted to discuss the disputed issues with the parties together or privately with each party. Statements and documents originating in the course of mediation may not be introduced as evidence if mediation fails and a due process hearing becomes necessary. Mediation is the simplest and least expensive method of resolving disputes. However, mediation is effective only if the parties genuinely desire to resolve their dispute.

What does the idea say about mediation?

The IDEA requires that mediation be available for and be offered for the resolution of disputes and complaints with “respect to any matter relating to the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education to such child.... Mediation...shall be available whenever a hearing is requested....”

Mediation must be “voluntary” and “not used to deny or delay a parent’s right to a due process hearing” or to “deny any other rights” afforded by the IDEA. The mediation must be “conducted by a qualified and impartial mediator who is trained in effective mediation techniques.”

How does mediation work?

Because mediation is an alternative to litigation, it must precede the due process hearing. Typically, the parties take the following steps:

- **Notice of Hearing** — The parents are notified of an impartial due process hearing. At that time the regulations provide that “the public agency shall inform the parents of the availability of mediation.”
- **Parents Decide Whether to Mediate** — The parents review the case, possibly in consultation with an attorney, and make a decision whether or not to enter mediation.
- **The Mediator is Selected** — Each State is required to maintain a list of individuals who are qualified mediators and knowledgeable in laws and regulations relating to the provision of special education and related services. The mediator may be appointed “selected on a random (e.g., a rotation) basis from the list” or “both parties must be involved in selecting the mediator and agree with the selection of the individual who will mediate.”
- **Mediation Sessions are Scheduled** — The nature of the dispute will determine the number of sessions necessary. IDEA requires that each “session in the mediation process must be scheduled in a timely manner and must be held in a location that is convenient to the parties to the dispute.”
- **Ending Mediation** — Mediation ends with an agreement or a decision to undertake a due process hearing. If an agreement is reached, the IDEA regulations provide that it “must be set forth in a written mediation agreement.”

How should parents prepare for mediation?

Preparation for mediation should include the following steps:

- Assemble pertinent papers (primarily the child's educational records) in order in a folder for easy access.
- Review all papers and prepare an outline of the major points to be covered and the desired results.
- Consider retaining an attorney if permitted by the State.
- If not represented at the mediation by an attorney, consider reviewing the case with an attorney prior to the mediation.

What if parents do not want mediation?

While mediation is voluntary, a state may “establish procedures to require parents who elect not to use the mediation process to meet, at a time and location convenient to the parents, with a disinterested party...who would explain the benefits of the mediation process, and encourage the parents to use the process.” If the parents refuse to attend the meeting, a “public agency may not deny or delay a parent's right to a due process hearing...if the parent fails to participate in the meeting.”

What should parents know about pursuing an impartial due process hearing?

Every effort should be made by the parent and the school to resolve disagreements. If conferences with the school and ultimately mediation have not solved the problem the parent may request an impartial due process hearing.

- A parent or a public agency may initiate a due process hearing relating to the identification, evaluation or educational placement of a child with a disability, or the provision of FAPE to the child.

- When requesting a due process hearing parents (or the parents' attorney) are required to provide the public agency with notice, which is to remain confidential, that a hearing is being requested. The public agency may not deny the right of a parent to a due process hearing for failure to provide this notice. The notice must include:
 - The name of the child.
 - The address of the child's residence.
 - The name of the school the child is attending.
 - A description of the nature of the child's problem.
 - A proposed resolution of the problem to the extent known and available to the parent at the time.

- The due process hearing must be conducted by the state education agency or the public agency directly responsible for the child's education, as specified by the state.

- When a due process hearing is initiated, the public agency must inform the parents of the availability of mediation to resolve the problem and must also inform the parent of any free or low-cost legal (and other relevant) services available in the area, if parents request such information.

- Any party involved in the due process hearing, including the parents, has the right to:
 - Be accompanied and advised by counsel (i.e., an attorney) or by individuals with special knowledge or training with regard to the problems of children with learning disabilities.

 - Present evidence and confront, cross-examine, and compel the attendance of witnesses.

 - Prohibit evidence from being introduced at the hearing that has not been disclosed to that party at least five business days before the hearing.

 - Obtain a written or, at the option of the parents, an electronic verbatim record of the hearing.

→ Obtain written or, at the option of the parents, electronic findings of fact and decision.

- Additional rights for parents at a due process hearing include:

- Having the child present at the hearing.

- If the hearing involves oral arguments, the hearing must be conducted at a time and place that is reasonably convenient for the parents and child.

- Having the right to open the hearing to the public.

- The record of the hearing and the findings of fact and decisions must be provided to the parents at no cost.

What happens at the due process hearing?

- At the due process hearing, the arguments and evidence of parents and the public agency are presented before the impartial hearing officer, who will make a decision on the matters at issue.

- The due process hearing must be completed and a copy of the decision mailed to the parents and the public agency within 45 days of the request for the hearing. (The hearing officer may grant a specific extension of time at the request of either party involved in the hearing.)

- The decision of the hearing officer is considered final, unless one of the parties appeals the decision to the SEA. Appeal to the SEA is available only if the SEA did not conduct the hearing.

What happens if the decision of the hearing officer is appealed to the SEA?

- If the due process hearing decision is appealed, the SEA must conduct an impartial review of the hearing, which involves:

- Examining the entire hearing record.

- Ensuring that the procedures at the hearing were consistent with the requirements of due process.

- Seeking additional information, if necessary.

- Allowing both parties the opportunity for oral or written arguments, or both, if the reviewing officer so chooses.

- The hearing officer must make an independent decision and give a copy of the written or, at the parents' option, electronic findings of fact and decisions to the parents and the public agency.
- The SEA must ensure that the entire process, from the initial receipt of the request for an impartial review, to the rendering of a final decision and the mailing of that decision to each party, is completed in not longer than 30 days. (The reviewing officer may grant specific extensions of time beyond the 30 days at the request of the parents or public agency.)

What happens if parents or the public agency disagree with the decisions of the due process hearing or the SEA review?

A parent or a public agency who disagrees with an initial hearing decision for which no SEA-level appeal is available, or the findings and decision under the impartial review, has the right to bring a civil suit with respect to the complaint presented initially. It is important to realize, however, that civil actions can become quite costly and are frustrating and time-consuming.

Where is the child placed during the due process hearing and court appeal/s?

IDEA requires the student to remain in the current placement during the hearings and appeals (referred to as the “stay put” provision of the law). In certain discipline cases where a student has already been removed from the classroom for an interim period, if school personnel maintain that it is dangerous to return the child to his previous placement, the district may request an expedited hearing to keep the child in the interim placement.

What is the state complaint system?

IDEA requires each state to develop complaint investigation and resolution procedures. Parents should contact their state educational agency to request the procedures for filing a complaint.

Generally, when filing a complaint, the parent should state what requirement of IDEA has been violated and the facts of the case. Complaints should be signed and indicate how the person filing the complaint can be reached. Complaints should be filed no more than one year after the violation occurred, except in situations where the violation continues. Complaints requesting compensatory damages should be filed no more than three years after the violation began.

State education agencies (SEA) have 60 days after a complaint is filed to complete its investigation and to give its decision in writing. The SEA may send someone to visit the school, may ask the person filing the complaint for more information, and will ask school district staff for information.

PART IV

OTHER SECTIONS OF IDEA THAT MAY BE IMPORTANT TO PARENTS OF STUDENTS WITH LEARNING DISABILITIES

Chapter 10 Serving Infants And Toddlers Birth Through Age Two

Are services for infants and toddlers mandated by IDEA, Part C?

No. However, state grants may be authorized to develop and implement a statewide comprehensive, coordinated, multidisciplinary, interagency program of early intervention services for all infants and toddlers with disabilities and their families. The delivery of these services is a state option and varies from state to state; thus, it is imperative that parents identify the lead agency for their state.

Who is eligible for services?

The term “infant or toddler with a disability” means a child under three years of age who:

- Needs early intervention services because of developmental delays, as measured by appropriate diagnostic instruments and procedures in one or more of the areas of cognitive, physical, communication, social/emotional, and adaptive development.
- Has a diagnosed physical or mental condition with a high degree of probability of resulting in developmental delay, which may include at-risk infants and toddlers.

What are the requirements for services?

Early intervention services must be provided:

- Under public supervision.
- By qualified personnel.
- At no cost to families, unless Federal or State law provides for a system of payments by families, including a sliding scale.

What are the procedures for accessing services?

IDEA outlines the following procedures for accessing services for infants and toddlers:

- Referral is made to a public agency.
- The public agency must complete a multidisciplinary evaluation and assessment of the unique strengths and needs of the child and hold an Individualized Family Service

Plan (IFSP) meeting to determine services appropriate to meet those developmental needs within forty-five (45) days.

- A written IFSP is developed by a multidisciplinary team, including the parents.
- Early intervention services may commence prior to the completion of the assessment, with the parent's consent.
- The IFSP shall be evaluated once a year and the family must be provided a review of the plan at six-month intervals (or more frequently, depending on the child's needs).
- The state must ensure that each IFSP is implemented.
- All assessments and services are to be conducted in the child's natural environment, which means settings that are natural or normal for the child's age peers who have no disabilities.

What services may be provided?

The following list includes, but is not limited to, the types of services to which an infant or toddler is entitled:

- ✓ Assistive Technology Devices
- ✓ Audiology
- ✓ Family Training
- ✓ Health Services
- ✓ Medical Services
- ✓ Nursing Services
- ✓ Nutrition Services
- ✓ Occupational Therapy
- ✓ Physical Therapy
- ✓ Psychological Services
- ✓ Social Work Services
- ✓ Special Instruction
- ✓ Speech-Language Pathology
- ✓ Transportation and Related Costs necessary to enable a child and the child's family to receive services
- ✓ Vision Services

What is to be included in the IFSP?

The IFSP must be in writing and contain the following:

- A statement of the infant's or toddler's present level of physical, cognitive, communication, social or emotion, and adaptive development, based on objective criteria.
- A statement of the family's resources, priorities and concerns relating to the child's development.
- A statement of the natural environments in which the early intervention services will be provided, including a statement, if needed, describing which services will not be provided in a natural environment.
- A statement of the specific intervention services for the child and the family, which includes the frequency, intensity and method of delivering services.
- A statement of major outcomes expected to be achieved for the child and the family, and the timelines, procedures and criteria needed to determine outcomes and whether modifications are necessary.
- The identification of the service coordinator responsible for implementation of the plan and any coordination with other agencies and persons working with the child and his or her family.
- The projected dates for initiation of services and the anticipated duration of the services.
- Steps necessary to support the transition of the child with a disability to preschool or other appropriate services.

What are the procedural safeguards under IDEA, Part C?

Procedural safeguards under IDEA, Part C include:

- Written prior notice sent to the parents of the infant or toddler with a disability whenever the state agency or service provider proposes to initiate or change, or refuses to initiate or change the identification, evaluation, or placement of the child, or to provide appropriate early intervention services.
- Written notice must specify all available procedures and be in the parents' native language (unless it is not feasible to do so).
- Parents have the right to use mediation in cases of disagreement, except that:
 - The State Education Agency (SEA) shall be considered a reference to a state's lead agency.

→ Any reference to a Local Education Agency (LEA) is to be considered a reference to a local service provider or the state's lead agency.

→ Any reference in the section to the provision of free appropriate public education to children with disabilities is to be considered a reference to the provision of appropriate early intervention services to infants and toddlers with disabilities.

- The right to confidentiality of personally identifiable information, including the right of parents to written notice of and written consent to the exchange of such information among agencies consistent with Federal and State law.
- The right of parents to decide whether or not their infant or toddler, or other family member will accept or decline any early intervention service.
- The right to examine all assessment, screening, eligibility determination records, and the development and implementation of the Individualized Family Service Plan (IFSP).
- The resolution of complaints brought by a parent in a timely manner. Any party aggrieved by the findings and decisions has the right to bring a civil action in any state or district court in the U.S. without regard to the amount in controversy.
- An individual (who is not an employee of the State agency) can be appointed to act as a surrogate for the parents, provided the parents of the infant or toddler are not known or cannot be found.

Chapter 11

Services For Preschool Children Age Three Through Age Five

Does IDEA provide services for preschool children, age three through age five?

Yes. IDEA, Part B, Section 619 (The Preschool Grants Program) provides for these children. A state is eligible for a grant if the state has a Part B grant and makes free appropriate public education available to all children (ages 3 through 5) with disabilities residing in the state.

Who is eligible for services?

Preschoolers may be eligible for services because of a developmental delay in one or more of these areas of development: physical, cognitive, communication, social or emotional, or adaptive or because of a specific disability from the disability categories.

What does the law provide for preschoolers with disabilities?

- Preschoolers, ages 3 through 5, with disabilities, receive the same full rights under the law as older children.

- Each state must provide a free appropriate public education and related services to all eligible children with disabilities, ages 3 through 5.

- States may identify preschool children noncategorically, such as “developmental delay;” or by the category of disability, such as “learning disabilities.”

- The child study team may use either an Individualized Education Program (IEP) or an Individualized Family Service Plan (IFSP) for children ages 3 through 5. The plan must ensure due process, confidentiality, and the child’s placement in the least restrictive environment. Local school districts must ensure that children participating in early intervention programs assisted under IDEA, Part C, ages 3 through 5, must have an IEP that is consistent with state policy and agreed to by the agency and the child’s parents.

If a two-year old child with a disability will turn three during the school year, parents have the option of choosing an IEP or an IFSP. The public agency responsible for early intervention services must provide the child's parents with a detailed explanation of the differences between the IFSP and the IEP. If parents choose an IFSP, the state agency must obtain written informed consent from the parents.

The following table depicts some differences between Preschool Children and Infants and Toddlers under the law:

Table 1. Comparison of Legislation for Preschoolers and for Infants and Toddlers

	Preschoolers	Infants and Toddlers
Age	Ages 3 through 5	Birth through age 2
Eligibility	Category of disability or developmental delay	Developmental delay
Plan	IEP or IFSP	IFSP
Law	Part B of IDEA 1997	Part C of IDEA 1997
Lead agency	State Education Agency	Agency appointed by governor of the state
Transition	To regular class or special education class	To program for preschool special education
Primary orientation	Developmental learning	Family-infant interaction
Personnel	Early childhood special education teacher	Service coordinator

Source: p. 277, Table 8.3. J.W. Lerner. (2000). *Learning Disabilities: Theories, Diagnosis, and Teaching Strategies*, 8th ed. Boston: Houghton Mifflin.

What is involved in transition from early childhood programs?

At the completion of the preschool special education program, as the child nears age six, decisions about the next placement must be made. The child is moving from a small instructional group to a larger, less structured environment. The transition options for preschools include:

- General education kindergarten or first grade class
- Transition class
- Resource room
- Separate class
- Residential facility

Transition from Early Childhood means moving the child from one type of organized program to another. Going to a new placement can be a traumatic experience for young children. As a result, the transition should be carefully planned, coordinated, and monitored. It is important to take steps to ensure a smooth transition. Receiving teachers should observe the child, talk with the parents, attend the annual review, and be familiar with the child’s IEP or IFSP.

PART V

OTHER LAWS THAT IMPACT STUDENTS WITH LEARNING DISABILITIES

Chapter 12 Rehabilitation Act of 1973 (RA) Section 504

What is the purpose and background of this law?

The Rehabilitation Act of 1973 (RA) prohibits discrimination against individuals with disabilities in four areas:

- Employment by the executive branch of the federal government.
- Removal of architectural barriers and transportation usage.
- Employment under federal government contracts.
- Activities which are funded by federal subsidies or grants.
(Almost all elementary and secondary schools and most post secondary institutions receive federal subsidies or grants.)

Section 504, the most important provision of RA, provides that: No otherwise qualified individual with a disability...shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance or under any program or activity conducted by any Executive agency or by the U.S. Postal Service.

Who is eligible for services under RA (Section 504)?

A person is considered handicapped under Section 504 if he or she meets one or more of the following definitions:

- Has a physical or mental impairment which substantially limits one or more major life activities (including walking, seeing, hearing, speaking, breathing, learning, working, caring for oneself, and performing manual tasks). Handicapped under Section 504 does not include children disadvantaged by cultural, environmental, or economic factors.
- Has a record or history of such an impairment.
- Is regarded as having such an impairment.

A person can be found eligible under this section if he or she has:

- A physical or mental impairment that does not substantially limit a major life activity but is treated by the district as having such a limitation.
- A physical or mental impairment that substantially limits a major life activity only as a result of the attitudes of others towards such impairment.
- No physical or mental impairment but is treated by the district as having such an impairment.

What are the school district's obligations to students under Section 504?

- School districts must provide a free appropriate education (regular or special education and related aids and services) to school-age children within the district's jurisdiction who qualify under Section 504.

*Instruction must be individually designed to meet the student's needs as adequately as the needs of non-disabled students.

- Before the child can be placed in special education or receive special services, the parents must be notified and the child must be evaluated using validated tests and trained personnel.
- While parental notice is required before a child is tested and/or placed, their consent is not required under Section 504.
- Placement decisions must be made by a group of persons knowledgeable about the child, the evaluation data, and placement options, and the child must be placed in the least restrictive environment appropriate.
- Periodic reevaluations must be conducted, including prior to any significant change in placement.
- Districts must provide equal opportunity in areas such as counseling, physical education and athletics, transportation, health services, recreational activities, special interest groups or clubs, referrals to other agencies, and employment.

What steps should be taken when a violation of Section 504 is suspected?

If a violation of Section 504 is suspected a complaint/grievance may be made within the district/institution.

What is the next step if there is no resolution?

If the institutional grievance process is undesirable or unsuccessful, the next step may be to file a complaint with the Office of Civil Rights that serves your area or contact:

Office of Civil Rights (OCR)
U.S. Department of Education

600 Independence Avenue, S.W.
Washington, D.C. 20202-1100
(202 205-5413; 1-800-421-3481
FAX: (202) 205-9862
TTY: (202) 205-5166

The Office of Civil Rights will provide, on request, a Discrimination Complaint Form or a letter of complaint may be written to OCR containing the following information:

- Name and address (telephone number during business hours if available)
- General description of the person(s) or class of person(s) injured by the alleged discriminatory act(s) (names of injured person(s) are not required)
- Name and location of the institution that committed the alleged discriminatory act
- Description of the alleged discriminatory act(s) in sufficient detail to enable OCR to understand what occurred, when it occurred, and the basis for the alleged discrimination (race, color, national origin, sex, disability, or age.)

**COMPARISON OF
THE REHABILITATION ACT OF 1973, SECTION 504, AND IDEA**

	IDEA	SECTION 504
Purpose:	To insure that all children with disabilities have available to them a free appropriate public education.	To prohibit discrimination on the basis of disability in any program receiving federal funds.
Who is protected:	Students who are eligible under the 13 categories of qualifying conditions.	Students who have or have had a physical or mental impairment which substantially limits a major life activity, has a record of or is regarded as disabled by others. Parents are also protected.
Duty to Provide a Free Appropriate Education:	Must provide a free appropriate education, including individually designed instruction to students who qualify. “Appropriate education” means a program designed to provide “educational benefit.”	Must provide a free appropriate education, including individually designed instruction to students who qualify. “Appropriate” means an education comparable to the education provided to students without disabilities.
Eligibility for Special Education:	Eligible only if a multidisciplinary team determines the student has one of the handicapping conditions and needs special education.	Eligible if he or she meets the definition of “qualified handicapped person.” The student is not required to need special education.
Funding:	Yes	No
Accessibility:	Not specifically mentioned, although if modifications must be made to provide a free appropriate education,	Detailed regulations regarding building and program accessibility.

IDEA requires it.

General Notice:	Requires child find activities.	Requires child find activities.
	Requires notification of parental rights.	Districts must include notice of nondiscrimination in its employee, parent and student handbooks, and, if more than 15 employees must specify 504 coordinator/s.

Evaluation Requirements:	Consent before initial evaluation.	Notice, but not consent.
	Re-evaluations at least every 3 years.	“Periodic” re-evaluations.
	No provision.	Re-evaluation before significant change in placement.
	Independent evaluations.	No provision.

Determination of Eligibility, Program and Placement:	Done by IEP Committee of which parent is a member.	Done by a group of persons knowledgeable about the child, the evaluation data, and placement options. Parental participation is not mentioned; parental notice is required.
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Grievance Procedure:	Does not require a grievance procedure or compliance officer.	Districts with more than 15 employees must designate an employee to be responsible for assuring compliance with Section 504 and provide a grievance procedure (an information hearing before a district staff member) for parents, students, and employees.
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Due Process:	<p>Requires district to provide impartial hearings for parents or guardians who disagree with identification, evaluation, or placement of a student with a disability.</p> <p>Hearings conducted by a state hearing officer who is an attorney. Decisions may be appealed to court.</p>	<p>Same.</p> <p>Hearings conducted at the local level by an impartial person not connected with the school district; need not be an attorney. Decisions may be appealed to court.</p>
Enforcement:	<p>Compliance is monitored by the state education agency who receives and resolves complaints.</p>	<p>Enforced by the Office of Civil Rights, USDOE, by complaint investigation and monitoring activities.</p>
Employment:	<p>No provisions.</p>	<p>Employment of persons with disabilities is regulated.</p>

Chapter 13

Americans with Disabilities Act of 1990 (ADA)

Public Law 101-336

What is the purpose of the Americans With Disabilities Act?

The Americans with Disabilities Act of 1990 (ADA) was passed in July 1990 for the purpose of ending discrimination against individuals with disabilities in the areas of employment, education, public accommodations, and licensing of professional and other activities. The ADA prohibits discrimination in three major areas:

- Private employment.
- Activities of state/local governments (public schools, public post secondary institutions, employment, licensing, public programs, etc.).
- Access to privately owned places of public accommodation (private schools, private post secondary institutions, private testing entities, restaurants, hotels, theaters, etc.).

What is the relationship of the Americans With Disabilities Act of 1990 and Section 504 of the Rehabilitation Act of 1973?

The Americans with Disabilities Act of 1990 was intended to complement the RA. Together these laws were intended to extend basic disability-based civil rights to virtually all segments of society. The ADA contains definitions identical to those in the RA. The courts have stressed that the RA and ADA must be construed together. Under the ADA, individuals with impairments that substantially limit a major life activity, such as learning, are entitled to academic adjustments and auxiliary aids and services, so that courses, examinations, and services will be accessible to them.

How do you file complaints concerning ADA violations?

The Office of Civil Rights (OCR), US Department of Education, enforces the Rehabilitation Act of 1973, Section 504 and the Americans with Disabilities Act of 1990, Title II. The US Dept of Justice primarily enforces the Americans with Disabilities Act of 1990, Title III.

Request the Department of Justice's pamphlet entitled, *How to File a Title III Complaint*, from Disability Rights Section, Civil Rights Division, US Department of Justice, PO Box 66738, Washington, DC 20035-6738, or send a letter of complaint, including:

- Full name, address, telephone number; name of party discriminated against.
- Name of business, organization, institution believed to have discriminated.
- Description of the act of discrimination, date, and name/s of individuals believed to have discriminated.
- Other information necessary to support complaint.

- Send copies of relevant documents (not original documents).

Chapter 14

Family Educational Records Privacy Act (FERPA)

Public Law 93-380

What is the purpose of FERPA?

The Family Educational Records Privacy Act (FERPA), also known as the Buckley Amendment, is the federal law which gives parents of students under 18 years of age the right to see, make copies of and correct their child's records. It provides the following rights for these parents:

- Review and inspection of their child's educational file
- Receipt of copies of requested documents contained in the file
- Confidentiality of personally identifiable information
- Amendment of inaccurate or misleading information in the file
- Inclusion of additional records by the parent
- Enforcement procedures if student or parental rights are violated

What is the procedure if a violation under FERPA is suspected?

If parents believe that their rights have been violated they may send a written complaint as soon as possible after the violation to:

FERPA Office
U.S. Department of Education
Switzer Building, Room 4074
400 Maryland Avenue, S.W.
Washington, D. C. 20202-6186

Chapter 15

The Role of States

In the Delivery of Special Education

What is the relationship between federal and state law?

The Individuals with Disabilities Education Act establishes a contract between the Federal government and the State. In return for federal dollars, the state promises to implement the federal law and its regulations. Even though not necessary, most States have their own special education laws and regulations. State laws cannot provide less than Federal laws, but they can and often do provide more. Local school systems usually rely on their State special education regulations and guidelines more than the Federal law and regulations.

What are state responsibilities in the delivery of a free appropriate public education (FAPE)?

State responsibilities under IDEA include:

- Develop a plan which will identify all children with disabilities (“child find” in IDEA).
- Maintain laws and regulations which may provide more, but cannot provide less than IDEA.
- Have in place an implementation plan which describes how to implement IDEA and how to monitor local school systems for compliance with IDEA.
- Have in place a special education advisory committee, the majority of whose members are adults with disabilities or parents of students with disabilities.
- Have a complaint process.
- Make a free appropriate public education available to eligible children between the ages of three and twenty-one.
- Ensure that personnel are appropriately and adequately trained.
- Establish and maintain professional standards required of all personnel.
- Specify steps intended to retrain or hire personnel.
- Establish procedures for acquiring and disseminating knowledge on “promising practices” for educational research.
- Have in place a comprehensive system of personnel development (CSPD) “that is designed to ensure an adequate supply of qualified special education, regular education and related services personnel.”

- Ensure that students with disabilities are included in all district-wide or state-wide assessments, with accommodations, if needed.
- Develop performance goals and indicators for students with disabilities which are consistent, to the maximum extent appropriate, with goals and indicators established for non-disabled children.
- Develop procedures for acquiring and disseminating significant knowledge and adopt appropriate promising practices, materials, and technology.
- Enter into interagency agreements with other agencies, such as Medicaid, to fund some of the costs of providing FAPE.
- Provide joint training on IDEA for parents, special education and related services, and general education personnel.
- Adopt as a disability category “a child with a developmental delay” for children ages three through nine. If the state adopts this category, local school districts are not required to do so. If the state does not adopt this category, local school districts may not use the term “developmental delay.”
- May provide for the transfer of rights under IDEA from parents to students who have reached the “age of majority” under state law.

Are there issues left to the states to decide?

Issues left to be decided by states include:

- Definition of disability, including learning disabilities and developmental delay.
- Personnel standards — Each state may determine the standards for training and endorsing qualified personnel, including paraprofessionals.
- Class size, age levels, and disability mix served.
- Indicators to assess progress on assessments, dropout rates and graduation requirements.
- Guidelines for accommodations in taking standardized assessments.
- Accountability for teachers, schools, or agency performance in providing FAPE.

APPENDIX

APPENDIX A

TIPS FOR WRITING LETTERS OF REQUEST

- **Be Brief** — State who you are, your relationship to the student, why you are writing, and your request.
- **Be Clear, Direct and Complete** — Provide all of the facts that the person receiving the letter will need to make a decision.
- **Be Respectful** — Use correct terminology. People with disabilities prefer to be called “people with disabilities” not “disabled people.” Letters can be forceful and yet respectful.
- **Be Available** — Include your telephone number/s (home, cellular, work) and any instructions about when you will be most easily reached.
- **Keep A Copy of Letters for your Files**
- **Use Certified Mail** — This will assure that your correspondence has been received. For a small fee correspondence can be sent “return receipt” to that the person receiving the correspondence will be required to sign when received.
- **Be Polite** — Be sure to acknowledge any assistance or consideration with a letter of appreciation.

Appendix A1
SAMPLE LETTER

REQUEST FOR EVALUATION FOR SPECIAL EDUCATION SERVICES

Mr. And Mrs. James R. Smith
1111 Forest Avenue
Juniper, FL 75000
666.300.4444 (home)
666.300.4445 (office)

January 1, 2002

Mr. John Anderson, Principal
Holly Oaks Elementary School
4212 Sacramento Street
Juniper, FL 75000

Dear Mr. Anderson:

Our daughter, Mary Ann Smith, is in grade four at Holly Oaks Elementary School. We are requesting that she be considered for special education services that will help her with reading and spelling.

Mary Ann started school at Holly Oaks Elementary School when she was in kindergarten and has been there continuously since that time.

(Give brief history of school experiences indicating lack of progress)

Please do not hesitate to contact me at my home or office as above. I look forward to hearing from you at your earliest convenience.

Sincerely,

James R. Smith

All names and addresses are fictitious

Appendix A2
SAMPLE LETTER

REQUEST FOR REEVALUATION

Mr. and Mrs. James R. Smith
1111 Forest Avenue
Juniper, FL 75000
666.300.4444 (home)
666.300.4445 (office)

January 1, 2002

Mr. John Anderson, Principal
Holly Oaks Elementary School
Juniper, FL 75000

Dear Mr. Anderson:

Our daughter, Mary Ann Smith, is a student at your school. Recently we reviewed her evaluation/assessment, and believe it is out-of-date (incomplete, inappropriate). We are requesting that Mary Ann be reevaluated.

Please contact us so that we can arrange a time and place for the meeting. We look forward to hearing you regarding this urgent request.

Sincerely yours,

James and Jennifer Smith

All names and addresses are fictitious

Appendix A3
SAMPLE LETTER

REQUEST FOR REEVALUATION
(TRIENNIAL REVIEW)

Mr. And Mrs. James R. Smith
1111 Forest Avenue
Juniper, FL 75000
666.300.4444 (home)
666.300.4445 (office)

January 1, 2002

Mr. John Anderson, Principal
Holly Oaks Elementary School
4212 Sacramento Street
Juniper, FL 75000

Dear Mr. Anderson:

Recently we attended an Individualized Education Program meeting for our daughter, Mary Ann Smith, at which time plans were made for the triennial evaluation. The school team said additional testing was not needed, but we are not in agreement. Mary Ann has shown little progress in reading. We are requesting a reevaluation to determine her difficulties.

Please contact us so that we can arrange a time and place for a meeting to discuss this matter. We look forward to hearing from you regarding this important request.

Sincerely yours,

James and Jennifer Smith

All names and addresses are fictitious

Appendix A4
SAMPLE LETTER

REQUEST FOR ADDITIONAL TESTING

Mr. And Mrs. James R. Smith
1111 Forest Avenue
Juniper, FL 75000
666.300.4444 (home)
666.300.4445 (office)

January 1, 2002

Mr. John Anderson, Principal
Holly Oaks Elementary School
4212 Sacramento Street
Juniper, FL 75000

Dear Mr. Anderson:

Our daughter, Mary Ann Smith, is a student at Holly Oaks Elementary School. We have studied the reports of the school's assessment of Mary Ann and feel she was not evaluated in every area of suspected disability. We believe additional testing is needed in areas related to her reading problems, specifically her problems with comprehension.

Please contact us so that we can arrange a time and place for a meeting to discuss this matter. We look forward to your timely reply to this important request.

Sincerely yours,

James and Jennifer Smith

All names and addresses are fictitious

Appendix A5
SAMPLE LETTER

REQUEST FOR INDEPENDENT EDUCATIONAL EVALUATION

Mr. And Mrs. James R. Smith
1111 Forest Avenue
Juniper, FL 75000
666.300.4444 (home)
666.300.4445 (office)

January 1, 2002

Mr. John Anderson, Principal
Holly Oaks Elementary School
4212 Sacramento Street
Juniper, FL 75000

Dear Mr. Anderson:

We are the parents of Mary Ann Smith, a student at your school. We recently attended an Individualized Education Program meeting to discuss the evaluation done by the school. We are not in agreement with the school's assessment of Mary Ann and request an independent educational evaluation.

Please send a copy of the written criteria the school requires for an independent educational evaluation and a written list of independent evaluators who are qualified to do the testing. We will send the results of the evaluation to you when it is completed. We understand that it must be considered in any future decisions about Mary Ann's education.

It is our understanding that the school is to pay for the independent evaluation unless it is proven that the school's assessment is appropriate.

We look forward to hearing from you regarding this important request. Thank you for your help.

Sincerely yours,

James and Jennifer Smith

All names and addresses are fictitious

Appendix A6
SAMPLE LETTER

REQUEST FOR CHANGE IN STUDENT'S RECORDS

Mr. And Mrs. James R. Smith
1111 Forest Avenue
Juniper, FL 75000
666.300.4444 (home)
666.300.4445 (office)

January 1, 2002

Mr. John Anderson, Principal
Holly Oaks Elementary School
4212 Sacramento Street
Juniper, FL 75000

Dear Mr. Anderson:

We are the parents of Mary Ann Smith, a student at your school. There is a statement in Mary Ann's (name and date of record) which we believe is in error because (give details).

We are requesting that you change Mary Ann's records to eliminate this error.

Thank you for your help. We look forward to hearing from you soon.

Sincerely yours,

James and Jennifer Smith

All names and addresses are fictitious

Appendix A7
SAMPLE LETTER

REQUEST FOR RECORDS FROM SCHOOL

Mr. And Mrs. James R. Smith
1111 Forest Avenue
Juniper, FL 75000
666.300.4444 (home)
666.300.4445 (office)

January 1, 2002

Mr. John Anderson, Principal
Holly Oaks Elementary School
4212 Sacramento Street
Juniper, FL 75000

Dear Mr. Anderson:

We are the parents of Mary Ann Smith, a student at your school. Please inform us in writing of the types and locations of all education records collected, maintained or used for Mary Ann by the school district. Please let us know where these records are kept and whom we should contact to make arrangements to review them.

Thank you for your help. We look forward to hearing from you soon.

Sincerely yours,

James and Jennifer Smith

All names and addresses are fictitious

Appendix A8
SAMPLE LETTER

REQUEST FOR MEDIATION

Mr. And Mrs. James R. Smith
1111 Forest Avenue
Juniper, FL 75000
666.300.4444 (home)
666.300.4445 (office)

January 1, 2002

Robert S. Kerr, Ph.D., Commissioner
Florida State Education Agency
777 Jones Way
Tallahassee, FL 75033

Dear Doctor Kerr:

We are the parents of Mary Ann Smith, a student who receives special education services at Holly Oaks Elementary School in the Juniper Independent School District. We are writing to request mediation of our dispute with the Juniper Independent School District concerning the education of Mary Ann. It is our hope that mediation will resolve this disagreement so that it will not be necessary to request an impartial due process hearing.

(Explain reasons for requesting mediation)

We look forward to hearing from you and resolving this matter as soon as possible in Mary Ann's best interest.

Sincerely yours,

James and Jennifer Smith

All names and addresses are fictitious

Appendix A9
SAMPLE LETTER

FILING A COMPLAINT WITH THE STATE

Mr. And Mrs. James R. Smith
1111 Forest Avenue
Juniper, FL 75000
666.300.4444 (home)
666.300.4445 (office)

Mr. Harold Watkins, Complaint Officer (name available from State Dept of Education)
Florida State Education Agency
7777 Jones Way
Tallahassee, FL 75033

Dear Mr. Watkins:

We have requested (describe the problem) for our daughter, Mary Ann Smith, who attends Holly Oaks Elementary School in the Juniper Independent School District. We are filing a complaint because the Individualized Education Program team has (refused my request, etc.). We wish to discuss his matter with you.

Please contact us so that we can arrange a time and place to meet. Thank you for your assistance.

Sincerely yours,

James and Jennifer Smith

All names and addresses are fictitious

Appendix A10
SAMPLE LETTER

REQUEST FOR IMPARTIAL DUE PROCESS HEARING

Mr. And Mrs. James R. Smith
1111 Forest Avenue
Juniper, FL 75000
666.300.4444 (home)
666.300.4445 (office)

January 1, 2002

Robert S. Kerr, Ph.D., Commissioner
Florida State Education Agency
777 Jones Way
Tallahassee FL 75033

Dear Doctor Kerr:

We are requesting a hearing before an impartial hearing officer in order to challenge the failure of the Juniper Independent School District to provide an appropriate education program for our daughter, Mary Ann Smith, 1111 Forest Avenue, Juniper, FL 75000, a student receiving special education in this school district. As parents we believe we are acting in Mary Ann's best interest. Please send the necessary forms, including a list of all information or documentation you require.

(Explain why you are requesting a hearing)

Please forward to us a list of attorneys and advocates who may be qualified to assist us through due process. We understand that mediation is available to us prior to a due process hearing and we will consider that procedure. Please include information on the mediation process in your response to our request.

Sincerely yours,

James and Jennifer Smith

cc: Mary C. Jackson, Superintendent, Juniper Independent School District John Anderson,
Principal, Holly Oaks Elementary School, Juniper ISD

(Send by certified mail)

All names and addresses are fictitious

APPENDIX B

ACRONYMS

ADA	Americans with Disabilities Act of 1990
ADD	Attention Deficit Disorder
ADHD	Attention Deficit-Hyperactivity Disorder
AEP	Alternative Education Placement
AES	Alternative Educational Setting
AT	Assistive Technology
BD	Behavior Disorder
BIP	Behavior Intervention Plan
CFR	Code of Federal Regulations
CSPD	Comprehensive System of Personnel Development
DOE	Department of Education
ED	Emotional Disturbance
EDGAR	Education Department General Administration Regulations
EEOC	Equal Employment Opportunities Commission
EHA	Education of the Handicapped Act, PL 94-142
ESEA	Elementary and Secondary Education Act of 1965
ESL	English as a Second Language
EYS	Extended School Year Services
FAPE	Free Appropriate Public Education
FERPA	Family Educational Rights and Privacy Act
GPO	Government Printing Office
IAES	Interim Alternative Educational Setting
IDEA	Individuals with Disabilities Education Act Amendments of 1997
IEE	Independent Educational Evaluation
IEP	Individualized Education Program
IFSP	Individualized Family Service Plan
IQ	Intelligence Quotient
ITP	Individualized Transition Program
ITPA	Illinois Test of Psycholinguistic Ability
JTPA	Job Training Partnership Act
LD	Learning Disabilities
LEA	Local Educational Agency (Including Charter Schools)
LEP	Limited English Proficient
LRE	Least Restrictive Environment
MR	Mental Retardation
NASDSE	National Association of State Directors of Special Education
NASP	National Association of School Psychologists
NIH	National Institutes of Health
OCR	Office of Civil Rights
OHI	Other Health Impaired

OSEP	Office of Special Education Programs
OSERS	Office of Special Education and Rehabilitative Services
OT	Occupational Therapy
PE	Physical Education
PT	Physical Therapy
RA	Rehabilitation Act of 1973
RSA	Rehabilitation Services Administration
SB	Stanford-Binet Test of Intelligence
SBA	School Boards Association
SEA	State Education Agency
SLD	Specific Learning Disabilities
SSI	Supplemental Security Income
TA	Technical Assistance
U.S.C.	United States Code
USDOE	United States Department of Education
VR	Vocational Rehabilitation
WAIS-III	Wechsler Adult Intelligence Scale, Third Revision
WIAT	Wisconsin Individual Achievement Test
WISC-III	Wechsler Intelligence Scale for Children, Third Revision
WPPSI-R	Wechsler Preschool & Primary Scale of Intelligence, Revised
WRIOT	Wide Range Interest Occupation Test
WRMT-R	Woodcock Reading Mastery Test, Revised

APPENDIX C

RELATED AGENCIES

Head Start Bureau, Administration on Children, Youth and Families, U.S. Department of Health and Human Services, P.O. Box 1182, Washington, D.C., 20013, Telephone: (202) 205-8579; Email: webmaster@acf.dhhs.gov; Web site: <http://www2.acf.dhhs.gov/programs/hsb/>

National Institute for Child Health and Human Development (NICHD), National Institute of Health (NIH), 6100 Executive Boulevard, Rockville, MD 20852, Telephone: (301) 496-5733; Web site: <http://www.nichd.nih.gov/>

National Institute on Disability and Rehabilitation Research (NIDRR), 330 C Street SW, Room 3036, Washington, DC 20202, Telephone: (202) 205-8134 (V); (202) 205-9433 (TTY); Web site: <http://www.ed.gov/officer/OSERS/NICRR/nidrr.html>

Office for Civil Rights (OCR), U.S. Department of Education, 600 Independence Avenue SW, Washington, D.C. 20202, Telephone: (800) 421-3481 or (202) 205-5413; Fax: (202) 205-9862; Web site: www.ed.gov; Email: ocr@ed.gov

Office of Special Education and Rehabilitative Services (OSERS), U.S. Department of Education, Switzer Building, 330 C Street SW, Suite 3006, Washington, D.C. 20202-2500, Telephone: (202) 205-5465; Fax: (202) 205-9252; Web site: www.ed.gov/offices/osers

Office of Special Education Program (OSEP), U. S. Department of Education, 330 C Street SW, Switzer Building, Washington, DC 20202, Telephone: (202) 205-5507; (202) 205-9754 (TTY)

Social Security Administration (SSA), Department of Health and Human Services, Baltimore, MD 21235, Telephone: (800) 772-1213 (V); (800) 325-00778 (TTY). For publications: Communications Office, (410) 965-0921. Web site: <http://www.ssa.gov>

U.S. Department of Education, 400 Maryland Ave. SW, Washington, D.C. 20013, Telephone: (800) USA-LEARN; Email: CustomerService@inet.ed.gov; Web site: <http://www.ed.gov>

APPENDIX D

OTHER RESOURCES

Americans with Disabilities Act (ADA) Hotline, 451 Hungerford Drive, Suite 607, Rockville, MD 20850-4151, Telephone: (301) 217-0124; Toll Free (800) 949-4232; Fax (301) 217-0754; Email: adainfo@transcen.org; Web site: <http://www.adainfo.org>

ERIC Clearinghouse on Disabilities and Gifted Education, Council for Exceptional Children, 1920 Association Drive, Reston, VA 20191, Telephone: (800) 328-0272 (V); (703) 264-9449 (TTY); Email: ericec@cec.sped.org; Web site: <http://www.cec.sped.org/ericec.htm>

Heath Resource Center, American Council on Education, One Dupont Circle, NW, Suite 800, Washington, D.C. 20036-1193, Telephone: (202) 939-9300; Fax: (202) 833-4760; Email: Heath@ace.nche.edu; Web site: <http://www.acenet.edu/about/programs/Access&equity/Heath/>

LD on Line: <http://www.ldonline.org>

National Information Center for Children and Youth with Disabilities (NICHCY), P.O. Box 1492, Washington, DC 20013-1492; Telephone: (202) 884-8200; (800) 695-0285; Email nichcy@aed.org; Web site: <http://www.nichcy.org>

Parent Training and Information Centers (PTI): For the PTI serving a particular location visit <http://www.npnd.org/PTIs.htm>

Superintendent of Documents, U.S. Government Printing Office, Attn: New Orders, P.O. Box 371954, Pittsburgh, PA 15250-7954. Call (212) 512-1800 for charge orders. **For copies of IDEA (Law & Regulations)**

State Department of Education, Office of Special Education: Find your State Department of Education. **Ask for a parent handbook on special education.** Find individual State Departments of Education at www.fetaweb.com/

APPENDIX E

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INDEX

Accommodations/Modifications.....	25, 29, 46, 73
Age of Majority	25, 73
Alternate Assessment	46
Alternative Education Program	39
Americans with Disabilities Act (ADA).....	Chapter 13
Appeal.....	8, 42, 53, 68
Assessments, State & District-Wide.....	Chapter 8
Assistive Technology.....	25, 28, 57
Behavioral Intervention Plan.....	40, 43
Business Day	52
Charter School.....	33
Child with a Disability	5, 14, 17
Child Find.....	12, 67, 72
Complaint.....	8, 27, 35, 49, 54, 59, 63, 68, 71, 85
Comprehensive Evaluation.....	21
Consent	8, 13, 35, 44, 57, 63, 67
Counseling.....	25, 27, 63
Day.....	23, 25, 37, 43, 49, 52, 57
Definitions.....	62
Developmental Delay.....	19, 60, 73
Discipline	Chapter 7
Due Process.....	8, 16, 27, 32, 37, 42, 49, 68, 86
Early Intervention Services	56
Educational Records.....	8, 34, 37, 51, 71
Eligibility.....	Chapter 4
Evaluation.....	Chapter 3
Expulsion.....	39, 41
Extended School Year Services (EYS)	26
Federal Educational Records Privacy Act (FERPA).....	Chapter 14
Free Appropriate Public Education (FAPE).....	5, 7, 32, 39, 41, 44, 50, 60, 72
Functional Behavior Assessment.....	40, 43
Hearing Officer.....	32, 42, 53, 86
IEP Team.....	6, 22, 31, 35, 39, 45, 49
Independent Educational Evaluation (IEE)	8, 81
Individualized Education Program (IEP).....	Chapter 5
Individualized Family Service Plan (IFSP).....	Chapter 10
Interagency Agreement.....	73
Interim Alternative Educational Setting (IAES).....	41
Juvenile Justice.....	44
Least Restrictive Environment (LRE).....	5, 7, 32, 63
Manifestation Determination.....	38, 41
Manifestation Determination Review.....	40

Mediation.....	8, 27, 32, 49, 59, 84, 86
Other Health Impairment.....	19
Out-of-level Testing.....	46
Parent.....	5, 7, 10, 14, 17, 20, 22, 28, 31, 35, 37, 42, 45, 49, 56, 60, 63, 67, 71
Parental Consent.....	14, 16, 35
Parental Notice.....	63, 67
Performance Goals and Indicators.....	73
Personnel Standards.....	73
Placement.....	Chapter 6
Preschool Programs.....	Chapter 11
Prior Notice.....	8, 58
Private Schools.....	12, 32
Problem-Solving.....	10
Procedural Safeguards.....	8, 14, 37, 58
Reevaluation.....	16, 24, 35, 63, 78
Referral.....	Chapter 2
Rehabilitation Act of 1973, Section 504.....	Chapter 12
Related Services.....	6, 10, 17, 22, 26, 28, 31, 41, 49, 60, 73
School Day.....	25, 39, 43
Special Education Advisory Committee.....	73
State Complaint System.....	54
Supplementary Aids and Services.....	7
Suspension.....	39
Transfer of Parent Rights at Age of Majority.....	25
Transition Services.....	7, 22, 25
Weapons and Drugs.....	39, 41

**THIS PUBLICATION PROVIDES GENERAL INFORMATION
AND GUIDANCE. IT DOES NOT PRESUME TO PROVIDE
LEGAL COUNSEL. READERS ARE ADVISED TO OBTAIN
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