

Public Education for Children With Special Needs

Fundamentals for the Parent Advocate

Special Education is a Special Entitlement

Using the Civil Rights movement as their foundation, a group of parents in the early 1970's filed a lawsuit to get their children with disabilities educated. Their fight led to the first federal law in this country that guaranteed an education for children with disabilities. Public Law 94-142, known as **The Education for All Handicapped Children Act**, was signed by President Gerald Ford in 1975.

Over the years, Congress has revised and added provisions to the original law, and renamed it the **Individuals with Disabilities Education Act or the IDEA**. The latest version of the IDEA was adopted by Congress in 2004. (Public Law 108-446)

To receive federal funding for educating children with disabilities, states must write their own laws and regulations to make sure that children are provided an appropriate education in full compliance with the IDEA. In Illinois, these laws and regulations are found in **Section 226 of the Illinois School Code and Title 23, Part 226 of the Illinois Administrative Code**.

The laws and the rules for special education spell out a remarkable set of entitlements for every child in American public schools:

√ **All children must be served.**

Every child between the ages of 3-21, *no matter how severe his or her disability*, is entitled to an education.

√ **Children must be tested fairly.**

Any child who has or may have a disability must be evaluated to determine their eligibility for the special education entitlement.

Evaluations must have parents' consent and input, and show the child's strengths as well as weaknesses.

Language and cultural differences must be taken into account in the child's evaluation, and in the educational program that may follow.

√ **Special Education must be free, and appropriate for the individual child.**

The right to a *Free Appropriate Public Education*, or *FAPE*, assures that children with disabilities receive public instruction and directly related services at no extra cost, and that each child's education is

specially designed to meet their individual needs.

√ **Children must be served to the fullest extent with non-disabled students.**

An appropriate education also must be given in the *Least Restrictive Environment*, or *LRE*. Schools must use every available resource to include children, if possible, in the school they would attend if not disabled, and in classrooms and programs with non-disabled children.

√ **Children must receive continuous and timely service.**

Special education and related services must be provided without delay or suspension caused by schools or other responsible agencies. Under the law, service delayed is service denied.

√ **Parents of children with disabilities participate in the planning of programs and services.**

The law mandates parent participation in every step of the special education process. Parents are to be partners with the school system in evaluating children's needs and planning their programs and services.

√ **Parents can disagree.**

Parents have the right to say NO! Special education laws lay out procedures for *complaints* about school practices, and for *mediation* or *due process hearings*, initiate by either side, to settle disagreements.

The Same Special Education Process is Different for Each Child

There are basic procedures and common components in all special education programs. But each step in the process is meant to produce a different program of instruction and supporting services for each individual child.

Special Education Referral

A referral is a request for a school district to test a child for special education eligibility. Referrals may be made by parents, teachers and others who believe a child will need special assistance to succeed in school. A complete referral – by you or any other person – must include *your consent* for a formal evaluation to follow.

Evaluation

The evaluation is a series of diagnostic assessments to provide more precise information about a child and how his particular problems may affect his performance in school. Your role is to help the school district gather correct information about your child, including information that you must provide.

Multidisciplinary Conference

After the tests and assessments are completed, a conference of qualified professionals is held to determine your child's eligibility and personal need for special instruction and services. Similar evaluation and planning conferences will be held in the course of your child's schooling. As a participant in this meeting, and other meetings to follow, your input will be essential in establishing an appropriate education for your child.

Individualized Education Program (IEP)

An IEP must be developed by you and a team of school officials after a finding that your child is eligible for special education, then reviewed and revised at least every school year. The IEP is a written statement of the educational goals and objectives; the instruction and related services; the school and classroom placements; and the measures of school achievement that are appropriate for your child. The purpose of an IEP, though, is to teach your child the regular curriculum taught to other children in the public schools. You should be sure

that the written program includes every element agreed upon by you and other members of the IEP team.

Related Services

Related services are ones that help children attend school, receive instruction and participate to the full extent possible in school activities. The educational support services that your child needs, such as transportation to and from school, individual aides, physical therapy, speech and language services, counseling, or special tools or equipment known as assistive technology, should be stated in the IEP. The IEP must specify the units of service per week, the overall duration of service and whether the service is to be given in a small group setting or one on one.

School Placement

Your school district must offer school settings and institutional arrangements to serve the full range of special education students in the attendance area. The continuum of available placements ranges between regular classrooms in regular schools to public or private residential facilities, for students with extraordinary needs that cannot be met by public schools. Placement in a particular school or classroom, for all or part of your child's program, must be appropriate to meet his or her individual needs. Children with disabilities must be educated to the fullest extent possible with children who are non-disabled. You may observe any program and setting that your child will be attending before you agree to the placement.

Transition Planning

Your child's education, like all children's, should prepare him/her for the fullest possible life as an adult member of the general society. The IEP team may develop a transition plan when your child reaches 14, but no later than his/her 16th birthday. This plan is rewritten every year that your child remains in school (up to age 21). A transition plan should not simply state that your child will attend college, or will live independently; but must be the "road map" of how to get there. Community agencies and other service providers are invited to participate in transition planning so a comprehensive plan can be developed.

Procedural Safeguards

At every step of the process there are specific legal protections for your role in defining your child's needs and designing an effective program. These "procedural safeguards" give you the right:

- ◆ To have ten days notice before the school changes (or refuses to change) the identification, evaluation, or placement of your child.
- ◆ To have all information, including all letters and forms, written or read to you so that you can understand them. An interpreter must be provided if you need one.
- ◆ To have all information about your child's special education and related services available in the language in which you are most fluent – whether it is in spoken or written form.
- ◆ To give your consent before an evaluation is performed, a placement is made or any element of your child's education plan is changed.
- ◆ To refuse consent or revoke your consent to any of the same actions.
- ◆ To inspect, review, and obtain copies of your child's records; and have all records explained to you.
- ◆ To have an independent evaluation done and to have that evaluation considered when placement and program decisions are made.
- ◆ **To have a reevaluation done every three years, or sooner if requested.**
- ◆ To pursue *mediation* or an *impartial due process hearing* to resolve a specific dispute with school officials; and
- ◆ To file a *complaint* with the State Board of Education about any violation of rules or policies, and have an investigation and report within 60 days.

Every Child Needs an Effective Advocate

An effective education for your child depends on your effectiveness as an advocate. As you work to obtain the special education and related services required, at every formal and informal opportunity, there are (at least) ten tips you should follow:

1. SET GOALS

Be proactive instead of reactive

Whether you're meeting formally with school officials and experts, or holding private

conversations, it's important to have in mind basic goals and practical objectives for your child, and a vision of how the schools can help. Always act with positive vision and purpose.

2. DEVELOP A STRATEGY

Know exactly what you want

Saying "I want my child fully included," says too little. Consider what needs to happen for your child to participate in the regular class. Does your child need particular skills or special assistance to participate? Who can teach those skills? Lay out the steps required to reach each of your goals. Remember, it will take time and many meetings to get there.

3. GATHER INFORMATION

You can never be too prepared

Use school records, your child's daily work, outside evaluations, records of decisions already made, descriptions of your child's activity and relationships outside of school, the law and the latest rules...all the information that matters.

4. USE OTHERS' SUPPORT

Benefit from others' experience

Take advantage of training and assistance available from outside groups and agencies. In meetings with school officials you can have a companion of your choice. A parent support group can provide you with emotional support; you can share information affecting your goals and strategies; and together you can identify systemic problems for all to address.

5. ESTABLISH YOUR PLACE IN THE PROCESS

Use your authority

By law, you have authority over your child's education. You have a legal right to be heard in any major decision by school officials. You can refuse to consent to their decisions. You also can form alliances with others involved in the process; and address anyone face to face. Remember, you are not an outsider.

6. ASK QUESTIONS

Stay up to date

Always clarify the current situation. Make sure that you know what the issues are in each meeting or

conversation, and have all the information that's relevant. Asking questions has nothing to do with intelligence; no one knows everything. Listen carefully to the answers, and take your own notes.

7. ANALYZE

Reevaluate your strategy; be flexible

How do new facts affect your strategy? What is reasonable? What can you really get? What steps do you need to take next?

8. TAKE YOUR TIME

Don't be pressured by the clock

Meetings can always be rescheduled. If you have issues you know will need more time, notify your district. If you're not sure of your next steps, adjourn the meeting. Don't rush into something you don't agree with, or don't understand.

9. MAKE SUGGESTIONS

Take the lead when necessary

Throughout the process, problems must be solved and plans must be changed. One suggestion can get everyone in the problem-solving mode! Because you may know the latest rule or where that appropriate resource is, don't assume everyone else does. Don't make it **their** job! Help find solutions, not just problems.

10. RESPECTFULLY DISAGREE

Be assertive, not antagonistic

Remember you will still have to work with these folks, so choose your fights carefully. Stand firm on what's essential, but don't make your fights personal. When necessary, there are formal procedures to decide who's right or wrong.

RESOURCES

This parent advisory was prepared by the Parent Training Partnership Project, funded by the Illinois State Board of Education in the Fall of 2002 and revised in 2006. The Illinois Parent Training and Information Centers (PTIC's) prepare parents to act as advocates for their own children with disabilities in Illinois public schools. If you have questions or need personal assistance, please contact the Parent Training and Information Center that is most convenient or appropriate for you:

Family Matters
1901 S. 4th St., Ste. 209
Effingham, IL 62401
866-436-7842 (V)
217-347-0880 (V) (TTY)
217-347-5119 (FAX)
www.fmptic.org

Family Resource Center on Disabilities
20 E. Jackson, Room 300
Chicago, IL 60604
312-939-3513 (V)
312-939-7297 (FAX)
www.frcd.org