

Accessing Services: Your Child's Rights to Public Education

Every child has the right to a free appropriate education. The **Individuals with Disabilities Education Act (IDEA)**, enacted in 1975, mandates a public education for all eligible children and makes the schools responsible for providing the supports and services that will allow this to happen. IDEA was most recently revised in 2004 (and, in fact, renamed the Individuals with Disabilities Education Improvement Act, but most people still refer to it as IDEA). The law mandates that the state provide an eligible child with a free appropriate public education that meets his or her unique individual needs.

IDEA specifies that children with various disabilities, including autism, are entitled to early intervention services and special education. In addition, the IDEA legislation has established an important team approach and a role for parents as equal partners in the planning for an individual child and promotes an education in the least restrictive environment. You, as a parent, are entitled to be treated as an equal partner with the school district in deciding on an education plan for your child and his or her individual needs. This enables you to be a powerful advocate for your child. It also means that you must be an informed, active participant in planning and monitoring your child's unique program and legal rights.

In addition to the IDEA stipulations, the Americans with Disabilities Act of 1990 (ADA) sets forth, as a civil right, protections and provisions for equal access to education for anyone with a disability. Section 504 of the Rehabilitation Act of 1973 is another civil rights law that prohibits discrimination on the basis of disability in programs and activities, public and private, that receive federal financial assistance. Generally, the individuals protected by these laws include anyone with a physical or mental impairment that substantially limits one or more life activities.

Advocating for your child's education is a very important role and at times can seem overwhelming and confusing. Two books that may be helpful are:

Wrightslaw: From Emotions to Advocacy - The Special Education Survival Guide

by Pam Wright and Pete Wright

How to Compromise with Your School District Without Compromising Your Child

by Gary Mayerson

You will also find additional books and websites at the end of this kit that will be helpful in this process. You, as a parent, are entitled to be treated as an equal partner with the school district in deciding on an education plan for your child.

What is a "Free and Appropriate Public Education" (FAPE)?

As described previously, IDEA provides for a "free and appropriate education" for all children with disabilities. Each word in this phrase is important, but "appropriate" is the one that relates specifically to your special needs child. Your child is entitled to an education that is tailored to his or her special needs and a placement that will allow him or her to make educational progress.

Although you and your child's teachers or therapists may want to provide your child with the best and optimal programs and services, the school district is simply required to provide an appropriate education. One of the challenges here is working with the school district to determine what is appropriate and therefore what will be provided for your child. This is a collaborative process and may require considerable negotiation in order to secure the appropriate services from the school.

What is “Least Restrictive Environment” (LRE)?

As specified in the IDEA, your child is entitled to experience the **“least restrictive environment”** in schools. This means that your child should be placed in the environment in which he or she has the greatest possible opportunity to interact with children who do not have a disability and to participate in the general education curriculum. The child must be educated in the school he or she would attend if not disabled to the maximum extent appropriate and supported with the aids and services required to make this possible. This does not mean that every student has to be in a general education classroom, but the objective is to place the student in as natural a learning environment as possible, within his or her home community. This decision is made by the members of the Individualized Education Program (IEP) team, with consideration of the myriad of issues related to appropriate environment and supports for the student. Placements and the LRE for a particular student may change over time.

The participation of children with disabilities in the general education environment is often referred to as **“mainstreaming”** or **“inclusion”**. Inclusion does not mean that a child with special needs should be placed into a general education setting just like a typical learner; a variety of special education supports should be provided in order to create a successful environment and positive experience for everyone involved. Careful planning and training are essential to providing modifications or accommodations and to successfully situating a child with a disability in the least restrictive setting. These supports might include providing a specially trained classroom or one-on-one paraprofessional, altering testing environments or expectations, adapting curriculum, providing visual supports or adaptive equipment, etc. The special education department should provide training, strategies and support for general education staff and others in the general school community who may interact with students with special needs. It is impor-

tant to note that philosophies about inclusion vary considerably among school districts, staff and parents of students with and without special needs.

IDEA provides for a team approach to planning so that the objectives of all members of the team can be considered and the necessary supports can be put in place to maximize inclusion. Not all parents will feel that a mainstream environment will enhance the growth and development of their student with special needs and allowances need to be made to accommodate various perspectives. Additionally, not all students will be ready for full inclusion all of the time. The anxiety and sensory issues related to inclusion may mean that efforts should begin with small steps that can generate ongoing success and increase participation within the local student body and community.

Early Intervention Services (EI) for Children Under the Age of Three

The IDEA provides states with federal grants to institute **Early Intervention** programs. Any child younger than age three who has a developmental delay or a physical or mental condition likely to result in a developmental delay is eligible to receive early intervention services through these programs. EI services can vary widely from state to state and region to region. However, the services should address your child’s unique needs and should not be limited to what is currently available or customary in your region.

The document that spells out your child’s needs and the services that will be provided is the **Individual Family Service Program (IFSP)**. The IFSP should be based on a comprehensive evaluation of your child. It should describe your child’s current levels of functioning and the anticipated goals. It should also list the specific services that will be provided to your

child and your family. EI services are aimed at minimizing the impact of disabilities on the development of your child. Services for your child may include, but are not limited to, speech and language instruction, occupational therapy, physical therapy, Applied Behavior Analysis (ABA) and psychological evaluation. Services for families may include training to help reinforce the affected child's new skills and counseling to help the family adapt.

Information about the Legal Rights and Procedures for Early Intervention in your state can be found in the Autism Speaks Resource Guide at autismspeaks.org/resource-guide.

Click on your state and you will find the information under Early Intervention/State Information.

In this same section of the Autism Speaks Resource Guide you will also find state specific information on the process of transitioning from Early Intervention Services to Special Education Services.

You can learn more about early intervention at: autismspeaks.org/blog/2012/10/26/evaluating-early-interventions.

be met. Unlike the IFSP, the IEP is almost entirely related to how the needs of your child will be met within the context of the school district and inside school walls.

Information about the Legal Rights and Procedures for Special Education Services can be found in *Individualized Education Plan (IEP): Summary, Process and Practical Tips*, a guide created by law firm Goodwin Procter LLP on the Autism Speaks website at autismspeaks.org/family-services/tool-kits/iep-guide.

There are IEP forms from the guide included at the end of this kit.

You can also read more about legal information in your state by visiting the Autism Speaks Resource Guide at autismspeaks.org/resource-guide.

Click on your state and you will find the information under Preschool Age or School Age Services/State Information.

You can also view the Autism Speaks School Community Tool Kit at autismspeaks.org/school.

Special Education Services for Children Ages 3 - 22

Special Education services pick up where early intervention services leave off, at age three. Your local school district provides these services through their special education department. The focus of special education is different from that of early intervention. While early intervention services address your child's overall development, special education focuses on providing your child with an education, regardless of disabilities or special needs.

The document that spells out your child's needs and how these needs will be met is the **Individualized Education Program (IEP)**. Like the IFSP, the IEP describes your child's strengths and weaknesses, sets goals and objectives and details how these can

