

# A Parent's Guide to Special Education Rights

Pathfinder Parent Center

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**PATHFINDER**  
PARENT CENTER



# GETTING STARTED

- Four laws guarantee your rights as parents.
  - The American's with Disabilities Act
  - Section 504 of the Rehabilitation Act
  - The Individuals with Disabilities Education Act or **IDEA**
  - The Elementary & Secondary Education Act or ESEA
- This Power Point outlines some key rights under IDEA

# GUARANTEE

Your rights may vary, depending on:

- Your child's age (At age 3 or 18 new rights apply)
- Eligibility (Not all children receive special education)
- Circumstances (In different situations new rights apply)
- Changes in the law (when reauthorized changes occur).



# RIGHT TO EDUCATION

All children with or without disabilities have a right to a Free and Appropriate Public Education

This is also called FAPE



*Your child cannot be left out or left behind just because they have a disability or learn differently.*

# RIGHT TO SPECIAL EDUCATION

- Children with disabilities ages birth to 26 years of age
- Who have any of the disabilities included in IDEA

AND

- Who *need* special education and related services
- Have a right to get those services

These rights are guaranteed by state and federal law.



# WHAT IS SPECIAL EDUCATION

- Special Education is a **service** not a placement.
- Special Education includes:
  - **Special instruction** (intensive , goal-driven teaching )
  - **Accommodations** ( assistance to help level the playing field)
  - **Modifications** (changes to the curriculum)
  - **Related Services** (other services e.g. therapy or transportation )

# WHAT DOES THAT MEAN

- A child with a disability may be able to learn and succeed in school without special instruction or modifications (changes) to the curriculum.
- If a child is eligible and needs special education services, he has a right to receive special education.
- A child with a disability, that does not need special education services still has a right to a free and appropriate public education.

# INTENT

- For students with disabilities to be provided with services that allow them to achieve equal to their same age peers without disabilities
- The intent of specialized instruction is not to keep students with disabilities busy doing unique activities while they fall farther and farther behind.
- Cooperative Learning Groups
- Learning Center
- Peer Tutoring
- Small Group Instruction

These are instructional interventions that general educators should be doing.

# SPECIALIZED INSTRUCTION

## DEFINITION

Intensive, systematic instruction to learn skills (academic or behavior) that typically developing children acquire naturally or with minimum instruction.

## EXAMPLES

- REHEARSAL
- ERRORLESS LEARNING
- DIRECT INSTRUCTION
- GENERALIZATION
- PROMPTING SCHEDULES
- SCAFFOLDING
- FADING
- REINFORCEMENT

# WHAT DISABILITIES ARE IN IDEA?

- Autism
- Deaf-blindness
- Deafness or Hearing Impairment
- Emotional Disturbance
- Intellectual Disabilities
- Non-categorical Delay
- Orthopedic Impairment
- Other Health Impairment
- Specific Learning Disability
- Speech or Language Impairment
- Traumatic Brain Injury
- Visual Impairment including blindness

# ELIGIBILITY IS A TEAM DECISION

- The decision must be based on a comprehensive evaluation that is reviewed by a planning team.
- The parent/legal guardian is part of the team and must be present when key decisions are made until age 18.
- The school has to actually implement the IEP so they have the final say. If they say, no they must give you the basis for the decision in writing.
- You have the right to appeal that decision through due process (a hearing). Other kinds of dispute resolution processes are also available.

# WHO NEEDS SPECIAL ED?

- Eligible students with disabilities who need specialized instruction.
- Students do not have to fail to receive special education.
- Grades alone cannot be used to deny access to special education.
- State test scores alone cannot be used to deny access to special education if other compelling evidence shows a need for special instruction.

# FREE

If needed, Special Education must be provided regardless of where you live, the school your child attends or the nature or extent of your child's disability at no expense to the parent.



# TIMELINES

The school must respond to your written request for a comprehensive evaluation within 60 days.

The school must respond to your written request to see your child's records within 45 days.

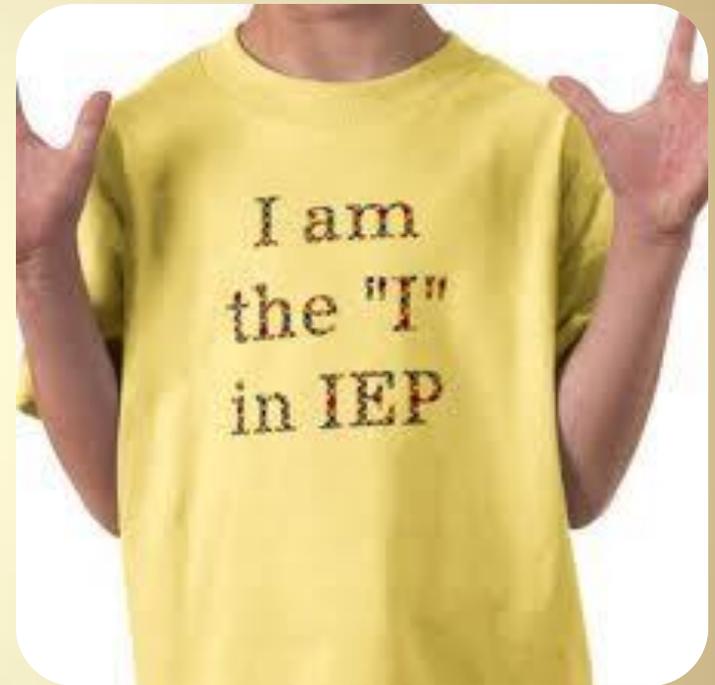
Other timelines about prior notice of actions the school may take are available. To learn more – contact Pathfinder at 1.800.245.5840 or [info@pathfinder-nd.org](mailto:info@pathfinder-nd.org)

# COMPREHENSIVE

- The school must obtain your written consent to begin the evaluation process.
- You can ask for a comprehensive evaluation even if the school has not suggested it.
- A comprehensive evaluation considers all suspected areas of disability and cannot be based on a single test.
- The evaluation of your child must be conducted at public expense.
- If the school decides not to conduct the evaluation, you can arrange for a private evaluation at public expense.

# WHO IS ON THE TEAM?

- The team is called an IEP team and that stands for Individualized Educational Program.
- The team includes the natural guardian (parent) for children ages birth to 18 and the legal guardian for children ages 18 or above.



# WHO IS ON THE TEAM

- The parent
- At least one special education teacher
- At least one general education teacher
- A qualified representative of the school who familiar with and able to commit resources.
- An individual who can interpret the implication of the evaluation results
- Other individuals who have r special expertise
- The child, whenever appropriate and who must be invited starting at age 16.

# COMPLIANCE

The state and local education agency (LEA or school) must comply with the procedures set forth in the Act.

Parents have a right to information that helps identify if that has taken place. These rights include:

- The right to examine school records
- Participate in meetings
- Present complaints
- Receive prior written notice of any proposals to change the educational placement of a child,
- An independent educational evaluation
- An impartial due process hearing for failure to comply with the law.

# SCHOOL RECORDS

- Parents have a right to receive an explanation of the contents by a qualified professional. You do not have a right to the actual test papers. You do have a right to the explanation of the results and recommendations
- You have a right to challenge the content of the records, and to ask for correction or deletion of inaccurate, misleading or inappropriate information.
- You have a right to insert into the records a written explanation of your own about the contents.

# SCHOOL RECORDS

- You have a right to obtain copies of your child's school records at cost.
- You can designate, in writing a person who can access your child's school records.
- The content of the records is confidential. That means people do not discuss the information in public with others who do not need to know.
- You control access and release of your child's records.



# RIGHTS TO AN IEP

- If eligible for special education and in need of specialized instruction, your child has a right to an Individualized Educational Program or IEP.
- The IEP is a legal document that is created based on the consensus of the team.
- When the team cannot agree, ways to resolve disputes include meeting to resolve concerns or asking for a facilitated IEP or mediation.

# DISABILITY AND NEED

- If your child has a disability, recognized under IDEA the team decides if he needs specialized instruction to benefit from the regular educational program.
- Specialized instruction is a change to the content, performance expectations, and method of instruction – usually delivered by staff with special training
- Specialized instruction must be delivered by a highly qualified teacher in the least restrictive environment that is appropriate to meet the needs of the student

# DISABILITY AND ACCOMMODATIONS

- When a student has a disability that is impacting a major life function and does not qualify as needing special education (special instruction) under IDEA he or she may be eligible for special services under Section 504 of the Rehabilitation Act.
- The definition of what constitutes a disability under Section 504 is very broad and was recently clarified to require schools to readily identify students with disabilities.

# LEAST RESTRICTIVE ENVIRONMENT

- The regular education curriculum is by law the least restrictive environment.
- If your child is educated outside of the regular education settings, he or she may not receive the full benefit of this rich and challenging learning experience.
- It is possible to modify instruction and deliver that instruction within the regular education setting.
- Some students need to learn in specialized environment some of the time. For that reason, schools must provide an array of service options.

# PLACEMENT DECISIONS

- Students have a right to have their placement determined by a team that includes their parents and other people knowledgeable about them, the meaning of the evaluation data and the placement options.
- To be educated in the school that he or she would attend if they did not have a disability.
- To participate with children that do not have disabilities in extracurricular and nonacademic activities.

# OTHER RIGHTS

- Parents and students have many other rights that cannot be easily shared in this format. For that reason we encourage you to obtain a Rights Brochure or IEP Pocket Guide (FREE) from the Pathfinder Parent Center.

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