



SPECIAL EDUCATION FOR SPECIAL NEEDS CHILDREN FACT SHEET



1. Purpose. To inform special needs families regarding critical special education services, processes, and procedural safeguards set forth in federal law.

2. References.

a. Individuals with Disabilities Education Act (“IDEA”), 20 U.S.C. §§ 1400–1482.

b. Family Educational Rights and Privacy Act (“FERPA”), 20 U.S.C. § 1232g

c. NATIONAL DISSEMINATION CENTER FOR CHILDREN WITH DISABILITIES, QUESTIONS OFTEN ASKED BY PARENTS ABOUT SPECIAL EDUCATION SERVICES (2009), *available at* <http://nichcy.org/wp-content/uploads/docs/lg1.pdf>.

3. Discussion. Special education is instruction that is specially designed to meet the unique needs of children who have disabilities. Special education and related services are provided in public schools at no cost to the parents and can include special instruction in the classroom, at home, in hospitals or institutions, or in other settings. This definition of special education comes from the Individuals with Disabilities Education Act (IDEA). This law gives eligible children with disabilities the right to receive special services and assistance in school.

a. Eligibility. Children with disabilities are eligible for special education and related services when they meet IDEA’s definition of a “child with a disability” in combination with state and local policies. IDEA’s definition of a “child with a disability” lists 13 different disability categories under which a child may be found eligible for special education and related services:

- (1) Autism;
- (2) Deafness;
- (3) Deaf-blindness;
- (4) Hearing impairment;
- (5) Mental retardation;
- (6) Multiple disabilities;
- (7) Orthopedic impairment;
- (8) Other health impairment;
- (9) Serious emotional disturbance;
- (10) Specific learning disability;
- (11) Speech or language impairment;
- (12) Traumatic brain injury;
- (13) Visual impairment, including blindness.

b. Determination of Eligibility. You can ask the school to *evaluate* your child. Call or write the director of special education or the principal of your child's school. Describe your concerns with your child's educational performance and request an evaluation under IDEA, to see if a disability is involved. The school does not *have* to evaluate your child just because you have asked, however. Alternatively, the public school may also be concerned about how your child is learning and developing. If the school thinks that your child may have a disability, then it *must evaluate your child at no cost to you*. The school must ask your permission and receive your written consent before it may evaluate your child. The evaluation and placement process is as follows:

- (1) Parent, teacher, or other knowledgeable person refers student who is suspected of having a disability and needing special education to school officials.
- (2) School officials notify student's parents or caregivers that the student has been referred for evaluation, and provide the reasons for the referral.
- (3) School official request parental consent to evaluate the student.
- (4) Within 60 days of obtaining parental consent, the multidisciplinary team completes an evaluation of student which addresses all areas of suspected disability.
- (5) School officials meet to discuss the results of the evaluation and determine whether special education services are needed by the student and, if so, develop an individualized education program (IEP).
- (6) Educators draft and present an IEP to the student's parents. The parents may accept, reject, negotiate an alternative IEP, or delay making a decision regarding the IEP to seek an independent evaluation. If accepted, the IEP is implemented immediately. If rejected, the IDEA's dispute resolution procedures are triggered.
- (7) School officials ensure that the IEP is reviewed annually, and the student is re-evaluated at least once every three years.

c. Required Elements of an IEP: After a child has been found eligible for special education services, the next step is to write and implement an IEP. After an eligibility determination, educators and parents must hold a meeting within 30 days to develop the IEP. The IEP has two general purposes: to set learning goals for your child; and to state the supports and services that the school district will provide for your child. Required elements of the IEP include the following:

- (1) Statement of a child's current level of academic and functional performance;
- (2) Measurable, annual academic and functional goals for the child;
- (3) Description of how school officials will measure the child's progress towards meeting annual goals, and when periodic reports will be provided;
- (4) Statement of special education and related services or aids the child will receive;
- (5) Explanation of the extent to which child will not participate in regular classes with non-disabled peers;
- (6) Statement of the accommodations necessary to assess the child's academic achievement and functional performance on state and district assessments;
- (7) Anticipated date of initiation and duration of special education services the child will receive;

(8) For an IEP to be in effect for a student who is 16 years old or older, a statement of measurable post-secondary

(9) For an IEP for a child who will reach the age of majority in no less than one year, a statement that the student has been informed of his or her rights, if any, which will transfer at the age of majority.

d. IEP Meeting. The law is very clear that parents have the right to participate in developing their child's IEP. In fact, your input is invaluable. You know your child so very well, and the school needs to know your insights and concerns. That's why IDEA makes parents equal members on the IEP team. Parents can prepare for this meeting by:

- (1) Making a list of your child's strengths and needs;
- (2) Talking to teachers and/or therapists and getting their thoughts about your child;
- (3) Visiting your child's class and perhaps other classes that may be helpful to him or her;
- (4) Talking to your child about his or her feelings toward school;
- (5) Writing down what you think your child can accomplish during the school year;
- (6) Looking at your state's standards for your child's grade level;
- (7) Making notes about what you would like to say during the meeting.

e. IDEA Related Services. The IEP team will also talk about the *related services* your child may need to benefit from his or her special education. Review of these services prior to an IEP meeting may prove beneficial. The IDEA lists many related services that schools must provide if eligible children need them, including the following:

- (1) Audiology;
- (2) Counseling services (including rehabilitation counseling);
- (3) Interpreting services;
- (4) Medical services for diagnostic or evaluation purposes;
- (5) Occupational therapy;
- (6) Orientation & mobility services;
- (7) Parent counseling and training;
- (8) Physical therapy;
- (9) Psychological services;
- (10) Recreation (including therapeutic recreation);
- (11) Speech-language pathology services;
- (12) School health services and school nurse services;
- (13) Social work services in schools; and
- (14) Transportation.

f. Parental Rights. You have the right to disagree with the school's decisions concerning your child. This includes decisions about: your child's identification as a "child with a disability;" his or her evaluation; his or her educational placement; and the

special education and related services that the school provides to your child. IDEA provides parents with many due process safeguards:

- (1) Opportunity to examine all of the child's records;
- (2) Opportunity to participate in all meetings related to the identification, evaluation, and educational placement of child;
- (3) Receipt of a free appropriate education for the child;
- (4) Opportunity to obtain an independent educational evaluation of child at own expense. An independent evaluation of the child at public expense is only permissible if the parents demonstrate that the school board's evaluation was inappropriate.
- (5) Notification in writing of any proposed change in child's placement and an opportunity to contest the change. The notification should include the following: a description of the proposed change; if other options were considered, an explanation as to why they were rejected; a description of any assessments or relevant factors used in determining the proposed change; and an explanation of IDEA's due process safeguards.
- (6) A due process hearing regarding proposed change in the child's placement to which the parents object.

If you have any questions regarding Special Education then you should call the Fort Benning Legal Assistance Office at 706-545-3281/3282 to meet with an attorney.



Office of the Staff Judge Advocate
Legal Assistance Office
6930 Morrison Avenue
Bldg 130
Fort Benning, GA 31905
706-545-3281