

Army Reserve Child, Youth & School Services

DO YOU KNOW YOUR INDIVIDUALS WITH DISABILITIES ACT RIGHTS?

If you are a parent of a child with disabilities, learning to navigate the educational system may be challenging. The key to advocating for your child, the student, is by doing your homework and learning what your rights are under the federal law as well as within your state of residency.

HISTORICAL BACKGROUND OF THE INDIVIDUALS WITH DISABILITIES ACT (IDEA)

In 1975, the United States Congress initially recognized the need to provide a federal law to help guarantee that local schools would serve the educational needs of students with disabilities. The original law that was created was the Education for All Handicapped Children Act. Over the course of 30 years, this law has gone through several revisions. In 1990, this law was officially changed to, The Individuals with Disabilities Education Act, or IDEA. It is designed to protect the rights of students with disabilities by ensuring that everyone receives a *free appropriate public education* (FAPE), regardless of ability. According to the U.S Department of Education, the most recent version of IDEA was passed in 2004 and is now referred to the IDEA 2004 or IDEA. IDEA strives not only to grant equal access to students with disabilities, but also to provide additional special education services and procedural safeguards (See procedural safeguards section).

IDEA ELIGIBILITY

According to the U.S. Department of Education, under the IDEA Part B, to be eligible, a student must have a disability that adversely affects her or his educational performance and must need special education in order to receive an appropriate education. Children between the ages of 3 and 21, who meet the eligibility criteria in one of thirteen qualifying disabilities *and who require special education services because of the disability* can qualify for services under IDEA. The categories of disabilities are; autism, deaf/blind, deafness, hearing impaired, mental retardation, multiple disabilities, orthopedic impairment, serious emotional disturbance, specific learning disabilities, speech or language impairment, traumatic brain injury, visual impairment including blindness, and other health impairment.

OVERVIEW OF AN IEP

As noted in the IDEA 2004, a child with disabilities, needs to have a document that will help serve as a guide that allows parents to follow their child's educational developmental- based on the child's strengths and needs. The IEP serves as written documentation of the decisions reached at the IEP meeting; which is utilized as a communication tool between parents and school personnel. Most importantly it serves as a commitment of services needed to meet the student's learning needs. According to National Association of Children with Disabilities,

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the following is an overview of the IEP contents as required by the IDEA:

- **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.
- **Least Restrictive Environment (LRE)** - 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.
- **Degree of access to general curriculum**, including the amount of time spent participating in general education.



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STANDARD IEP TEAM

The formation of the IEP takes place during a meeting when all IEP members are present to determine what special education services are in the child's best interest. Below is a list of the members of a standard IEP Team:

- Parents/Guardians of the student;
- The student with disabilities, if appropriate;
- At least one Special Education Teacher;
- A school representative authorized to commit district/educational resources;
- A person who can interpret evaluation data;
- A least one regular Education Teacher;
- Representatives of other agencies that may be responsible for paying for or providing transition services; and
- Other invited parties, as agreed upon by parents and school district.

PROCEDURAL SAFEGUARDS

Under the IDEA, the term "procedural safeguards" refers to the processes that both the local school district and the state's educational agency set up to make sure that parents can enforce their child's right to a free and appropriate public education. These measures are designed to keep the parents informed about any decisions that affect their child's education and to make sure that parent and child (as well as the school and professionals), are treated equally and fairly. In addition, the school district is required to provide the parent written information in their native language about these procedural safeguards. According to National Dissemination Center for Children with Disabilities, below is a listing of safeguards for parents of children with disabilities:

- Parent access to student records;
- Parent rights to ask that those records be amended;
- Parent rights to participate in groups and meetings where decisions are made about their child's education;
- Parent notification requirements (prior written notice and the procedural safeguards notice); and
- Selected other safeguards (e.g., independent educational evaluation, surrogate parents, age of majority)

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KNOWLEDGE IS KEY: TIPS FOR PARENTS OF CHILDREN WITH DISABILITIES

- **Comprehend your child's diagnosis.** Know how it impacts her or his education and what can be done at home to help.
- **Know your rights.** Do your homework and research special education laws in your state.
- **Understand your child's IEP.** If you have questions, do not be afraid to ask.
- **Talk with your child's teacher.** Teachers often have similar concerns as parents and welcome the opportunity to discuss them.
- **Get it in writing.** When possible obtain written documentation from teachers, administrators, or other professionals working with your child describing any behavioral or academic concerns they may have.
- **Be active in preparing your child's IEP.** Make suggestions, and speak up if you feel a goal, objective, or accommodation is not appropriate.
- **Keep careful records and documents.** This should include any written documentation you have obtained, communication between home and school, progress reports and evaluations. You should also keep a copy of any letter you send to the school.
- **Build good working rapport with the school.** Try to maintain a good working relationship with the school while being a strong advocate for your child.
- **Stay connected.** Communicate any concerns you may have about your child's progress or IEP with school personnel.
- **Encourage and support your child.** Make everyday a positive learning opportunity for your child, by creating a plan to be successful in completing homework and special assignments.

In essence, the IDEA 2004 is an extensive law that encompasses many aspects and provisions for children with disabilities. This is a law that has and will continue to change. It is also important to know, due to the flexibility that states and school systems have to design their own IEP forms, IEPs may look different from one school system to another and from state to state. For reauthorized updates and more in-depth information, go to the U.S. Department of Education website <http://idea.ed.gov/>



Sources: IDEA Partnership (<http://www.ideapartnership.org/>) | National Association of Parents with Children in Special Education (<http://www.napcse.org/>) | National Dissemination Center for Children with Disabilities (<http://nichcy.org/>) | National Resource Center on AD/HD (<http://www.help4adhd.org/index.cfm?varLang=en>) | Office of Special Education and Rehabilitative Services (<http://www2.ed.gov/about/offices/list/osers/news.html>) | U.S. Department of Education - Building the Legacy: IDEA 2004 (<http://idea.ed.gov/explore/home>) | Wrightslaw (<http://www.wrightslaw.com/>)



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