

IDEA - The Foundation of a High Quality IEP

The following is the “Individuals with Disabilities Education Act” (IDEA) summarized. The highlighted areas are the heart and soul of IDEA and should be the basis and foundation of a solid IEP.

20 U.S. Code § 1400 - Short title; findings; purposes

(a) Short title

This chapter may be cited as the “Individuals with Disabilities Education Act”.

(b) Omitted

(c) Findings

Congress finds the following:

- (1)** Disability is a natural part of the human experience and in no way diminishes the right of individuals to participate in or contribute to society. Improving educational results for children with disabilities is an essential element of our national policy of ensuring equality of opportunity, full participation, independent living, and economic self-sufficiency for individuals with disabilities.
- (2)** Before the date of enactment of the Education for All Handicapped Children Act of 1975 (Public Law 94-142), the educational needs of millions of children with disabilities were not being fully met because—
 - (A)** The children did not receive appropriate educational services;
 - (B)** The children were excluded entirely from the public school system and from being educated with their peers;
 - (C)** Undiagnosed disabilities prevented the children from having a successful educational experience;or
(D) a lack of adequate resources within the public school system forced families to find services outside the public school system.
- (3)** Since the enactment and implementation of the Education for All Handicapped Children Act of 1975, this chapter has been successful in ensuring children with disabilities and the families of such children access to a free appropriate public education and in improving educational results for children with disabilities.
- (4)** However, the implementation of this chapter has been impeded by low expectations, and an insufficient focus on applying replicable research on proven methods of teaching and learning for children with disabilities.
- (5)** Almost 30 years of research and experience has demonstrated that the education of children with disabilities can be made more effective by—
 - (A)** Having high expectations for such children and ensuring their access to the general education curriculum in the regular classroom, to the maximum extent possible, in order to—
 - (i)** Meet developmental goals and, to the maximum extent possible, the challenging expectations that have been established for all children; and
 - (ii)** be prepared to lead productive and independent adult lives, to the maximum extent possible;
 - (B)** Strengthening the role and responsibility of parents and ensuring that families of such children have meaningful opportunities to participate in the education of their children at school and at home;
 - (C)** Coordinating this chapter with other local, educational service agency, State, and Federal school improvement efforts, including improvement efforts under the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6301 et seq.], in order to ensure that such children benefit from such efforts and that special education can become a service for such children rather than a place where such children are sent;

(D) Providing appropriate special education and related services, and aids and supports in the regular classroom, to such children, whenever appropriate;

(E) Supporting high-quality, intensive preservice preparation and professional development for all personnel who work with children with disabilities in order to ensure that such personnel have the skills and knowledge necessary to improve the academic achievement and functional performance of children with disabilities, including the use of scientifically based instructional practices, to the maximum extent possible;

(F) Providing incentives for whole-school approaches, scientifically based early reading programs, positive behavioral interventions and supports, and early intervening services to reduce the need to label children as disabled in order to address the learning and behavioral needs of such children;

(G) Focusing resources on teaching and learning while reducing paperwork and requirements that do not assist in improving educational results; and

(H) Supporting the development and use of technology, including assistive technology devices and assistive technology services, to maximize accessibility for children with disabilities.

(6) While States, local educational agencies, and educational service agencies are primarily responsible for providing an education for all children with disabilities, it is in the national interest that the Federal Government have a supporting role in assisting State and local efforts to educate children with disabilities in order to improve results for such children and to ensure equal protection of the law.

(7) A more equitable allocation of resources is essential for the Federal Government to meet its responsibility to provide an equal educational opportunity for all individuals.

(8) Parents and schools should be given expanded opportunities to resolve their disagreements in positive and constructive ways.

(9) Teachers, schools, local educational agencies, and States should be relieved of irrelevant and unnecessary paperwork burdens that do not lead to improved educational outcomes.

(d) Purposes

The purposes of this chapter are—

(1)

(A) To ensure that all children with disabilities have available to them a free appropriate public education that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment, and independent living;

(B) To ensure that the rights of children with disabilities and parents of such children are protected;

and

(C) To assist States, localities, educational service agencies, and Federal agencies to provide for the education of all children with disabilities;

(2) To assist States in the implementation of a statewide, comprehensive, coordinated, multidisciplinary, interagency system of early intervention services for infants and toddlers with disabilities and their families;

(3) To ensure that educators and parents have the necessary tools to improve educational results for children with disabilities by supporting system improvement activities; coordinated research and personnel preparation; coordinated technical assistance, dissemination, and support; and technology development and media services; and

(4) To assess, and ensure the effectiveness of, efforts to educate children with disabilities.

The IEP Process

If your child is...

0 – 3 years old

Your child may qualify for an Early Intervention (EI) program and services under an Individualized Family Service Plan (IFSP). At least 3 months prior to 3rd birthday, your child must be reassessed and a transition meeting held to determine whether he/she qualifies for special education.

3 – 22 years old

If your child qualifies for Special Education, an Individualized Education Program (IEP) team meeting will be held to determine how to meet your child's unique functional and academic needs in the Least Restrictive Environment (LRE).

Phase 1: Recognition

(Child exhibits atypical needs as compared to peers)

EI: Family connects with local community's early intervention program.

IEP: Student is provided with interventions by the parents and a school-based team. If interventions are successful, the process stops.

Phase 2: Referral

(Child is officially referred for evaluation)

EI: A service coordinator is assigned to the family to serve as single point of contact through the EI system.

IEP: Student is referred for evaluation by an adult with intimate knowledge of the student's ability.

Phase 3: Initial Evaluation

(Child is evaluated with a variety of assessment tools and strategies)

Both EI and IEP: The assessments are only performed with full parental consent. They must not discriminate and should provide information to help determine the unique needs of the child.

Item 3

Phase 4: Eligibility

(Determination of whether the child qualifies for early intervention or special education services)

Both EI and IEP: The child must meet criteria under the Individuals with Disabilities Education Act (IDEA) and any applicable state policies for having a developmental delay, diagnosed mental or physical condition, or being at risk for having a substantial delay. If no disability is noted, EI/special education is not required and the process stops.

Phase 5: Planning and Development

(Multi-disciplinary team meets to develop the IFSP or IEP)

EI: The IFSP is a family-focused document, and includes outcomes for both the child and the family.

IEP: The IEP is a student-focused document. The least restrictive environment (LRE) for the student must be determined; justification for more restrictive placements within the special education system must be given in the IEP.

Phase 6: Implementation

(Multi-disciplinary team has the responsibility to ensure proper implementation through free appropriate public education, or FAPE)

Phase 7: Review and Re-evaluation

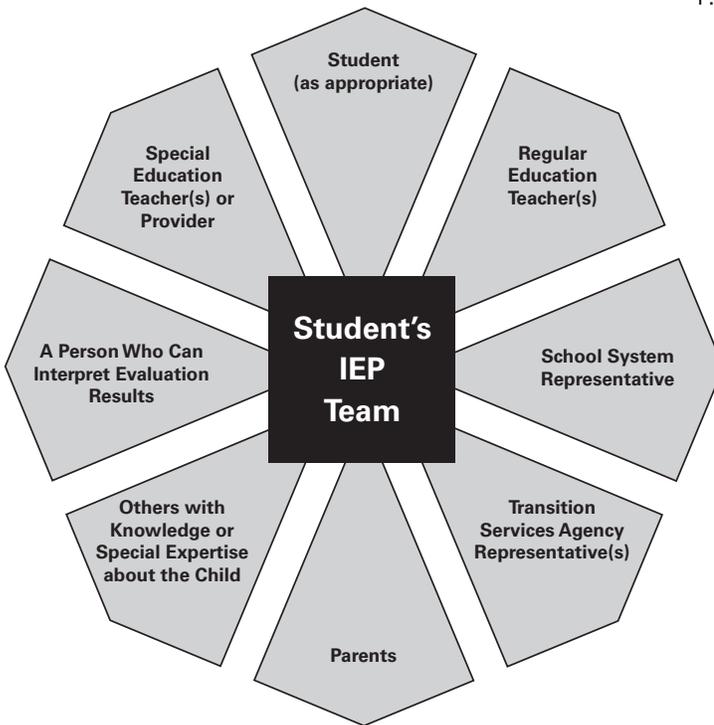
(Annual meeting of the IFSP or IEP team to evaluate and plan. Assessments are required every 3 years to determine whether the child still qualifies for special education, to assess all areas of disability and suspected disability and to determine needs.)

Phase 8: Transition

(Child transitions out of EI at age 3)

EI: As the child approaches age 3, he/she will need to be re-assessed to determine eligibility for special education services. Begin again with Phase 3.

IDEA Regulations IEP Team Member Attendance Requirements



1. Identify the members of the IEP Team. The public agency must ensure that the IEP Team for each child with a disability includes:
 - The parents of the child
 - Not less than one regular education teacher of the child (if the child is, or may be, participating in the regular education environment)
 - Not less than one special education teacher of the child, or where appropriate, not less than one special education provider of the child
 - A representative of the public agency (who has certain specific knowledge and qualifications)
 - An individual who can interpret the instructional implications of evaluation results and who may also be one of the other listed members
 - At the discretion of the parent or the agency, other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate; and
 - Whenever appropriate, the child with a

2. Identify instances when an IEP Team member may not need to attend. A member of the IEP Team is not required to attend an IEP Team meeting, in whole or in part, if the parent of a child with a disability and the public agency agree, in writing, that the attendance of the member is not necessary because the member's area of the curriculum or related services is not being modified or discussed in the meeting. A member of the IEP Team may be excused from attending an IEP Team meeting, in whole or in part, when the meeting involves a modification to or discussion of the member's area of the curriculum or related services, if:
 - The parent, in writing, and the public agency consent to the excusal;

and

 - The member submits, in writing to the parent and the IEP Team, input into the development of the IEP prior to the meeting.
3. Provide for inviting representatives from the Part C system. In the case of a child who was previously served under Part C of the IDEA, an invitation to the initial IEP Team meeting must, at the request of the parent, be sent to the Part C service coordinator or other representatives of the Part C system to assist with the smooth transition of services.
4. Require that the notice inform parents of other IEP Team participants.

Parent Advocacy Tips for Children in Special Education

IEP Basics

- Become familiar with Findings and Purposes of IDEA, the federal regulations (IDEA.ed.gov) and your state regulations
- Understand timeline requirements
- Know your procedural safeguards
- Understand the difference between Early Intervention (IFSP), Special Education (IEP), and 504/ADA
- Get a copy of your Special Education Local Plan (SELPA) and District policies
- Know your Parent Rights and Responsibilities
- Understand the purpose of Prior Written Notice
- Understand FERPA (Family Education Rights and Privacy Act) requirements
- Locate and utilize your state's Parent Training and Information Center
- Subscribe to the Special Ed Advocate through Wrightslaw and join COPAA
- Utilize your state's special education web site
- Join parent groups and congenital/juvenile Myotonic Dystrophy related Facebook Groups
- Become self-informed (Google is your best friend)

Strategies

- *Utilize reputable resources (online, books, trainings, etc.)*
- *Join parent and advocacy groups*
- *Learn!*

IEP Procedures (Pre IEP Meeting)

- Conduct ALL pre and post IEP related communication in writing
- Understand requirements for assessments and reassessments (minimum of every 3 years in all areas of disability and suspected disability, parent consent requirements, etc.)
- Request an assessment plan for all evaluations and provide consent only to the areas and testing procedures you agree with
- Request and expect a formal IEP meeting notice that states the purpose of the meeting (annual, triennial, etc.), attendees, attendee roles, date/time and length of meeting
- Understand IEP attendee requirements (written excusal from parents required)
- Request and expect all team members be present and stay for the duration of the meeting
- Insist that paraprofessionals/1:1 aides be invited and included as part of IEP team
- Request copies of all assessments and update reports (with proposed goals) no later than one week before IEP meetings. Follow up when/if this does not occur
- Review all reports and proposed goals prior to IEP meetings and ask DIS providers to clarify, make changes and corrections as necessary
- Create a parent report that covers all present levels of functional and academic performance and detailed information about CMD/DM1. Detail all aspects of CMD and how they impact education. Include strengths.
- Obtain outside evaluations and letters from neuromuscular doctors regarding educational needs
- Consider hiring a note taker so you can focus on the meeting proceedings
- DO NOT go to an IEP meeting alone. Bring family members (who can be helpful) and anyone who has knowledge about the IEP process and your child's needs
- Consider hiring a qualified and skilled advocate
- Request Independent Evaluations (IEEs) at public expense any time you disagree with an evaluation

Strategies

- *Conduct all IEP related discussions in writing*
- *Keep written communication on point (especially with administrators)*

- *Use calm, objective, factual and professional language*
- *Avoid words like "I feel" and accusations in written communication*
- *Utilize IDEA language in written requests (without quoting the law)*
- *Be assertive and unapologetic*
- *Ask for written responses within a set timeframe and follow up when/if you do not get a response*
- *Always express appreciation*

The IEP Meeting and Components of an IEP

- Be prepared. Read all reports and suggested goals in advance of meeting and create a bullet list for responding)
- Bring and provide outside reports
- Bring your own written agenda and provide to team
- Expect a full team
- Audio record all IEP meetings (24 hour written notice is required)
- Ask to go component by component through IEP
- Make sure basic information is correct (dates, entry to special education, disability category/categories, annual review, triennial evaluation, primary language, start end date of services, etc.)
- Review assessments and update reports
- Provide copies of your parent report to the IEP team and read at meeting
- Ask to have all of your concerns documented on the IEP (in the present levels/parent concerns sections) as well as in the notes
- Ask to have your report attached to the final IEP
- Bring outside evaluators/experts and expect that they be allowed to provide information
- Review Present Levels of Academic and Functional Performance from objective and accurate data. Correct misinformation. Minimum areas covered: academic, fine and gross motor, speech, language and communication, social emotional, adaptive behavior/self-care, sensory, assistive technology, etc.
- Develop measurable annual goals with accurate baselines and benchmarks in all areas of deficit that are measurable, lofty & attainable
- Persons responsible should be clear and include 1:1 aide if part of IEP team
- Determine Disability category/categories
- Orthopedic Impairment (OI) is typically appropriate as the primary disability category, Multiple Disabilities (MD) can be secondary category
- Review Special Factors
- Determine placement in the Least Restrictive Environment (LRE). First consideration should be the regular education classroom with typical peers at your neighborhood school, with ALL necessary supports, services and accommodations
- Discuss and document how the child's disabilities impact their access to regular education curriculum
- Determine percentages of time in/out of regular education
- Discuss statewide assessments (parent have right to waive)
- Determine Designated Instruction and Related Services - OT, PT, SLP, AT, A-PE (frequency, duration, start/end dates, location (class/school, clinic/NPA), provider
- Determine Supplementary Supports and Services (1:1 Aide/paraprofessional, AT, home consult, etc.)
- Determine Low Incidence needs
- Determine Assistive Technology (AT) services
- Determine AT equipment/devices, materials (IPad, lap top, AAC, special seating, etc.)
- Determine how parents will be informed of progress (i.e. regular reporting meetings with parent at report card time, etc.)
- Remember - IEP services should never be dictated by staffing or budget considerations
- Expect to be treated like a full IEP team member and to have your meaningful participation welcomed and facilitated

- Ask team members specific questions about your child's present levels, goals, service needs, and the needed frequency and duration (get them to make clear recommendations on record)
- Become familiar with District and NPA/NPS individual services agreements
- Understand civil rights protections (504 and ADA) and the difference between accommodations and modifications
- Make sure all accommodations and modifications are documented on the IEP
- ESY (extended school year) should be discussed at EVERY annual IEP meeting and based on individual needs, not a predetermined schedule or location
- Request to have meeting notes be read back at end of meeting
- Never sign the IEP at the end of the meeting - review a few days after the meeting with a fresh brain
- Request a full, numbered copy of the IEP and all paperwork developed during meetings
- Follow up with a detailed (but succinct) written parent response with consent, partial consent with exceptions, and non-consent to each aspect of the IEP
- Send parent attachment to District representative and request it be acknowledged and attached to the IEP

Strategies

- *Remember – Special Education is a program NOT a place*
- *Avoid words like “best, deserves,” etc.*
- *Use words like “appropriate, unique, individual, accessible” etc.*
- *Utilize eye contact and respectful body language*
- *Take breaks during the meeting as needed*
- *Ask for clarification as needed*
- *Keep team members on point (especially administrators)*
- *Go into meetings with clear strategies and outcomes in mind*
- *Remember that the district administrator is the one with final control*
- *Shoot for the stars and accept the moon*
- *Understand and know how to diffuse the “Educational Model” vs “Medical Model” mantra that is often inaccurately used as an excuse to refuse services*
- *Verify the accuracy of everything*
- *Never forget - you know your child's unique needs better than anyone in the room*
- *Utilize local special education advocates who are familiar with your District*
- *Remember specificity and details ARE important (i.e. frequency/duration of services, location, etc.)*
- *Pay attention to wording (“and” vs “or,” and “may, vs “will” can have long term ramifications)*
- *Call an IEP meeting at any time to revise as needed*
- *Consider all options (home schooling, charters, independent study, etc.)*
- *If you don't know the answer to something, ask someone who does*
- *Say please and thank you*

Organizational Tips

- Know your District point person (program specialist, coordinator, school psyche, special education director, etc.)
- Utilize email and keep clear files by category/topic
- Print important emails and all formal IEP documents and store chronologically, by category in binders (assessments, reports & goals, IEP's, emails, etc.)
- Keep a separate file of written communication for accountability (if it isn't in writing it doesn't exist)
- Only throw away things you are certain you will never need
- Take notes during phone calls and reiterate conversations in follow up emails for accountability
- Utilize the chain of command (wisely) for deal breaker issues
- Use caution when asking for help from people within the system (SELPA, state department of education, school board, etc.)

Strategies

- *Trust your gut - if something sounds fishy, it probably is*
- *Remember that most special education staff and employees have been provided inaccurate information about IDEA and the federal regulations*
- *Know your opponent*
- *Know your supporters*
- *Don't be surprised when District representative attitudes change toward you when you advocate with knowledge and authority*
- *Develop a thick skin - It's not a popularity contest*
- *Don't be afraid to ask for help*
- *Don't try to eat the elephant in one sitting (one bite at a time)*
- *Never feel guilty for advocating for your child's needs*
- *Always keep your child's current "unique" needs and long term independence in mind*
- *Be kind to yourself – there is only one of you*
- *Pay it forward*

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Glossary – Basic IEP Terms

- **Accommodations** - Methods and resources provided to help a child access the curriculum and environment (in a different way) in order to meet their needs.
- **Annual Review** - IEP meeting held once every year to update present levels of academic and functional performance, goals, services, testing procedures, etc.
- **Assessment (Evaluation)** - Formal testing used in determining a child's eligibility for special education, present levels of performance and to develop measurable annual goals.
- **Assistive Technology Services and Equipment** - Consultation, services and equipment (seating, IPad, laptop, etc.).
- **Designated Instruction and Related Services (DIS)** - Specially designed instruction and services to meet the individual needs of a child which result from a disability/disabilities. Including, but not limited to: Occupational Therapy (OT), Physical Therapy (PT), Speech and Language Therapy, Adapted Physical Education (A-PE), Vision Therapy (VI), Deaf and Hard of Hearing Services (D/HH), music therapy, Assistive technology services (AT), Orthopedic Services, Low incidence, Behavior Intervention Services, etc.
- **Disability categories under IDEA** - Autism, Deaf/Blind, Deafness/Hearing Impairment, Intellectual disability, Emotional Disturbance, Multiple disabilities, Severe Orthopedic Impairment, Other Health Impaired, Specific Learning Disability, Speech or Language Impairment, Traumatic Brain Injury, Visual impairment/Blindness.
- **Early Intervention/Individualized Family Services Plan (IFSP)** - Services provided to children 0-36 months who are at risk of having a disability or have been diagnosed with a disability.
- **Extended School Year (ESY)** - An individualized program provided during non-instructional days (typically during the summer).
- **Free Appropriate Public Education (FAPE)** - Special Education and related services provided at public expense, from age 3 -22.
- **Inclusion** - A program and services that facilitate the child's access to the general education classroom with appropriate supports, services, accommodations and modifications.
- **Individuals with Disabilities Education Act (IDEA 2004)** - Federal law that requires school districts provide students with disabilities a Free Appropriate Public Education, at no expense.
- **Individualized Education Program (IEP)** - The formal/legal document that details a child's present levels, goals, placement, services, specially designed instruction, accommodations, modifications, testing procedures, etc. that the school district will provide.
- **Independent Educational Evaluation (IEE)** - An outside evaluation paid for at public expense that is conducted by a qualified evaluator chosen by the parent/guardian.
- **Least Restrictive Environment (LRE)** - The federal setting and environment where the child receives his/her education. Ideally in the regular education classroom alongside typically developing, non-disabled peers - to the maximum extent possible and appropriate.

- **Low Incidence** - Small percentage of qualifying disabilities that typically require more extensive services.
- **Mainstreaming** - A program designed to integrate a child into the regular classroom for at least part of the day.
- **Modifications** - Changes to the curriculum.
- **Parent Consent** - The written consent provided by a parent to allow a district to conduct an assessment, or to indicate agreement/disagreement with the implementation of some, or all parts of the IEP.
- **Present Levels of Performance** - Current performance of child across all IEP domains.
- **Procedural Safeguards** - Mediation, Due Process.
- **Supplementary Supports and Services** - Any additional supports or services necessary to assist the child in their special education program (1:1 aides, specialized instruction, etc.).
- **Transition** - Formal plan that facilitates a child's movement to middle school or high school.
- **Triennial Review** - IEP meeting held every 3 years, to review formal assessments/evaluations in order to determine whether the child still qualifies for special education and related services and to create the annual IEP.