

Understanding a Child's Right to Special Education

By Mary T. Schmitt Smith, CELA, Special Needs Alliance

Pioneering efforts by staunch parent advocates led to enactment of the Individuals with Disabilities Education Act (IDEA). This law guarantees students with I/DD a "free and appropriate education in the least restrictive environment possible." But the language in the law and regulations is often vague, leaving details to be worked out by states and school districts.

With budget cuts and a growing, diverse population of children needing services, tensions can build between families and local schools. Parent advocacy is as important as ever, but there is a learning curve full of acronyms. The special education process is complex and varies significantly among states. This process can be intimidating, so it's important to know your child's rights.

Federal law requires that all school districts:

- identify children entitled to receive special education services;
- develop and implement an Individualized Education Program (IEP) for each eligible student;
- pay for necessary services to be delivered elsewhere if they cannot provide them.

Evaluation and IEP

Schools must pay to have an assessment of a child's physical, social, psychological and behavioral development. Families can also provide any outside evaluations. Together, a determination is made whether the student is entitled to receive special ed services; if so, then an IEP team — including the parents — is developed. The IEP outlines written goals for the school year and how they'll be measured and achieved. It addresses academics, physical education, and social and life skills. Consideration must be given to delivering services in a mainstream classroom (inclusive), and/or goals better met in a separate, more intensive environment. A student's eligibility for special education must be assessed every three years. Special education students may receive services from the public school system until graduation or age 22 (26 in Michigan).

Family Rights

Parents are entitled to attend all IEP meetings and to receive a written copy of the IEP, which must be evaluated at least annually. Parents must be notified of all plans to evaluate a student or change an IEP, and they can call an IEP meeting at any time to address concerns about the plan.

If the parents disagree with the IEP, they are entitled to an impartial hearing. Since such proceedings can be daunting, they may find it helpful to work with a professional advocate such as a special needs attorney. If necessary, they can carry their grievance to the federal courts and, if successful, are entitled to reimbursement of attorney fees. Other advocacy resources for parents include chapters of The Arc, state protection and advocacy agencies, parent information and resource centers, and private educational consultants.

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Special needs require special attorneys.

Transition Planning

By the time a student is 14, the IEP should address "transition planning," skills needed in adulthood. Since the child's personal goals should shape the curriculum, his/her involvement becomes increasingly important. Considerations include employment options, housing and independent living skills. Nutrition, travel skills, handling of money, appropriate behavior around strangers and much more should also be addressed, with the goal of becoming as independent as possible.

Upon the student's 18th birthday, he/she is considered a legal adult, so parents need to determine whether a power of attorney or other legal authorization is needed to keep participating in the student's education and other aspects of their lives such as health care and personal finances.

Community-based vocational initiatives should be investigated as early as possible during the transition process. Many localities coordinate job fairs where special ed students can explore opportunities. Local chapters of The Arc can be a useful source for available employment supports.

While the special education system can be both confusing and frustrating, its goal is building the foundation for a self-directed, fulfilling life. Knowing how to effectively work with the school district can make all the difference.

SNA (www.specialneedsalliance.org) is partnering with The Arc to provide educational resources, build awareness, and advocate for policies benefiting people with I/DD. The author is the founder of the Theresa Law Center (www.theresalaw.com). ■

