

# PARENTS TOGETHER

## Advocating For Our Children

# A Manual of Special Education Rights and Procedures for Parents



**CURRENT REVISION BY DISABILITY RIGHTS NORTH CAROLINA**

ORIGINALLY DEVELOPED, EDITED AND REVISED BY

THE GOVERNOR'S ADVOCACY COUNCIL FOR PERSONS WITH DISABILITIES (GACPD)

AND

THE EXCEPTIONAL CHILDREN'S ASSISTANCE CENTER (ECAC)

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# **Chapter 1: Disability Rights NC and ECAC**

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## **Disability Rights North Carolina**

On May 21, 2007, the Governor announced the designation of Carolina Legal Assistance (CLA) as the Protection and Advocacy agency (P&A) for North Carolina. With that designation, CLA became part of a nationwide network of protection and advocacy systems mandated by federal law in the 1970s.

The Governor's designation of CLA as the State's P&A represented the culmination of an advocacy campaign of almost twenty years by the disability and legal communities for an independent organization outside of state government to protect the interests of people with disabilities. For three decades, the P&A in North Carolina - the Governor's Advocacy Council for Persons with Disabilities (GACPD) - relied on a lay advocacy model with limited ability to assertively address systems issues. With its team of lawyers, CLA strengthened the P&A's ability to use legal advocacy to protect the rights of people with disabilities living in North Carolina.

CLA was renamed Disability Rights North Carolina shortly after it began operating as the P&A. Its mission is to protect the legal rights of people with all types of disabilities through individual and systems advocacy. The legal advocacy model allows Disability Rights NC to effect systems change while representing individual clients through targeted case selection criteria. It gives Disability Rights NC the necessary leverage to hold state agencies, local governments, their contractors, and private entities accountable for complying with the laws protecting people with disabilities.

Disability Rights NC has built on the work of CLA that resulted in systemic changes in the delivery of mental health services; special education; abuse, neglect or exploitation of people with disabilities; and access to Medicaid benefits. Its clients include more than 1.9 million children and adults with disabilities living in North Carolina, including people with mental, physical, intellectual and sensory impairments, to name a few. The staff of Disability Rights NC provide advocacy services free of charge, regardless of income level, including:

- Investigation of complaints about neglect and abuse and suspicious or unexpected deaths in institutions;
- Representation of individuals based on our target areas and case selection criteria;
- Education of people with disabilities about their legal, civil and service rights;
- Provision of technical assistance, training, publications, and advocacy support;
- Outreach to traditionally underserved ethnic and disability communities;

- Work for changes in public policy to improve the lives of people with disabilities; and
- Bringing impact litigation and acting as *amicus curiae* in disability-related cases.

## **The Exceptional Children's Assistance Center (ECAC)**

The Exceptional Children's Assistance Center is a private non-profit parent organization committed to improving the lives and education of ALL children through a special emphasis on children with disabilities.

ECAC affirms the right of all individuals, from all backgrounds and cultures, with or without disabilities, to an appropriate education and other needed services. We seek to make that right a reality by providing information, education, outreach, and support to and for families with children across the state of North Carolina.

Since 1980, The Exceptional Children's Assistance Center (ECAC) has grown from an all volunteer parent organization to a full service parent training, information and resource center for families of children with and without disabilities. Since 1983, ECAC has served as the federally-designated statewide Parent Training and Information Center (PTI) for North Carolina families of children with disabilities. ECAC is one of the oldest parent centers in the country and we provide a variety of no-cost services to families including a toll free Parent Info Line, individual assistance with educational concerns, website, workshops and webinars for parents and professionals, lending library, information packets, and newsletters. All services are provided to parents and families at NO COST!

The purpose of our parent training and information center for families of children with disabilities is to help families:

- Better understand the nature and needs of the disabling conditions of their children with disabilities;
- Provide follow-up support for the education programs of their children with disabilities;
- Communicate more effectively with special and regular educators, administrators, related service personnel, and other relevant professionals;
- Participate fully in educational decision making processes, including the development of the individualized education program (IEP), for a child with a disability;
- Obtain information about the range of options, programs, services, and resources available at the national, state, and local levels to children with disabilities and their families;

- Understand the provisions for educating children with disabilities under the Individuals with Disabilities Education Act (IDEA).

All parent educators who answer the toll free information line or conduct workshops are themselves parents of children with disabilities. We clearly understand the difficult decisions faced by parents and provide appropriate no-cost information and support.

## Chapter 2: Introduction to Parents Together

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What is an advocate? An advocate is “**someone who speaks for another person or cause.**” We hope you will use this manual as a guide for speaking on behalf of your child.

**Parents** can make a difference in the type and quality of educational programs provided to all children with disabilities. Parents of children with disabilities should be involved as **equal partners** in their child’s educational planning. Unfortunately, many parents say, “How can I be an equal partner? I am just a mother or father. I don’t know anything about school. I don’t think I know enough to work with all those professionals!” A parent who feels this way will not speak up and be the best advocate for their child.

What is a partner? It is hard to feel a part of something you cannot understand or define. A partner is a member of a “relationship between people in which each person has **equal status.**” This definition doesn’t say “has equal knowledge in all areas”; it doesn’t say, “has an equal amount of education.” It says, “**Each has equal status.**” You might not have a background in education, you might not have graduated from high school or college yourself, but you **do know** your child. You are the expert and should be an important part of the school’s efforts to provide your child with an educational program to meet his/her individual needs.

You have valuable information. Teachers and other professionals need to know what your child does at home, how you have taught him/her, his/her medical history, what types of discipline have been most effective, your hopes for the future, and many other things that **ONLY YOU** can tell them. Your ideas are important and should be considered **equally** with the opinions of the professionals working with your child. “Equal” is tough because we usually believe that someone is always in charge. But you have the right to be an **EQUAL** partner, and these partnerships benefit our children.

Remember, you are smart enough, you are educated enough, and you care enough to have ideas about what you want your child to learn. We encourage you to take on this responsibility of becoming your child’s best advocate.

**Parents Together** is intended to explain and supplement the following publications provided by the NC Department of Public Instruction, Exceptional Children Division:

## **Policies Governing Services for Children with Disabilities**

The definitions of the disability categories used in NC's schools, and rules covering special education, are found in a book called *Policies Governing Services for Children with Disabilities*.

### **To obtain a copy of/access to *Policies*:**

- A hard copy may be purchased through the Department of Public Instruction (DPI). For more information or to place an order, call the DPI Communication Office at 1-800-663-1250.
- A copy may be accessed online at no charge through the DPI website: [www.ec.ncpublicschools.gov](http://www.ec.ncpublicschools.gov). On the top navigation menu, put your mouse over "Parent Resources"; then click "Policies."
- If you do not have immediate access to the internet, you may access it through your local public library.

## **Handbook on Parents' Rights**

The *Handbook on Parents' Rights* is another publication through the NC Department of Public Instruction, Exceptional Children Division. The purpose of the *Handbook* is to provide parents with information about your rights, your child's rights, and the responsibilities of the local education agency toward meeting the special needs of your child. The *Handbook* should be given to you by your child's school at least once a year, and when your child is referred for evaluation or you disagree with a decision by the school. You can also request a copy from the school at any time.

# Chapter 3: School System Contacts

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The following chart is intended for you to use to fill in your local names and phone numbers, and it represents the “chain of command” for most school systems. If you do not know your local school officials, you may obtain this information through your child’s school office, your school’s website, or through the Department of Public Instruction website: <http://www.ncpublicschools.org/nceddirectory/>. You can also Google “NC public schools” along with the name of your county or city.

EC Teacher

Regular Ed Teachers

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Principal

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Exceptional Children’s Director

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Assistant Superintendent

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Superintendent

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# Chapter 4: What is Special Education?

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- UNIQUE
- INDIVIDUALIZED
- SPECIALLY DESIGNED

These words are an important part of special education. According to the Individuals with Disabilities Education Act (IDEA), our federal special education law, **Special Education is “specially designed instruction, at no cost to parents, to meet the unique needs of a child with a disability.”** Before the original special education law was passed in 1975, most children with disabilities were not being educated by local school systems. In fact, many children had to attend state-operated “special” schools or live in institutions because no programs were available in their home communities. Other children were in regular education classrooms without any modifications or changes made for their special needs.

Today, because of the federal and state laws, children with disabilities have the opportunity to be educated by local school systems in such placements as regular education classrooms, resource rooms, and self-contained classrooms. There are as many types of special education as there are children because each program must meet the unique or individual needs of the child with disabilities. Special education services must give each child an **appropriate** education in the **least restrictive environment**. In other words, as much as possible, children with disabilities must be educated in the same classrooms or schools as students without disabilities.

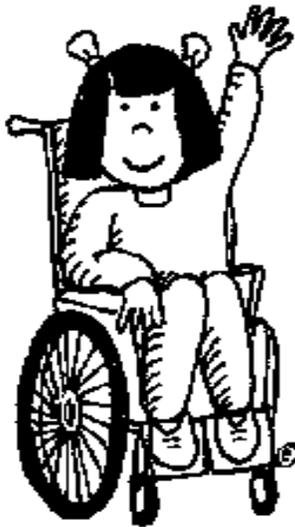
In addition, some children receiving special education need extra help in order to access their education. The school must provide this help at no cost to parents if the child needs it to benefit from his/her special education program. This extra help is known as **related services**. Examples of related services include speech therapy, physical therapy, occupational therapy, counselling, and transportation.

In order to have legal protections, children must be **identified** as having a disability and needing special education. Parents have **legal rights**, but the forms and procedures for exercising these rights can be hard to understand. Because special education is based on laws, there are **rules and regulations**, or **procedures**, that must be followed and you, as

a parent of a child with a disability, need to be aware of the laws and understand the process in order to participate in the educational decisions for your child. This manual explains how special education decisions are made and effective ways for you to participate in these decisions.

Remember, **special education** should:

- 1. Meet your child's "unique" needs.**
- 2. Be provided in the least restrictive environment.**
- 3. Include related services if needed to benefit from the educational program.**



# Chapter 5: The Individuals with Disabilities Education Act (IDEA)

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The law that is known today as the Individuals with Disabilities Education Act (IDEA) was created as the Education for All Handicapped Children Act of 1975 (EAHCA), commonly referred to as Public Law 94-142. The United States Congress passed EAHCA in response to federal court rulings outlawing discrimination against children with disabilities. EAHCA was passed largely because parents and professionals joined **together** to urge Congress to require that state and local school systems offer educational programs that meaningfully served children with disabilities. Throughout our history, large numbers of children with disabilities had been provided, at best, an inferior education and, at worst, no education at all.

On October 30, 1990, the federal law known as EAHCA was reauthorized (passed again). Its name was changed to the Individuals with Disabilities Education Act (IDEA). Public Law 94-142 thus no longer exists, and the law should be referred to only as IDEA. For students who fall under its protection, the IDEA guarantees a **Free Appropriate Public Education (FAPE)** addressing the individual needs of each student.

IDEA was reauthorized a second time in 1997 and for a third time in 2004. You may hear the most recent version referred to by its full name, the Individuals with Disabilities Education Improvement Act (or IDEIA). Most people still refer to the law simply as the IDEA.

What does it mean when a law is reauthorized? It means that Congress looks at the law, makes changes, and then votes on the law with the changes. After the law is passed, the government agency in charge of working with or enforcing that law must write **regulations**, or rules, explaining what the law means. The United States Department of Education is responsible for writing the regulations for IDEA.

## Where can I find IDEA and the Regulations?

All federal laws are contained in the United States Code. You can find IDEA in volume 20 of the United States Code, beginning with Section 1400. You will see this written as 20 U.S.C. § 1400 *et seq.*

All federal regulations are contained in the Code of Federal Regulations. You can find the IDEA regulations in volume 34 of the Code of Federal Regulations, beginning with Section 300. You will see this written as 34 C.F.R. § 300 *et seq.*

## What does IDEA say?

The Individuals with Disabilities Education Act states the purpose of the law as follows:

**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;**

**to ensure that the rights of children with disabilities and parents of such children are protected...** 20 U.S.C. § 1401

## What does IDEA mean?

### All Children with Disabilities

IDEA applies to **all** children with disabilities who require special education; even children with the most severe disabilities are entitled to receive educational services from the public school system. All children with disabilities between the ages of three and 21 are entitled to educational services. Additionally, most states (including North Carolina) provide early intervention services to children between birth and age three.

To qualify for special education services under IDEA, a child must have a **disability** that has a **negative impact on his/her learning** and he/she must **require specialized instruction**. Remember, a child who has a disability is only eligible for special education if his/her disability has a negative effect on his/her learning and he/she needs special instruction.

### A Free Appropriate Public Education (FAPE)

IDEA provides a free, appropriate public education (FAPE) to all children who have been identified as needing special education. FAPE is defined as:

- **FREE** - provided at no cost to parents, except for fees normally charged to everyone for events such as football games, locker fees, etc.
- **APPROPRIATE** - one of the hardest-to-understand words in the special education process. The U.S. Supreme Court has ruled that school systems must provide only an “appropriate” education, not the “best” possible education. IDEA states that an appropriate education must meet state education standards. The key to

appropriateness is that the educational program must meet the unique needs of the individual child. It must conform to the services stated in the child's Individualized Education Program, or IEP. See Chapter 10, page 41 for more information on IEPs.

- **PUBLIC EDUCATION** - special education and related services that are supervised and directed by the local school system and meet the standards of the state educational agency.
  - Charter Schools – In North Carolina, a charter school is a public school. Each charter school is required to follow the IDEA and all state laws and rules about special education. Every child with a disability in a charter school is entitled to FAPE.
  - Private Schools – Whether a student with a disability has the right to special education in a private school is a complicated question. The answer depends on who sent the student to private school and whether the school receives any federal funding. Each student with a disability in a private school has different rights. In general, though, private schools are not required to give a student an IEP or to provide FAPE.

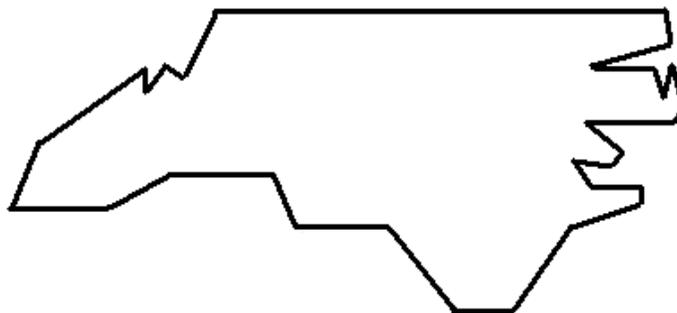
A private school may be required to follow the Americans with Disabilities Act (ADA), even if it is not required to follow the IDEA. For more information, contact Disability Rights North Carolina or visit the U.S. Department of Justice's ADA website at [www.ada.gov](http://www.ada.gov).

# Chapter 6: Special Education in North Carolina

North Carolina public schools have offered special education programs since the 1949-50 school year, but school systems were not required to have these programs or to educate **ALL children**.

In 1977, the North Carolina General Assembly passed our state’s special education law, requiring an education for all children with disabilities. This law was called “An Act to Provide for a System of Educational Opportunities for all Children Requiring Special Education” (now referred to as “Article 9”). Our North Carolina law used the federal law on educating children with disabilities as a model, and it is very similar to the federal law. There are, however, some differences. These differences will be highlighted throughout **Parents Together**.

You can find state law regarding special education on the NC General Assembly’s website: [www.ncga.state.nc.us/](http://www.ncga.state.nc.us/). On the right navigation menu, click “General Statutes”; then “Look-Up” Chapter 115C. Article 9, “Education of Children with Disabilities,” begins with section 115C-106.1.



## **In North Carolina\***

**All children with disabilities, from age 3 through the school year in which the child turns 22 and who have not graduated from high school, must be provided a free appropriate public education.** Free appropriate public education means that special education and related services based on the unique needs of the child will be provided:

- at public expense (free) without cost to the parents
- according to the standards of the NC Department of Public Instruction
- for children in public preschool, elementary, and secondary schools and public charter schools, and a private school if the **state** places a child there
- according to an Individualized Education Program (IEP)

Parents of children receiving special education or being considered for special education are also guaranteed certain rights, including:

- Parents must give written permission before the first evaluation can be given.
- Testing materials must not discriminate either racially or culturally.
- If parents feel that the evaluation does not contain enough or correct information, they have the right to an independent educational evaluation paid for by the local school district. “Independent” means someone who is not a school system employee.
- Parents are members of the IEP Team and must be allowed to participate in writing the Individualized Education Program.
- Each child with a disability should be placed in a program as similar to a regular class as possible. This is the Least Restrictive Environment. See Chapter 10, page 83 for more information.
- Through a due process hearing or DPI complaint, parents may disagree with the evaluation, identification, placement recommendation or the provision of a free appropriate public education for the child.

\*Taken from “HANDBOOK ON PARENTS’ RIGHTS,” Division of Exceptional Children’s Services, North Carolina Department of Public Instruction, July, 2004.

# Chapter 7: Early Intervention

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The North Carolina Infant-Toddler Program is North Carolina's interagency system of Early Intervention (EI) services for children with special needs, birth to age 5, and their families. Part C (birth to age three) and Part B (ages 3 to 21) of IDEA provide the legal foundation for Early Intervention. Congress created this program to:

- enhance the development of infants and toddlers with disabilities
- lower the over-all cost of education by reducing the need for special education services
- lower the chance of institutionalization, and increase the chance of independent living
- increase a family's ability to meet their child's needs

Research from the past twenty years has shown that, with early intervention, children with disabilities can have substantial gains in their physical development, thinking skills, language and speech, psychological development and self-help skills. Early Intervention can prevent the development of some disabilities.

Each state must assure that EI will be available to every eligible child and his/her family. Also, each governor must designate a lead agency to administer the program, and appoint an Interagency Coordinating Council, including parents of young children with disabilities, to advise and assist the lead agency. EI systems differ in many ways from state to state.

## **NC Infant-Toddler Program: Birth to 3**

The NC Infant-Toddler Program offers early intervention services for children birth to three designed to meet the needs of each eligible child. Some services are required by law (see page 23), and others are recommended. To address a child's unique needs, the agency workers and the family develop an Individualized Family Service Plan (IFSP). A Service Coordinator works to ensure that the appropriate services are provided. Services must be provided by persons qualified to serve the child, and must be provided in the most natural environment for the child (the places the child would be if he/she were otherwise "typically developing"). Child service coordination is free of charge; some services may be charged to the family on a sliding fee scale basis.

## Referral

When a referral and written parental permission are received, the Children's Developmental Services Agency (CDSA) reviews all available information, such as medical records, previous evaluation information, and information from your child's doctor. If the child's existing records do not give enough information to determine if the child is eligible for EI, then an initial **multidisciplinary evaluation** (testing in several areas) is performed to gather the information needed to determine eligibility, plan interventions, and develop the Individualized Family Service Plan.

## Eligibility

To qualify for the Infant-Toddler Program, the child must have an identified condition associated with developmental concern and must need developmental, therapeutic, or educational intervention. The categories of eligibility are:

- **Developmental Delay**
  - A child whose development is delayed in one or more of the following areas: cognitive development; physical development; communication development; social-emotional development; or adaptive development.
  - There are specific ways in which the level of the delay must be documented. Contact the Early Intervention Branch for more information.
  
- **Established Conditions**
  - A child who is diagnosed with a physical or mental condition which has a high probability of resulting in developmental delay.
  - Examples include: Down Syndrome; HIV; autism; attachment disorder; hearing loss; visual impairment; and cerebral palsy.

## IFSP – Individualized Family Service Plan

When a child becomes eligible for EI services, the agency workers and the family write an IFSP. The IFSP is both a process and a written document. The process involves planning and partnership between the parent and professionals. The written plan provides documentation of desired outcomes, services, strategies to meet outcomes, and the results of intervention efforts. IFSPs serve children from birth through the child's third birthday; at that time the child, if still in need of services, would transition to an IEP (Individualized Education Program). The IEP is very much like the IFSP except that IEP services are "child centered" and the IFSP services are "family centered." The IFSP must be based on the family's resources, priorities, and concerns relating the child's development.

The IFSP must be in writing and include:

- the child’s present levels of physical development, cognitive development, communication development, social or emotional development, and adaptive development.
- the major outcomes to be achieved for the child and the family, including pre-literacy and language skills for the child; the criteria, procedures, and timelines used to determine progress; and whether modifications or revisions of the outcomes or services are necessary.
- specific early intervention services necessary to meet the unique needs of the child and the family, including the frequency, intensity, and the method of delivery.
- the natural environments in which services will be provided, including justification of the extent, if any, to which the services will not be provided in a natural environment.
- the dates on which services will begin and how long they will last.
- the name of the case manager, or the service provider who is responsible for implementing the plan and coordinating with other agencies and persons.
- steps to support the child’s transition to preschool or other appropriate services.

If your child qualifies for the Infant-Toddler program, the designated coordinative agency (for example, the Public Health Department, Children’s Developmental Services Agency, Governor Morehead School and the NC Schools for the Deaf) is responsible for providing the required services. Required services are determined by federal regulations and must be made available if needed by the child or family, desired by the family, and identified on the IFSP.

### **Required Services of the Infant-Toddler Program**

1. Assistive Technology Services and Devices
2. Audiological Services
3. Community Based Rehabilitative Services
4. Early Identification and Screening
5. Family Counseling and Therapy Services
6. Health Services
7. Medical Services
8. Multidisciplinary Evaluations and Assessments
9. Nursing Services
10. Nutrition Services

11. Occupational Therapy
12. Physical Therapy
13. Psychological Services
14. Respite Services
15. Service Coordination
16. Social Work Services
17. Speech - Language Therapy
18. Transportation
19. Vision Services

## **You have a right to:**

- Have your personally identifiable information kept confidential.
- Participate in the planning and delivery of services that will meet the specific needs of your child and family. These services will be outlined in the IFSP.
- Have some family needs addressed through early intervention services.
- Receive help in the form of service coordination at no cost to you.
- Receive help with transportation when that is necessary to receive services. (This does not include transportation to mainstreamed day care and might not be free.)
- Have a multidisciplinary evaluation and assessment conducted, and an IFSP developed, within 45 calendar days from referral to the Infant Toddler Program.
- Have qualified personnel working with you and your child.
- Have services provided in places that are used by or are like those used by children without disabilities.
- Have services occur in natural environments (those places that your child would otherwise be in if he/she was “typically developing”, i.e. home with mom, daycare, grandparents’ home, etc.).
- Refuse evaluations, assessments, and services.
- Receive written notice 10 calendar days before a change is proposed or refused in identification, evaluation, placement, or provision of services.
- Resolve disputes with early intervention agencies through mediation, due process or legal action if necessary.

- Assist in planning your child’s “transition” to preschool services 6 months prior to his/her third birthday.

You may access more Early Intervention Information through: [www.bearly.nc.gov](http://www.bearly.nc.gov)

## **Preschool Program: 3 through 5-year-olds**

Eligible children 3, 4, and 5 years of age have the same protections under IDEA as school age children. If your child is three years old or older and is eligible for special education services, those services will be provided through an Individualized Education Program (IEP).

### **Your child has the right to:**

- A Free and Appropriate Public Education (FAPE) through your local public school system.
- Have the services specified in the IEP provided in places that are used by or are like those used by children without disabilities.
- Have certain steps in the process occur within legally directed timelines.
- Be served by qualified teachers and licensed or registered related services providers.
- Transportation at no cost for your child to receive special education and related services.

### **As a parent, you have a right to:**

- Fully participate in your child’s education as a member of the IEP Team.
- Resolve disputes with the school system through additional IEP meetings, mediation, state complaints, or due process.

Your local school system will have more information regarding services in your area. The North Carolina Department of Public Instruction ([www.ncpublicschools.org](http://www.ncpublicschools.org)) is required to make sure your child gets the services he/she is entitled to receive. Contact your local Preschool Coordinator for more information.

# Chapter 8: Summary of Rights, Ages 3-21

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This chapter gives a summary of the rights that both parents and children have in the special education process. Use this chapter as a quick reference, but be sure to read Chapter 10 for a full explanation of your rights.

## **Parents have the right to:**

- participate in the development of your child's Individualized Education Program, or IEP.
- inspect and review all of your child's educational records.
- have the information in your child's records kept confidential.
- request an independent evaluation.
- receive clear, simple communications in your native language.
- request an impartial hearing to resolve differences that cannot be settled in a more informal way.

## **Parents must give informed consent, or educated permission:**

- for the school to release your child's records.
- before the initial evaluation, or any reevaluation that involves testing, can be done with your child.
- before your child first begins to receive special education services.

## **Parents must be notified before:**

- a change is made in identification, or the disability category which the school uses to serve your child.
- a change in the special education program is made.
- a change in the placement, or amount of special education services, is made.

## **Children have the right to:**

- be evaluated with tests that do not discriminate based upon race, gender or disability.
- be educated as much as possible with children without disabilities (to be educated in the least restrictive environment).
- have a surrogate parent appointed to participate in the special education process if the child is a ward of the state, or if the parents cannot be located or identified.
- have all parental rights under special education law transfer in full to the children when they reach the age of 18.



# Chapter 9: The Special Education Process (Children ages 3-21)

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## A. Process Summary

Because special education procedures are based on state law, local school systems must follow the rules and regulations from the state. Local school systems can have rules or policies that are different from the state regulations, but the state rules must be the minimum standard. For example, if the state says a special education classroom can have no more than 12 children, a local school system can say no more than 10 children (fewer than the state) but not 14 children (more than the state). It is important for you to know that many of the procedures and steps in the special education process are required by the state and must be done by your local school system.

The definitions of the disability categories and other rules covering special education are found in a book called *Policies Governing Services for Children with Disabilities*. This book is written by the NC Department of Public Instruction, Exceptional Children Division. **To obtain a copy of/access to *Policies* refer to page 12.**

The next several sections will outline the process that children with disabilities go through in order to receive special education services. The steps of the process are:

- Screening (this is not part of the formal 90-day timeline)
- Referral (you must give your permission to test your child)
- Evaluation (within 60 calendar days from the date you give your permission to test your child)
- Identification
- The Individualized Education Program
- Placement (within 30 days from when the evaluation was completed, and within 90 calendar days from the date of referral)

In the IDEA, you will read about a 60-day timeline between the referral to special education and placement. States are allowed to give longer timelines, and NC does so. **Be aware that North Carolina uses a 90-day timeline from referral to placement.**

## B. Screening

For a child who was not identified as having a disability through early intervention services, **screening** is the first step in the special education process. Screening is done by the “regular education” staff, or the regular classroom teachers, in order to collect enough information to decide if the child needs to be referred for special education testing. You will be notified that your child is being screened.

Screening includes:

- conferences with you to discuss your child’s needs.
- observation of your child in the classroom by someone other than his/her teacher.
- review of your child’s records, including grades, test scores, social and developmental information.
- health information, including vision and hearing screenings.
- the use of classroom interventions. In North Carolina, if the school feels that your child might have a learning disability or a serious emotional disability, the school is **REQUIRED** to attempt two different interventions before they consider your child for special education. Interventions are changes in the regular education program to try to solve some of the problems (moving the child’s seat, writing a behavior contract, using a workbook, etc.).

Many school systems in NC use a team of people to screen children. Different school systems have different names for this team. You might hear the team called: the SAP team, or Student Assistance Program team; the Student Support Team, or SST; or the School Based Committee, or SBC. Your system might use a different name for the team.

Screening is not part of the referral and evaluation process described in IDEA. Screening is considered “best practice,” an effective strategy used to indicate if a child needs general interventions (such as sitting in the front row), or if the child needs a special education evaluation. The 90-day evaluation timeline does not begin until your child is referred for special education and you give permission for the school to evaluate your child.

## C. Referral

When a child is known or suspected to have a disability, he/she is **referred** into the special education process. Referral is the process in which the school asks for, and you give permission to evaluate, or formally test, your child to determine if he/she needs special education services.

Referral can happen in several ways:

- School staff may be concerned about your child's educational performance. The school will contact you for permission to test, or evaluate, your child to determine if he/she needs special education services.
- Your child's doctor has diagnosed him/her with a disability. Or, you are concerned about your child's education and think that he/she might need special education services. You can contact your school's principal and the school district's Exceptional Children's Director to request that your child be tested. **It is important to make this request in writing.** Your request starts the 90-day timeline for evaluation. See Chapter 21, page 174 for a sample letter.
- Your family received early intervention services. Or, your child was determined to have a disability by the Department of Health and Human Services or the local Children's Developmental Agency. This information is reported to your county's school system, so that the school can monitor your child's progress and determine if evaluation is needed.

Be sure to get a copy of the *Handbook on Parents' Rights* when your child is first referred for testing.

## Child Find

Each local educational agency (the city, town, or county school system) is responsible for locating children with disabilities, including children in private schools, who are in need of special education and related services. Each city/county keeps a list of children with disabilities who reside in that city/county.

## D. Evaluation

Before a child can be placed in a special education program for the first time, a full and individualized evaluation must be done. This evaluation will help you and the school determine if your child meets the state guidelines for special education. The evaluation should identify your child's strengths and weaknesses. When the evaluation is complete, a conference must be scheduled for you to meet with the IEP Team, or someone from the team, to explain the evaluation and results to you.

### What is an Evaluation?

Evaluation means “estimating, appraising, examining.” According to federal and state guidelines, children must be “examined” or **tested** to see if they qualify for special education services.

When a child is suspected or known to have a disability, an evaluation must be done to determine whether he/she needs special education services. This evaluation should look at the **total child** and gather information on the child's physical, social, emotional, intellectual and educational strengths and weaknesses. It is also important for this evaluation to include information from you on your child's medical history and activities at home. You will probably have a number of forms and checklists to fill out.

In addition, a student who receives special education services must be evaluated at least every three years to define his/her special education needs. Individualized Education Programs (IEPs) are based, at least in part, on the results of evaluations. Be sure to read the discussion of re-evaluations on page 81 in Chapter 10.

### Which Tests will be Given?

To get a picture of the **total child**, the child should be assessed in all areas related to the suspected disability. Evaluations are needed to determine a child's special needs before services and placement are determined. Each area of identification listed in *Policies Governing Special Education Programs* (such as autism, OHI, SLD) requires specific information for eligibility. Therefore, some, **but not all**, of the following evaluations will be necessary for each child.

#### **Adaptive Behavior Evaluation**

This tests the child's ability to care for himself/herself and to take responsibility for his/her own actions.

## **Audiological Evaluation**

A licensed audiologist tests the child's hearing to determine hearing abilities, hearing loss and amplification needs (e.g. whether the child needs hearing aids).

## **Braille Skills Inventory/Learning Media Assessment**

A test of how efficiently the child reads through Braille and/or print.

## **Educational Evaluation**

Usually given by a teacher or psychologist, this is a series of tests and observations that measure the child's success in various academic areas. The results provide information about the child's academic and/or developmental strengths and needs.

## **Health Screening**

This may include, but is not limited to: vision screening, hearing screening, dental screening, review of health history, review of developmental milestones, assessment of physical growth, and assessment of nutritional status. It may be done by a school nurse.

## **Health/Medical Evaluation**

These evaluations must be done by appropriately trained and/or licensed health professionals and may include one or more areas: hearing, vision, orthopedic (muscle and bones), medical, neurological (brain).

## **Motor Screening**

This is a review of written and verbal information, observations, and screenings to determine how well the child is able to move.

## **Observation**

Observations of school-age children occur in the regular classroom and include information about their strengths and needs. For a pre-school child the observation should occur in the natural environment (where the child would otherwise be if he/she did not have a disability).

## **Ophthalmological or Optometric Evaluation**

An eye doctor tests the child's vision and determines if the child requires glasses or other vision correction.

## **Otological Evaluation**

An otologist (ear and hearing specialist) tests the child to determine if there are problems with the ear and if there is a need for medical treatment.

## **Psychological Evaluation**

A psychologist uses tests, observations, interviews, etc. to assess the child's cognitive functioning. Most often, this will involve giving the child an I.Q. test. It may also include an educational evaluation, social/emotional/behavioral testing, and an adaptive behavior evaluation.

## **Social/Developmental History**

The parent is usually asked to fill out this document. It will ask questions related to developmental and medical events, such as any difficulties with birth, when the child spoke his/her first word, etc. This is an important chance to share your knowledge about your child's strengths and challenges.

## **Speech-Language Screening**

This is a screening for information about expressive language (your child's speech) and receptive language (what speech your child can understand). It also gives information about your child's voice, fluency and articulation; these are all qualities of the way your child speaks. The screening is used to determine whether the child needs a more formal evaluation.

## **Speech-Language Evaluation**

A speech-language pathologist looks at the way the child speaks (articulation, fluency, voice) and the content and uses of his/her speech (language).

## **Vocational Evaluation**

This is a process that tests an individual's vocational, or work, potential. It is used to determine what training the child needs and how to help him/her succeed in the workplace.

# **Your Child's Evaluation Rights**

During a special education evaluation, your child will be given specific tests that are not usually given to most school children.

## **Your child has a right to:**

- Be tested in the language which he/she speaks and understands best.
- Be tested in such a way that results are not affected by the child's race or culture.
- Be tested in a way that hearing, vision, mobility or speech disabilities do not lower the test scores.

- Be tested by qualified professionals using valid tests which are given according to proper instructions.
- Be evaluated by a group of professionals, including at least one teacher or specialist who is knowledgeable about the kind of problem your child is thought to have. The evaluation must be done by a group of people who have different skills, such as a psychologist, physical therapist, teacher, or other professionals qualified to perform evaluations.
- Be tested in all areas related to his/her suspected problems.
- Be tested to identify specific areas of educational need, not just intelligence (I.Q.).
- Have his/her educational program determined on the basis of more than one test. **No single test or tool is to be used for deciding on an appropriate educational program for a child.**

**“Evaluated in all areas of suspected disability”**

The school is trying to determine whether your child has a disability and what services he/she needs. This may require a lot of testing to get to the heart of your child’s needs. For example, if your child has trouble using information that is given verbally, the school needs to determine whether your child has a hearing loss, a speech-language disability or a processing disorder. The school should test your child in all these areas.

## **Your Rights in the Evaluation Process**

Parents of children with disabilities also have certain rights in the evaluation process.

### **You must:**

- Be given written notice of your legal rights in the language you best understand.
- Give your **written permission** for the initial or **first** evaluation to decide if your child needs special education services, and for all re-evaluations. You have the right to revoke your consent, or take it back, at any time.
- Be notified when your child is being tested individually with any tests that are not generally given to other students.

- Be a part of the IEP Team making any evaluation decisions.

## **You should ask:**

- Who will be evaluating my child?
- Do they have experience testing children with my child's disability?
- What tests will be used?

## **Make Sure:**

- You have an opportunity to share your observations and information about your child with the evaluating team.
- Your child gets enough sleep, eats breakfast, takes his/her medication, etc. on the day he/she is to be tested.
- You keep written notes on the evaluation process.

## **The Independent Educational Evaluation (IEE)**

If you disagree with the school's evaluation of your child or feel the school system needs more information, or if the school refuses to evaluate your child, you have the right to ask the school system to pay for an **Independent Educational Evaluation at public expense**. It is important to make this request **in writing**. The school must respond to your request "without unnecessary delay," meaning within a reasonable amount of time. Once you ask for an independent evaluation, the school system must either pay for the evaluation or hold a hearing to show that the school system's evaluation is appropriate.

School systems are not required to pay for more than one private evaluation of a particular kind in an evaluation period. For example, the school may pay for a private speech evaluation and a private physical therapy evaluation in the same year. The school is not required to pay for two private speech evaluations in the same year.

An Independent Educational Evaluation (IEE) must be done by a **qualified evaluator who is not employed by the school system**. A qualified evaluator means someone who meets (or exceeds) the same standards and qualifications as school system evaluators. If you ask, the school system should provide you with a list of qualified independent evaluators, but you are not required to choose from this list.

In addition, you always have the right to have an independent educational evaluation of your child **at your own expense**. If this evaluation is conducted by qualified people, the school system must consider the results when making educational decisions concerning your child.

**I have a note from my child's doctor. What must the school do with it?**

The IEP Team must review the note and consider it in determining whether your child needs services and, if so, what services he/she needs. The school is not required to accept the doctor's diagnosis or recommended actions.

**I paid for a private evaluation. What must the school do with it?**

The IEP Team must review the evaluation and consider it in determining whether your child needs services and, if so, what services he/she needs. The school is not required to accept the evaluation or recommended actions.

## **How to Get an Independent Educational Evaluation**

**If you feel your child needs an Independent Educational Evaluation (IEE) at no expense to you:**

1. Make this request to the school system **in writing**.
2. State that you disagree with the school system's evaluation.
3. You do not have to state the specific reason for your disagreement! This is a change from past requirements, so if you are uncomfortable stating specific reasons, don't. But you **may choose** to give your reasons for requesting the evaluation, and this may help the school system in customizing your evaluation needs and recommending appropriate outside evaluators. For example:
  - you feel the school needs more information before planning your child's educational program.
  - the evaluation results are very different from past evaluations.

- you do not feel the person doing the evaluation had experience testing children with your child’s disability.
4. State that you would like an independent evaluation to be conducted **at public expense**.

**I had a private evaluation done. Can I bill the school for the cost of the evaluation?**

You do not have any right to request reimbursement from the school. In order to get a private evaluation at no expense to you, you must have **written permission** before getting the independent evaluation.

If the school system refuses your request for an independent evaluation, you have the right to request mediation or file for due process.

**TIP:** Refer to Chapter 21, page 177 of this manual for a sample IEE letter.

## E. Identification

After the evaluation is complete, the IEP Team, **including the parent**, will meet to review the results and decide if the child qualifies for special education. To receive special education services with an IEP, a child must be **identified** as having one or more of the disabilities listed below\*, the disability must negatively affect his/her learning, and he/she must need specialized instructional services.

Unfortunately, this includes giving the child a **LABEL**, but this process is necessary to receive special education services. A child may have more than one disability. However, the area of eligibility is determined by the disability(s) that affects the educational performance the most.

- **Autism Spectrum Disorder (AU)**
- **Deaf-Blindness (D/B)**
- **Deafness and Hearing Loss**—replaces Hearing Impaired
- **Developmental Delay (DD)**
- **Intellectual Disability**—replaces Mentally Disabled

- **Multiple Disabilities (MU)**
- **Orthopedic Impairment (OI)**
- **Other Health Impairment (OHI)**—ADD and ADHD usually fall here
- **Serious Emotional Disability (SED)**—replaces Behavior and Emotionally Disabled
- **Specific Learning Disability (SLD)**
- **Speech-Language Impairment (SI)**
- **Traumatic Brain Injury (TBI)**
- **Visual Impairment, including blindness (VI)**

\* You can find definitions of each of these categories in *Policies* (see page 12).

## **F. The Individualized Education Program (IEP)**

An **Individualized Education Program**, or IEP, is a written statement of a child's unique needs for special education and goals for providing that child with an **appropriate** education. The IEP must be written at least once a year for every special education student, or more often if needed. You have the right to request an IEP meeting at any time during the school year to discuss your child's needs, any changes, or to resolve disagreements.

An IEP should include programs and services to meet the educational needs of the **individual** child and should be based on the results of a comprehensive evaluation. Your child must have an IEP **before** he/she receives special education services and/or related services. This form must be completed every year that your child receives special education services. An IEP should describe the child's needs and abilities, **not** the school system's existing programs. The IEP chapter of this manual (Chapter 10) will explain how to work with school staff to write an effective IEP.

# G. Placement

Placement is the set of services and the point on the continuum of placements in which those services will be delivered. Placement is **not** a physical location, like a particular school or classroom; it is the actual amount of time that your child gets special education services. It is the end result of screening, referral, evaluation and the development of the IEP. Based on the goals, related services, and modifications that the IEP Team agrees on, a special education program or placement will be recommended for your child. You must give your permission for the first, or initial, placement in a special education program. If your child qualifies for special education, he/she must be placed in an appropriate special education program within ninety (90) calendar days after the school receives the referral.

Schools must offer a spectrum of placements, called a continuum, in which your child's IEP can be implemented. The continuum ranges from the least restrictive setting, the regular classroom, to the most restrictive setting, homebound instruction. Several settings exist between the regular classroom and homebound. Placement will be discussed more in Chapter 11.

## Cheat Sheet: From Referral to Placement

1. Referral
  - You or the school has a concern about your child's educational progress.
2. Evaluation
  - You give your permission for the school to test your child.
  - Within 60 days of referral, the school tests your child in the areas of suspected need.
3. Identification
  - The IEP Team meets to review the results of the evaluations.
  - If the evaluations show that (a) your child has a disability and (b) your child needs special education services in order to benefit from school, the Team gives your child a category for services.
4. The Individualized Education Program
  - You participate in the IEP meeting.
  - The Team considers your child's strengths and weaknesses, and decides what your child should be able to do within one year.
  - The Team writes annual goals based on those considerations.

- The Team discusses modifications, accommodations, Assistive Technology, and other supports the child needs.

## 5. Placement

- The Team considers how much time your child needs to spend getting special education services.
- The Team considers how to include your child with peers without disabilities.
- The Team considers what the Least Restrictive Environment is.
- Within 90 days of referral, the Team places your child into the special education program.

# Chapter 10: The Individualized Education Program

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An **Individualized Education Program**, or IEP, is a written statement of a child's unique needs for special education and goals for providing that child with an **appropriate** education. The IEP must be written at least one a year for every special education student, or more often if needed. You have the right to request an IEP meeting at any time during the school to discuss your child's needs, any changes, or to resolve disagreements.

An IEP should include programs and services to meet the educational needs of the **individual** child and should be based on the results of a comprehensive evaluation. Your child must have an IEP **before** he/she receives special education services and/or related services. This form must be completed every year that your child receives special education services. An IEP should describe the child's needs and abilities, **not** the school system's existing programs.

## Why is the IEP Important?

- The IEP provides documentation that your child needs and should be receiving special education and/or related services.
- The IEP states what programs and services you and the school system have agreed are necessary for your child to receive an appropriate education.
- The IEP is a **legally binding agreement**, and therefore the school system **must provide** the programs and services listed on the IEP (and it **does not** have to provide services that are not listed).
- The IEP gives certain rights to both you and your child.
- Most of all, the IEP is an opportunity for you and school system staff to **work together** to create a program that will meet your child's needs.

## A. The IEP Team

The IEP should be written in a meeting that includes parents, the student when appropriate, school professionals, and others with knowledge of the child. This group of people makes up the IEP Team. The number of people on the team can be different from year to year, depending on the number of teachers or related service providers involved with your child. Also, more people will be involved in the IEP in the years your child has been given an evaluation.

### The IEP Team **MUST** include:

- **PARENTS**
- A **representative of the local education agency** (called an LEA); in many districts, this person is called an EC Facilitator or EC Liaison. The LEA must be licensed as a special education teacher or administrator. The LEA must also know about the general curriculum and the resources available in the district.
  - \* An EC Facilitator who serves as an LEA is different from a Department of Public Instruction (DPI) IEP meeting facilitator. You can learn more about DPI facilitators in Chapter 19, page 135. \*
- At least one **regular education teacher**, if the child participates in any regular education courses
- At least one **special education teacher**
- A person who can **interpret evaluation results**; this is usually the school psychologist
- The child, when appropriate

### The IEP Team **CAN** include:

- A social worker or guidance counselor
- Related service staff, such as a physical therapist (PT), occupational therapist (OT), or speech-language therapist (SLP)
- The Exceptional Children's Program Director or other staff

- Other individuals who the parents or the school system consider to have special knowledge of the child
- Other individuals who the parents want to bring for support, such as a family member
- NC regulations suggest that at least one member of the team should be of the same race and sex as the child, although it is not required.

## **Who can miss an IEP meeting? When?**

An IEP Team member might ask to miss an IEP meeting. An emergency could arise. It is important to know your rights about IEP Team member attendance and to consider the benefits and problems with exercising your rights.

- The IEP Team is meeting to discuss changes to my daughter’s reading program. Does the physical therapist need to be present?
  - No. If a team member’s area of curriculum or service is not being discussed at the IEP meeting, that person **may** be excused from the meeting. You and the school must agree to this **in writing**.
- The IEP Team is meeting to discuss changes to my son’s reading program. The reading teacher has an emergency and asked to miss the meeting. Does the teacher need to be present?
  - Yes, **unless**:
    1. You and the school agree **in writing** to have the meeting without the teacher.
    2. Before the meeting, the teacher gives input, in writing, into the development of the IEP.

**IMPORTANT:** You have the right to refuse to excuse an IEP Team member from a meeting. You may feel pressured to give your permission, but you have the **right to withhold your consent**. The best practice is for parents to agree to persons not attending when their presence is not necessary, but not agree when the exchange of ideas by all people who work with the child is important.

See Chapter 12, page 95 for the IEP Team member excusal form.

## Your Role in Writing the IEP

As a required member of the IEP Team, the **VALUE** of **PARENTS** taking part in writing the IEP cannot be stressed enough. An IEP means that **YOU** can use your personal knowledge to help build the most appropriate educational plan for your child. You have knowledge that no one else has about your child: how the child feels, behaves and thinks; his/her interests and hopes and strong and weak points. Your ideas and comments **must** be considered in writing your child's IEP.

It is important that you attend the IEP meeting if at all possible. If you cannot go to the meeting, ask the school to help you participate in other ways. Write a letter explaining your concerns for your child's education. Give suggestions to solve problems. Request to participate by phone. **You** are an important member of the IEP Team!



## **B. The IEP Meeting**

### **Before the Meeting: Notice**

- The school must give you notice of the meeting early enough so that you can attend. Best practice is for the school to give you at least 10 days notice of the meeting. You **may agree** to meet in less than 10 days.
- Notice of the meeting can be in person, over the phone, in an email, or on an “Invitation to Conference” form. If the meeting is scheduled in person or by phone, you should still receive written notice of the meeting.
- The notice of the meeting should tell you the purpose of the meeting, the time and location, and who will be at the meeting. The IEP meeting must be at a time and in a place agreeable to both you and the school.
- The notice should also let you know that you may bring other people to the meeting.
- Notice should be in your primary language or through an interpreter.

### **Before the Meeting: Attendance**

- Review the Invitation to Conference to see who is invited to the IEP meeting. If you feel someone is missing from the list, contact the school and ask for that person to be invited.
- You have the right to bring someone for moral support or to help you understand the meeting. It is okay to ask for help! As a courtesy, be sure to call the school and let them know who is coming with you.
- If you cannot attend on the proposed date, the meeting should be rescheduled. If the school must hold the meeting without you, explore other ways to participate, such as personal or conference telephone calls or written input.

### **Before the Meeting: Plan for the Meeting**

The Individualized Education Program (IEP) is a **very important document**. It is essentially a contract between you and the school system. The school is accountable for

the services promised in the IEP. You and the teachers can use the IEP as a way of communicating what your child is doing, how well he/she is progressing and what still needs to be done.

The IEP is not a document written by school personnel and signed by parents. Writing an IEP is supposed to be a team effort involving the parents as equal partners. Everyone on the team, including parents, needs to prepare in advance so that the IEP represents the best contributions of each of the team members. Spend some time getting ready for and thinking about the new IEP.

1. Review the current IEP.

- Has the IEP worked well?
- What goals and objectives have been accomplished?
- What goals and objectives still need more work?
- What are the pros and cons of the program?

2. Write a STRENGTHS/NEEDS list for your child.

- What can your child do?
- What does he/she like to do?
- What does he/she need to be able to do?

3. Make a list of questions that will help you in writing your child's IEP.

- What programs have been successful? Why?
- What programs have not worked? Why?
- Has your child had any major changes like operations, changes in the family, or changes in medications or treatments since the last IEP was written?
- What academic goals do you think are realistic for your child?
- Does your child need some self-help, social and behavioral goals?
- What would your child like to see in the next IEP? Is he/she ready to participate in writing the IEP?

- Which related services are necessary for your child to benefit from his/her education? Does your child need speech therapy, physical therapy, occupational therapy, transportation and/or counseling?
- Does your child need adaptive physical education?
- Is your child going to be 14 years old or older during the next IEP? If so, what vocational and/or transition goals need to be written? (See Chapter 14, page 104 for more.)
- How much time does your child spend with students without disabilities? Should he/she spend more or less time next year? What skills does he/she need to make this time successful?
- Is your child's placement appropriate for his/her age and educational needs? Does your child have social contact with children of the same age?
- Is this an important "gateway year"? (For example, is this the year your child moves from elementary to middle school?) How will information be shared with your child's new teachers? Does your child need to tour the school early to ensure a smooth change to the new school?

#### 4. Decide if you need more information.

- Do you know your child's present level of performance?
- Have you received progress reports?
- Are you aware of testing that may need to be done?
- Is it time for a three-year reevaluation?

#### 5. Get answers to your questions.

- Observe your child in the present program. This can give you a better picture of how your child actually works at school.
- Visit your child's class or some of the classrooms that would be available next year.
- Meet with teachers and other staff to find out what they think about the child's needs and the types of programs which would be appropriate. **Do not limit your options only to programs that are currently available.**

- Read through your child's records.
6. Write down the goals and objectives you want your child to achieve.
- What skills would you like your child to learn?
  - What can the school teach your child that would help him/her at home?
  - What behaviors can be improved with help from the school?
  - What are your main concerns for your child now?
  - What are your hopes for your child as an adult?
7. Make a PRIORITY LIST.
- Organize your goals in order of importance to you.
  - Decide which goals, in your opinion, are necessary for your child to receive an appropriate education.
  - Organize other issues, such as related services (see page 72) and least restrictive environment (see page 83), in order of importance to you.
8. Make sure enough time has been scheduled for the meeting.
- Ask how much time has been scheduled for the meeting.
  - If you feel the time scheduled is too short, ask to meet at another time.  
**Make sure you have enough time to ask questions and share your opinions.**
9. If you feel school personnel are going to disagree with your IEP suggestions, be ready to support your ideas and requests.
- Find information in the records, progress reports, evaluation results, and elsewhere to support your ideas or requests.
  - Know WHY you are making requests or suggestions.
  - Have a “back-up” plan or suggestions that can be part of “give and take,” or **negotiation**, with school staff. Understand your priority list of goals so you can compromise on lower-ranked goals or issues in order to receive your highest priority goals or requests.

## During the Meeting

- Review your child's current IEP before writing the new one. It is important to understand what your child was able to do a year ago and what he/she can do now. Look at the goals that have been met, and include those in the new Present Levels of Performance. Consider goals that need to be continued, and whether those goals need to be modified in the new IEP.
- Although the law recommends that a draft IEP *not* be used, most schools prepare a draft IEP before the meeting. Remember that the finalized IEP is to be written at the meeting, by the **whole** IEP Team. Go over the draft IEP carefully as you move through the process, and be aware that the school must be willing to make any changes that are necessary.
- The goals on the IEP should be written so that you can understand them.
- The objectives should be written so that you can see and measure the "steps" to meeting the goals.
- Your child's IEP should be based on his/her needs, not on the services currently available from the local school system. You should discuss and understand the different programs that are possible for your child, what the school system recommends, and why.
- All the related services (physical therapy, speech therapy, occupational therapy, etc.) that your child will receive must be listed on the IEP, along with the amount of time for each service.
- If the IEP is finished but you disagree with something, ask that your disagreement be noted in writing on the IEP and in the meeting minutes.
- Ask that the meeting minutes be read to the Team. If you believe something important is missing from the minutes, ask that it be added. (If the Team does not review the minutes at the meeting, be sure to review them after the meeting. Write a letter addressing anything that you believe is missing, and ask that your letter be attached to the meeting minutes in your child's file.)
- Ask for a copy of all pages of the IEP, including the meeting minutes.
- You may tape record the meeting, but you should notify the school in advance so that they can decide whether they will also tape the meeting.
- Keep your focus on your child.

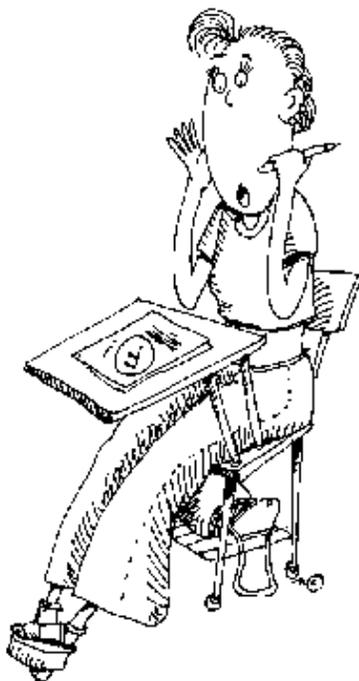
## C. The IEP Form

The North Carolina Department of Public Instruction has recommended that all local school systems use the same IEP form. If your school system is not using this particular form, they are still required to include the same information.

Some North Carolina school systems are using computers to write IEPs. An IEP from a computer should still have questions and might have draft goals and objectives already written. Don't be intimidated by a computer print-out. This is still your child's individual plan and can and should be changed to meet his/her individual needs. **Use the computer written pages as a place to start in writing a good IEP for your child.**

A sample IEP form is included on the next few pages. An individual student's IEP may include several additional pages, including multiple pages of goals and objectives, a transition plan for students age 14 and over, a Behavior Intervention Plan, statewide testing modification charts, a Communication Plan Worksheet if the student is Deaf or Hard of Hearing, and addendum pages. Use the sample IEP in this manual to educate yourself on what is included in the IEP.

You can find this and other recommended forms on the website for the Exceptional Children Division of DPI. Go to [www.dpi.state.nc.us/ec](http://www.dpi.state.nc.us/ec); click on "Policy, Monitoring and Audit" on the left navigation column. Then click on "Exceptional Children Forms."



\* This form was updated by the North Carolina Department of Public Instruction in 2012 and has not been modified.

- Check Purpose:  Initial  
 Annual Review  
 Reevaluation  
 Addendum  
 Transition Part C to B

**INDIVIDUALIZED EDUCATION PROGRAM (IEP)**

**Duration of Special Education and Related Services: From: \_\_\_\_\_ To: \_\_\_\_\_**

**Student: \_\_\_\_\_ DOB: \_\_\_\_\_**

**School: \_\_\_\_\_ Grade: \_\_\_\_\_**

**Primary Area of Eligibility\* \_\_\_\_\_ Secondary Area(s) of Eligibility: (if applicable) \_\_\_\_\_**  
(\*Reported on Child Count)

**Student Profile**

Student's overall strengths:

Summarize assessment information (e.g. from early intervention providers, child outcome measures, curriculum based measures, state and district assessments results, etc.), and review of progress on current IEP/IFSP goals:

Parent's concerns, if any, for enhancing the student's education:

Parent's/Student's vision for student's future:

**Consideration of Transitions**

If a transition (e.g. new school, family circumstances, etc.) is anticipated during the life of this IEP/IFSP what information is known about the student that will assist in facilitating a smooth process?

The student is age 14 or older or will be during the duration of the IEP.  Yes  No

**INDIVIDUALIZED EDUCATION PROGRAM (IEP)****Duration of Special Education and Related Services: From: \_\_\_\_\_ To: \_\_\_\_\_****Student: \_\_\_\_\_ DOB: \_\_\_\_\_****School: \_\_\_\_\_ Grade: \_\_\_\_\_****Consideration of Special Factors** (Note: If you check yes, you must address in the IEP.)Does the student have behavior(s) that impede his/her learning or that of others?  Yes  NoDoes the student have Limited English Proficiency?  Yes  NoIf the student is blind or partially sighted, will the instruction in or use of Braille be needed?  Yes  No  
 N/ADoes the student have any special communication needs?  Yes  NoIs the student deaf or hard of hearing?  Yes  No The child's language and communication needs; Opportunities for direct communications with peers and professional personnel in the child's language and communication mode; Academic level; Full range of needs, including opportunities for direct instruction in the child's language; and Communication mode.(Communication Plan Worksheet available at [www.ncpublicschools.org/ec/policy/forms.](http://www.ncpublicschools.org/ec/policy/forms.))Does the student require specially designed physical education?  Yes  No

**INDIVIDUALIZED EDUCATION PROGRAM (IEP)**

**Duration of Special Education and Related Services: From: \_\_\_\_\_ To: \_\_\_\_\_**

**Student: \_\_\_\_\_ DOB: \_\_\_\_\_**

**School: \_\_\_\_\_ Grade: \_\_\_\_\_**

**Present Level(s) of Academic and Functional Performance**

Include specific descriptions of what the student can and cannot do in relationship to this area. Include current academic and functional performance, behaviors, social/emotional development, other relevant information, and how the student's disability affects his/her involvement and progress in the general curriculum.

**Annual Goal**

Academic Goal     Functional Goal

Does the student require assistive technology devices and/or services?  Yes  No

If yes, describe needs:

\_\_\_\_\_

(Address after determination of related services.) Is this goal integrated with related service(s)?  Yes\*  No

\*If yes, list the related service area(s) of integration: \_\_\_\_\_

**INDIVIDUALIZED EDUCATION PROGRAM (IEP)**

**Duration of Special Education and Related Services: From: \_\_\_\_\_ To: \_\_\_\_\_**

**Student: \_\_\_\_\_ DOB: \_\_\_\_\_**

**School: \_\_\_\_\_ Grade: \_\_\_\_\_**

**Competency Goal**

**Required for areas (if any) where student participates in state assessments using modified achievement standards.**

**Select Subject Area:**  Language Arts  Mathematics  Science

**List Competency Goal from the NC Standard Course of Study:**  
(Standard must match the student's assigned grade.)

*Note: Selected Grade Standard Competency Goals listed are those identified for specially designed instruction. In addition to those listed, the student has access to grade level content standards through general education requirements.*

**Benchmarks or Short Term Objectives (if applicable)**

**(Required for students participating in state alternate assessments aligned to alternate achievement standards)**

**Describe how progress toward the annual goal will be measured**



**INDIVIDUALIZED EDUCATION PROGRAM (IEP)**

Student Name: \_\_\_\_\_

Duration From: \_\_\_\_\_ To: \_\_\_\_\_

**II. North Carolina Testing Program**

Select the appropriate state assessment(s) that will allow the student to demonstrate his/her knowledge. Accommodations listed on the IEP must be used routinely in classroom instruction and on similar classroom assessments. Select testing accommodations that correlate to instructional accommodations used routinely throughout the academic year. For specifics regarding accommodation use and availability for specific tests, refer to the *Testing Students with Disabilities* publication, available at <http://www.ncpublicschools.org/accountability/policies/tswd>.

**IEP Teams are instructed to select, for each assessment, only those accommodations that do not invalidate the score.**

<input type="checkbox"/> Student will participate in the Standard Test Administration with No Accommodations <input type="checkbox"/> Student will participate in the <i>NCEXTEND1</i> with No Accommodations <input type="checkbox"/> Student will participate in the <i>NCEXTEND1</i> with Accommodations <i>If checked, complete IEP DEC4 (6a of 10)</i>  <b>NC Testing Program Approved Accommodations</b>		Grades 3–8		Grades 5 & 8		Course Assessments			CTE	Tests of English Language Proficiency Grades K–12 <input type="checkbox"/> W-APT™ <input type="checkbox"/> ACCESS for ELLs®			
		ELA	Mathematics	Science <sup>1</sup>	English II <sup>1</sup>	Algebra I / Integrated I <sup>1</sup>	Biology <sup>1</sup>	Post-Assessment <sup>1</sup>	Reading	Writing	Listening	Speaking	
<b>MUST BE COMPLETED</b> Student will participate in:	General Assessment	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>								
	<i>NCEXTEND2</i> <sup>2</sup>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>								
Braille Edition		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>								
Large Print Edition (not for online assessments)		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>				
One Test Item Per Page Edition (not for online assessments)		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>								
Assistive Technology Devices: Specify _____		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>				
Braille Writer/Slate and Stylus (Braille Paper)		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>						
Crammer Abacus		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>								
Dictation to a Scribe		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>					
Interpreter/Transliterator Signs/Cues Test			<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>				
Magnification Devices		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>				
Word-to-Word Bilingual (English/Native Language) Dictionary/Electronic Translator (LEP only) <sup>3</sup>		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>								
Student Marks Answers in Test Book (not for online assessments)		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>				
Student Reads Test Aloud to Self		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>				
Test Administrator Reads Test Aloud (In English)	<input type="checkbox"/> Read Everything		<input type="checkbox"/>	<input type="checkbox"/>		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>		
	<input type="checkbox"/> Read by Student Request		<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>		
	<input type="checkbox"/> Other _____		<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>		
Computer Reads Test Aloud – Student Controlled (not for paper and pencil assessments)			<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>				
Multiple Testing Sessions	<input type="checkbox"/> More Frequent Breaks (Every _____ Min.)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>				
	<input type="checkbox"/> Over Multiple Days (Number of Days _____)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>				
	<input type="checkbox"/> Other _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>				
Scheduled Extended Time	<input type="checkbox"/> Approximately _____ minutes	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>				
	<input type="checkbox"/> Other _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>				
Testing in a Separate Room	<input type="checkbox"/> Small Group	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>				
	<input type="checkbox"/> One-on-One	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>				
Other (specify): <sup>4</sup> _____		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>				

**INDIVIDUALIZED EDUCATION PROGRAM (IEP)****Duration of Special Education and Related Services: From: \_\_\_\_\_ To: \_\_\_\_\_****Student: \_\_\_\_\_ DOB: \_\_\_\_\_****School: \_\_\_\_\_ Grade: \_\_\_\_\_****II. A. EXPLORE/PLAN/ACT/WorkKeys**

	Accommodations:	Implementation Specifications:
8 <sup>TH</sup> Grade - Explore <sup>1</sup>		
10 <sup>th</sup> Grade – PLAN <sup>1</sup>		
11 <sup>th</sup> Grade – ACT <sup>2</sup>		
12 <sup>th</sup> Grade – WorkKeys <sup>1</sup>		

<sup>1</sup> EXPLORE, PLAN, and WorkKeys accommodations must meet accommodations guidelines specified in the Supervisor's Manuals that correspond to each test.

<sup>2</sup> Accommodations for the ACT must be requested and reviewed by ACT via submission of an ACT-Approved Accommodations Application. ACT-approved accommodations result in scores that are college-reportable, while state-allowed accommodations result in scores that are not college-reportable but may be used for state accountability purposes.

**INDIVIDUALIZED EDUCATION PROGRAM (IEP)**

**Duration of Special Education and Related Services: From: \_\_\_\_\_ To: \_\_\_\_\_**

**Student: \_\_\_\_\_ DOB: \_\_\_\_\_**

**School: \_\_\_\_\_ Grade: \_\_\_\_\_**

**III. District-Wide Assessment Program**

In the space provided, list the district-wide assessments, if any, and any accommodations or alternate assessments to be used by the student.

DISTRICT-WIDE ASSESSMENT(S)	ACCOMMODATION(S) OR ALTERNATE ASSESSMENT(S)	IMPLEMENTATION SPECIFICATIONS

**IV. Alternate Assessment Justification**

If the student is participating in any alternate assessment(s), explain why the regular testing program, with or without accommodations, is not appropriate and why the selected assessment is appropriate:  N/A

\_\_\_\_\_

**V. Specially Designed Instruction, Related Services, and Nonacademic Services and Activities**

**A. Anticipated Frequency, Duration, and Location of Specially Designed Instruction**

Special Education:	Sessions Per:		Reporting		Session Length:	Location:
	Week	Month	Period	Year		
_____	_____	_____	_____	_____	_____	_____
			1 <sup>st</sup> Semester	_____		
			2 <sup>nd</sup> Semester	_____		
_____	_____	_____	_____	_____	_____	_____
			1 <sup>st</sup> Semester	_____		
			2 <sup>nd</sup> Semester	_____		
_____	_____	_____	_____	_____	_____	_____
			1 <sup>st</sup> Semester	_____		
			2 <sup>nd</sup> Semester	_____		

**INDIVIDUALIZED EDUCATION PROGRAM (IEP)**

**Duration of Special Education and Related Services: From: \_\_\_\_\_ To: \_\_\_\_\_**

**Student: \_\_\_\_\_ DOB: \_\_\_\_\_**

**School: \_\_\_\_\_ Grade: \_\_\_\_\_**

**B. Anticipated Frequency and Location of Related Services**

- The IEP Team determined related services *are not required* to assist the student to benefit from special education.
- The IEP Team determined the following related services are required to assist the student to benefit from special education.

Related Service(s):	Sessions Per:		Reporting		Session Length:	Location:
	Week	Month	Year	Period		
_____	_____	_____	_____	_____	_____	_____
					<input type="checkbox"/> Support Description	
_____	_____	_____	_____	_____	_____	_____
					<input type="checkbox"/> Support Description	
_____	_____	_____	_____	_____	_____	_____
					<input type="checkbox"/> Support Description	

- Transportation is required as related service. Describe special transportation services:  
\_\_\_\_\_

**C. Nonacademic Services & Activities (Refer to Section I: General Education Program Participation)**

List the nonacademic services and activities in which the student **will not** participate with nondisabled peers. This time must be factored into the determination of continuum of alternative educational placement below.

Nonacademic Services & Activities:	Sessions Per:			Reporting Period	Session Length:
	Week	Month	Year		
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____

**VI. Continuum of Alternative Educational Placements**

Check all alternative placements considered by the team and circle the decision reached.

*Educational placement is determined by calculating the amount of time the student is with nondisabled peers. Regular Early Childhood Program (RECP) is at least 50% of children enrolled in a class are nondisabled and do not have an IEP. A Special Education Program (Separate) class includes less than 50 percent nondisabled children.*

**School Age:**

- Regular - 80% or more of the day with nondisabled peers
- Resource - 40% - 79% of the day with nondisabled peers
- Separate - 39% or less of the day with nondisabled peers program
- Separate School
- Residential
- Home/Hospital

**Preschool:**

- RECP at least 10 hours a week, services in RECP program
- RECP at least 10 hours a week, services in other location
- RECP less than 10 hours a week, services in RECP
- RECP less than 10 hours a week, services in other location
- Separate, Special Education Class
- Separate School
- Separate, Residential Facility
- Home, or
- Service Provider Location

**INDIVIDUALIZED EDUCATION PROGRAM (IEP)**

**Duration of Special Education and Related Services: From: \_\_\_\_\_ To: \_\_\_\_\_**

**Student: \_\_\_\_\_ DOB: \_\_\_\_\_**

**School: \_\_\_\_\_ Grade: \_\_\_\_\_**

**VII. Least Restrictive Environment Justification Statement**

If the student will be removed from nondisabled peers for any part of the day (general education classroom, nonacademic services and activities), explain **why** the services cannot be delivered with nondisabled peers with the use of supplemental aids and services.

N/A Student will not be removed from nondisabled peers.

**VIII. Progress toward annual goals will be reported with the issuance of report cards unless otherwise specified below:**

**IX. Extended School Year Status** (*ESY worksheet available at [www.ncpublicschools.org/ec/policy/forms](http://www.ncpublicschools.org/ec/policy/forms).*)

- Is not eligible for extended school year
- Is eligible for extended school year
- Eligibility is under consideration and will be determined by \_\_\_\_\_

**X. Record of IEP Team Participation** (*Note with an \* any team member who used alternative means to participate.*)

**A. IEP Team. The following were present and participated in the development and writing of the IEP.**

Name	Position	Date
	<b>LEA Representative</b>	
	General Education Teacher	
	Special Education Teacher	
	Parent	
	Student	

Copy given/sent to parent(s): by \_\_\_\_\_ on \_\_\_\_\_.

**INDIVIDUALIZED EDUCATION PROGRAM (IEP) ADDENDUM**

**Duration of Special Education and Related Services: From: \_\_\_\_\_ To: \_\_\_\_\_**

**Student: \_\_\_\_\_ DOB: \_\_\_\_\_**

**School: \_\_\_\_\_ Grade: \_\_\_\_\_**

**X. Record of IEP Team Participation continued**

*(Note with an \* any team member who used alternative means to participate.)*

**B. Reevaluation. The IEP was reviewed at reevaluation and was found to be appropriate. An annual review of this IEP will be conducted on or before \_\_\_\_\_.**

<b>Name</b>	<b>Position</b>	<b>Date</b>
	<b>LEA Representative</b>	
	General Education Teacher	
	Special Education Teacher	
	Parent	
	Student	

**XI. Amending the IEP**

The IEP was amended due to a disciplinary change in placement.  yes  no

**A. IEP Addendum Team.**

**The following were present and participated in the development and writing of the addendum to the IEP.**

<b>Name</b>	<b>Position</b>	<b>Date</b>
	<b>LEA Representative</b>	
	General Education Teacher	
	Special Education Teacher	
	Parent	
	Student	

**B. Amending the IEP without holding a meeting after the annual IEP Team meeting for the school year.**

The parent and LEA agreed that the IEP could be amended by \_\_\_\_\_ on \_\_\_\_\_ without holding a meeting.

Copies of the amendment were provided to individuals responsible for implementing changes to the IEP by \_\_\_\_\_ on \_\_\_\_\_

Indicate page(s) and section(s) where any amendment(s) were made:

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

A revised copy of the IEP with amendments incorporated was provided to parent(s) on \_\_\_\_\_ by \_\_\_\_\_.

- **PRIMARY AREA OF ELIGIBILITY (page 1)**

The primary area of disability will be the “label” or “certification” that the child has been given to qualify for special education services. These categories are defined by law (see page 37). Only one area will be listed as the primary area of eligibility, even though the child may have other disabilities. These other disabilities can be listed under “Secondary Area(s) of Eligibility.”

- **STUDENT PROFILE (page 1)**

The profile gives a summary of the student’s strengths, information from current assessments, and his/her progress on IEP goals. The student profile also calls for parent input. There is space for your concerns about your child’s education and to describe your ideas about your child’s future. Do not leave this section blank! This is your chance to express your concerns, thoughts and goals for your child’s educational needs.

- **CONSIDERATION OF TRANSITIONS (page 1)**

Any changes that your child will experience while the IEP is in place (changes in the family, moving to a new school, etc.) should be noted in this section. The IEP Team should discuss ways to help the student through these changes. Depending on the student’s age (if the student will turn 14 or older during the duration of the IEP), this section will indicate whether transition planning needs to be addressed in the IEP. See Chapter 14 for more information.

- **CONSIDERATION OF SPECIAL FACTORS (page 2)**

These are items the IEP Team must consider to ensure that the student is receiving appropriate services. For a student who has a special factor identified, the Team must consider any service, intervention, device, accommodation, and/or program modification that the student needs to receive FAPE. Special Factors include:

- Whether the child has behaviors that interfere with his/her learning or that of other students
- Whether the student has Limited English Proficiency (for example, whether English is the student’s second language)
- Whether the student is blind and uses Braille

- Special communications needs
- Whether the student is Deaf or hard-of-hearing. This includes information about the student's communication mode (e.g. sign language, cued speech, etc.)
- Need for adaptive physical education
- **PRESENT LEVEL(S) OF ACADEMIC AND FUNCTIONAL PERFORMANCE (page 3)**

A statement of the child's current abilities. Explains how the child's disability affects his/her involvement in the regular curriculum, or, if the child is in preschool, present levels of performance indicate how the child's disability affects his/her participation in regular preschool activities. See page 67 for more.

- **ANNUAL GOAL (page 3)**

A broad, measurable goal that the IEP Team expects the child to reach within a 12-month period. Each goal will be written on page 3 of the IEP. Your child may have several copies of this page in his/her IEP, each with a different annual goal on it. See page 68 for more on annual goals.

- **ASSISTIVE TECHNOLOGY (page 3)**

A statement of the assistive technology devices and/or services that the student needs to address the annual goal. If these services are part of the student's related services, the IEP Team must indicate that. See page 75 for more on assistive technology and page 72 for more on related services.

- **COMPETENCY GOAL (page 4)**

North Carolina has a Standard Course of Study (SCOS), which outlines the skills and concepts that each student should learn at each grade level. An academic IEP goal may be tied to one of the concepts on the SCOS. This section links the IEP goal to the SCOS.

- **BENCHMARKS OR SHORT-TERM OBJECTIVES (page 4)**

Each annual goal may be broken down into smaller goals or specific skills needed to reach that goal. This section must include specific information about how progress toward the annual goal will be measured. Not all students need benchmarks or short-term objectives on their IEPs, but we encourage you to ask for their inclusion. See page 71 for more information.

- **LEAST RESTRICTIVE ENVIRONMENT (PLACEMENT) (page 5)**

This section shows each general education class, special education class, and other services or activities in which the student will participate. The IEP Team must list the supports and accommodations the student requires in each class or activity. The Team must also list who will be responsible for providing instruction, supports and accommodations in each class or activity. If the student participates in a general education class, the IEP must include information on how school staff will work together to implement the student's IEP. See pages 83-89 for more on placement and regular program participation.

- **NORTH CAROLINA ASSESSMENT PROGRAM (page 6)**

The chart shows how the child will participate in the NC Testing Program, including the need for alternative assessments, modifications and accommodations. See page 111 for more information about the NC Testing Program.

- **ADDITIONAL ASSESSMENTS (page 6b)**

This chart shows how the child will participate in other standardized tests that the school may administer, such as the ACT in 11<sup>th</sup> grade.

- **DISTRICT-WIDE ASSESSMENT PROGRAM (page 7)**

Very similar to the previous section, this section is specific to any assessments used in your particular school district.

- **ALTERNATE ASSESSMENT JUSTIFICATION (page 7)**

The IEP Team must explain why the student needs to use an alternative assessment and why the particular one listed is appropriate for the student.

- **FREQUENCY AND LOCATION OF SERVICES (pages 7 and 8)**

A list of special education services and related services that the student will receive, including how often, the length of each session, and where the services will be delivered.

- **NON-ACADEMIC SERVICES AND ACTIVITIES (page 8)**

A list of non-academic activities, such as lunch, recess, assemblies, and field trips in which the student will not participate with his/her peers without disabilities. This section must explain how the student will participate in these activities with his/her disabled peers.

- **CONTINUUM OF ALTERNATIVE EDUCATIONAL PLACEMENTS (page 8)**

This shows the amount of time that the student will be removed from the general education environment in order to receive special education services. See page 84 for more information.

- **LEAST RESTRICTIVE ENVIRONMENT JUSTIFICATION (page 9)**

The IEP Team must explain why the student needs to receive certain special education services outside of the general education environment. This means that the Team must justify any decision to serve your child away from his/her peers without disabilities. See page 87 for more information.

- **EXPLANATION OF HOW/WHEN PARENTS WILL BE INFORMED OF PROGRESS TOWARD ANNUAL GOALS (page 9)**

The way progress on the IEP goals will be shared with the parents, and how often. You must receive this information at least as often as progress reports and report cards are sent home to all children. Ask for concrete methods of reporting (e.g. charts) rather than subjective measures (e.g. “Tommy is doing well.”).

- **EXTENDED SCHOOL YEAR STATUS (ESY) (page 9)**

A determination of whether the child will receive special education and related services beyond the regular school year. **Watch out!** Many IEP Teams make a decision about ESY before the meeting, and do not discuss this section of the IEP

with parents. Remember that you are an **equal partner** in the IEP Team, and you must have a part in deciding whether your child needs ESY services.

A student can receive ESY in two situations:

- The IEP Team expects that the child will significantly **regress** in academic or critical life skills. This means that the team anticipates that the child will lose what he/she has learned or gained during this school year. It has to be a serious loss in skill or knowledge; the IEP Team must believe that it will take several months for the child to get this skill or knowledge back when the new school year begins. Most schools in NC think in terms of whether the student can recover the skill or knowledge within the first nine-week grading period.
- The child is learning a new critical skill and will lose that skill if instruction stops. This new skill is called an **emerging** skill, and ESY can be used to maintain your child's progress in this new area.

**ADVOCACY TIP:** Do not use the word “benefit” when discussing ESY services. ESY is not designed to allow your child to make further progress. ESY is designed to maintain the progress that has already been made, and prevent it from being lost.

#### ▪ **RECORD OF IEP TEAM PARTICIPATION (page 9)**

The names of all IEP Team members who were **present** at the meeting (in person or by alternative means) and participated in the development of the IEP.

In the past, parents were asked to sign the IEP to show their participation in the IEP meeting. You will no longer be asked to sign the IEP. Your name will be recorded on the IEP only to show that you were present and participated in the development of the IEP.

When parents were asked to sign the IEP in the past, they may have noted disagreement with the IEP by refusing to sign it, or by writing “disagree” or “signed only as being present and participating” after their signatures. Because parents are no longer asked to sign the IEP, it is important to **ask that your disagreement with the IEP be documented in the meeting minutes.**

#### ▪ **REEVALUATION (page 10)**

A student must be re-evaluated for special education services every three years. When this testing is completed, the IEP Team must review the current IEP to determine whether or not it is appropriate. If the team decides the IEP is not

appropriate, they must develop a new one. If the team decides the IEP is appropriate, those people present during the review must be listed here.

- **IEP ADDENDUM TEAM (page 10)**

If the IEP Team meets to make changes to the current IEP, those people present must sign here. The parent and the IEP Team may agree to make changes to the IEP without holding a full Team meeting. Information about any changes to the IEP must be noted in this section.



## **D. Present Level of Performance (PLP)**

The IEP must say how the child is currently doing in school. This is extremely important because, to be effective, IEP goals must be written based on an accurate description of the child's current level of performance. This information can come from evaluations, classroom tests or assignments, or information from or observations made by parents, teachers, school staff, or others with knowledge about the child. The present level of educational performance must also consider the "special factors" that are included on the second page of the IEP form (see page 52).

All of the information gathered about the student, including the answers to the "special factors" questions, should be used in writing the statement of present level of educational performance. Educational performance includes academic achievement as well as functional performance, meaning the child's ability to do activities of every-day living. IDEA says that "the IEP for each child with a disability must include a statement of the child's present levels of educational performance, including how the child's disability affects the child's involvement and progress in the general curriculum." In North

Carolina, the general curriculum for all students (with and without disabilities) is included in the NC Standard Course of Study.

The recommended North Carolina IEP form says that the present level of educational performance should include specific descriptions of strengths and needs that apply to “current academic and functional performance, behaviors, social/emotional development, other relevant information, and how the student’s disability affects his/her involvement and progress in the general curriculum.” This means that the present level of educational performance must include both strengths and needs and accurately describe the effect of the child’s disability on the child’s performance in school. The present level of educational performance will be different for each child.

There must also be a direct relationship between the present level of educational performance and the accommodations or specialized instruction that the child needs. For example, IEP goals could be written from the following PLPs.

- Sally writes simple sentences correctly. She doesn’t write compound or complex sentences consistently or without assistance. When writing paragraphs, she includes topic sentences but doesn’t organize ideas in logical sequence.
- Michael can read 100 sight words but cannot phonically sound out two-syllable words. He is also inconsistent in any use of phonics.
- Mary Beth understands that a book communicates a “story.” She is able to scan each page, identify objects, and turn pages when prompted. She does not recognize that a word means an object.

However, IEP goals could not be written from a Present Level of Performance that reads, “Sheila is autistic. She needs practice with numbers and fine motor skills.” Remember that PLPs should never include the student’s disability, but must contain a description of how that disability affects the student’s education.

You may not like to see statements about your child in the IEP that appear negative. Remember, this is a **necessary part** of the IEP. Statements about your child’s needs will help the IEP Team develop appropriate goals and services to help your child succeed.

## E. Annual Goals

An IEP must include measurable annual goals that relate to meeting the needs of your child that result from his/her disability. The goal is where you want your child to be at the end of the year. The annual goals in the IEP are statements that describe what your

child can reasonably be expected to accomplish within a twelve month period in the child's special education program. Annual goals should:

- Link directly to a present level of educational performance
- Address a specific skill, curriculum, or behavior area
- Show an observable direction of change
- Contain a desired level of achievement or outcome

For example, goals written from one of the earlier examples of a present level of educational performance might be:

- Michael will consistently sound out one-syllable words using consonant sounds and vowel sounds.
- Mary Beth will correctly identify five words that name objects she already knows.

The annual goals should enable your child to be involved in and progress in the general curriculum. When developing annual goals, consider the following:

- What were the main concerns on the initial referral for special ed services?
- What skills does your child need to progress to the next level of performance?
- What skills does your child need to succeed in the regular classroom?
- Does your child need skills to transition to work or education beyond high school?
- What are the behaviors/skills that will improve with modifications?
- What are your concerns for enhancing his/her education?
- What is your child's learning style?
- Are there any special factors that need to be considered?

The annual goals should meet each of your child's needs that result from the child's disability. Your child's needs, as described in the Present Level of Performance, might also require goals in nonacademic areas. Some areas to consider are behavioral skills, communication and language skills, self-determination skills, job-related skills, independent living skills, and social skills.

The school is not required to include annual goals that relate to areas of the general curriculum. For example, if a child does not need special education to participate in math, the IEP doesn't need to include any math goals (e.g. Michael will learn fractions). If the child needs modifications or accommodations to succeed in the regular education class, however, the IEP needs to say what those modifications or accommodations are (e.g. Michael will sit at the front of the class).

## Measuring Progress toward Annual Goals

The IEP must include a statement of how progress will be measured and how parents will be regularly informed of that progress. At a minimum, these reports should be sent out as often as students without disabilities receive report cards. Progress Reports to parents must include:

- The progress your child has made toward achieving annual goals, including a rating of progress (e.g., no progress, some progress, good progress, near mastery, mastery); or
- A brief statement about what the student is doing now that he/she was not doing previously as it relates to annual goals; and
- A statement of whether your child is making enough progress to achieve each annual goal by the end of the year.



## F. Short-term Objectives or Benchmarks

Short-term objectives and benchmarks can help you measure your child's progress toward his/her annual IEP goals. Like IDEA, North Carolina law only requires that short-term objectives or benchmarks be used with students who are tested through alternative assessments (see Chapter 15, page 113). Although the law may not require it,

we encourage you to ask that the IEP include short-term objectives or benchmarks for your child. The needs of your child will determine which method you choose.

## Short-term Objectives

Short-term objectives break the annual goal down into the skills or steps needed to accomplish that goal. For example, one of the earlier annual goals was, “Michael will consistently sound out one-syllable words using consonant sounds and vowel sounds.” In order to reach his/her goal, Michael must know the difference between vowel and consonants, know the sound that each letter makes, and know that a word is read from left to right. Each of these skills is a short-term objective, or a skill that Michael needs to accomplish his/her over-all annual goal.

Short-term objectives should tell you:

Who?	Michael
Will do what?	will recognize the five vowels
Under what conditions?	when looking at a one-syllable word
How well?	75% of the time
By when?	by the end of the first grading period.

## Benchmarks

Benchmarks break the annual goal into the milestones that the student will reach as he/she works toward the annual goal. An earlier annual goal was, “Mary Beth will correctly identify five words that name objects she already knows.” Each word that Mary Beth can identify is a step toward her annual goal of identifying five words. Learning a new word is reaching a milestone, or benchmark, toward knowing all five.

Benchmarks should tell you:

Who?	Mary
Will do what?	will identify the word “ball”
When?	by November.

## G. Related Services

In addition to special education, school systems must provide “related services” to help students benefit from their educational programs. According to IDEA, “related services” means:

“... transportation, and such developmental, corrective, and other supportive services... as may be required to assist a child with a disability to benefit from special education...”

### **Related services may include:**

- audiology
- interpreting services
- orientation and mobility training
- physical therapy (PT)
- recreation
- school nurse services
- speech-language pathology
- counseling
- occupational therapy (OT)
- parent counseling and training
- psychological services
- rehabilitation counseling
- social work services
- transportation

## Will my child receive any related services?

To receive a related service, that service must **help the child educationally**. If your child needs a service in order to benefit from his education, the school must provide that service.

Many children need physical, occupational or speech therapy for medical reasons. But this does not mean that the school system has to provide the service. School systems only provide related services to children who need the therapy for educational reasons—to successfully complete the goals and objectives on their IEPs.

For example, a child with a Serious Emotional Disability who is succeeding in a special education classroom but is extremely disruptive at home may need psychological counseling. However, because the child is succeeding in the classroom, the school system does not have to provide that service. The school system *would* need to provide psychological services if the child's behavior at school kept him/her from learning.

Transportation can be a related service, if your child needs transportation in order to benefit from his education. For example, the school system may assign your child to a particular program in a particular school because that setting will meet your child's

In most school systems, a parent is responsible for the child's transportation when that parent voluntarily transfers his/her child to a different school. You may be able to get transportation as a related service in this case. You may request an accommodation to this policy and demonstrate why your child needs transportation in order to benefit from his/her education.

needs. If the school is far from your home, the school system would be responsible for providing transportation as a related service. Your child needs transportation in order to reach that school, where he can benefit from his education. Another situation in which transportation can be a related service is if your child exhibits inappropriate behaviors on the regular school bus, and needs to be on a bus with fewer students in order to maintain her safety and address her behaviors.

**Remember, your child must have an EDUCATIONAL NEED to qualify for a related service.**

## How Do I Get Related Services for My Child?

The IEP Team must discuss whether your child needs related services during the annual review of his/her IEP. Ask for what your child needs. If your child has an educational need for the service, the school must provide it.

The school may be unwilling to provide a related service for your child. Some of the reasons for this, and what you can say in response, are listed here:

- “We can’t find anyone to provide that service.”
  - The Office for Civil Rights (OCR) in the U.S. Department of Education has ruled that a lack of staff does not remove the school system’s obligation to provide related services to students with disabilities.
  - The Fourth Circuit (federal court of appeals) ruled that a school system can use its own employees or can contract with private people, but it must provide related services which are educationally necessary. The Court reached that decision in *Manalansan v. Board of Education of Baltimore City*.
- “That’s too expensive.”
  - The U.S. Supreme Court ruled that, under the IDEA, a school system must provide related services that are necessary for a student with a disability to benefit from his/her education, even if they are very expensive. The Court reached that decision in *Cedar Rapids Community School District v. Garret F.*

If you disagree with the school’s final decision, see Chapter 19 for more information on conflict resolution.

Remember, the school system is not required to provide **every** related service that might help your child – only those that are **necessary to allow the benefit of his/her education**. Be prepared to explain to the IEP Team how a related service is necessary to allow your child to access and benefit from his/her education.

### Case Citations:

*Cedar Rapids Community School Dist. v. Garret F. ex*, 526 U.S. 66 (1999)

*Manalansan v. Bd. of Education of Baltimore City*, No. Civ. AMD 01-312 (D.Md. Aug. 14, 2001)

## H. Assistive Technology (AT)

Before the federal special education laws were created, a lot of equipment and services for people with disabilities did not exist. In 1998, a law called the Assistive Technology Act of 1998 was passed. The Act was reauthorized, or passed again, in 2004 with a new name: The Improving Access to Assistive Technology for Individuals with Disabilities Act of 2004. The Act provides funding for persons with disabilities to get equipment and services to help them live more independently. These equipment and services, called Assistive Technology, are available to help children reach their full potential.

### What is Assistive Technology?

Assistive Technology, or AT, is power! It is the power to be independent, to be mobile, to communicate, to work, to learn, and to participate in all areas of life. AT helps persons with disabilities overcome barriers and have a higher quality of life.

There are two types of Assistive Technology: AT devices and AT services.

- **AT Devices** – Any item, piece of equipment, or product system, whether it is right off the shelf, modified, or customized, that is used to increase, maintain, or improve functional capabilities of individuals with disabilities. This may include:
  - Accessibility— Classroom modifications, home modifications, transportation aids, controls, job accommodations, etc.
  - Communication— Augmentative Communication Systems (voice output devices, picture cards), writing systems, TTY/TDD, amplified phone system, etc.
  - Development and Learning— Learning aids, early intervention software, literacy aids, instructional materials
  - Activities of Daily Living— Daily living aids, personal care aids, recreation aids, travel aids, adapted clothing, adapted shoes
  - Computer Access— Adaptive software (talking word processor or word prediction), adaptive peripherals (alternate keyboards, switch adapters, etc.)
  - Sensory Aids— Assistive listening devices, visual aids (magnification, etc.), hearing aids, reading aids

- Mobility Aids— Positioning aids, standers, walkers, wheelchair seating systems, power wheelchair controls, manual wheelchair, crutches, cane, etc.
- **AT Services** – Any service that directly assists an individual with a disability in the selection, acquisition, or use of an Assistive Technology device. This may include:
  - Purchasing, leasing, or otherwise helping a person with a disability get an AT device
  - Selecting, designing, customizing, adapting, fitting, maintaining, repairing, or replacing an AT device
  - Evaluating the individual’s environment to determine what AT devices he/she needs
  - Training or providing technical assistance about an AT device for an individual with a disability, and his/her family when appropriate
  - Training or providing technical assistance about an AT device to professionals or other individuals who work with persons with disabilities

## **AT and IDEA**

IDEA requires the school to provide Assistive Technology to a child with a disability if that child needs AT in order to receive a Free and Appropriate Public Education. The IEP Team must consider whether a student requires AT when the IEP is developed. According to IDEA:

- There is no list of “approved” AT devices and services; be creative in serving your child’s needs.
- If AT is needed, the IEP must state that need in relation to specific goals and objectives.
- AT services must be considered along with educational needs. AT can be a special education service, or it can be a related service.
- AT needs must be identified on a case-by-case basis.

- The IEP Team, **including the parents**, must be involved in determining whether and what kind of AT is needed.
- You can request an independent evaluation to determine AT needs.
- The school cannot refuse to provide Assistive Technology because of the cost and/or lack of availability.
- The school **CAN** refuse to provide a device that is medical and not educationally beneficial (e.g. the school will not pay for your child to receive a cochlear implant).
- If AT is included in your child's IEP, the school must provide it at no cost to your family. The school cannot make you use your private health insurance to buy the Assistive Technology in your child's IEP (e.g. an auditory trainer or FM system).
- You have the right to appeal if the school denies AT services.
- AT devices must be provided for use at home when the IEP Team determines this is necessary for the student to continue making progress toward his/her IEP goals.

## **How do I get Assistive Technology for my child?**

First, request that the school conduct an AT evaluation. A qualified evaluator should look at your child's hearing, vision, communication and movement to determine if Assistive Technology devices and services improve or increase your child's performance. If the school refuses to evaluate your child, you can ask an independent consultant for an evaluation, or you can ask the school to pay for an independent evaluation (see page 36).

After the evaluation is complete, request an IEP meeting to discuss the results. Before the meeting, do your homework to find materials and equipment that are available. Look at your child's educational environment, and think about what he/she needs to succeed.

At the IEP meeting, request that the school provide the AT that your child needs to receive a Free Appropriate Public Education. Identify devices that might work; be sure to discuss the device itself, and not a specific brand name. If you disagree with the evaluation, consider an independent evaluation.

If your child moves to a new school system, request that the IEP Team meet to talk about AT needs. If the Team does not agree to purchase an Assistive Technology device, and you request a hearing, the school must provide the device until your case is resolved.

## **What if my Child needs Assistive Technology at home?**

If the IEP Team determines that your child needs the AT device at home in order to receive a Free Appropriate Public Education, the school must provide the technology at home. For example, if your child uses certain software at school, that same software may be needed for his/her homework.

## **Who Owns the AT Device?**

The school owns the AT device at all times. If your child changes school systems or finishes his/her education, the school keeps the AT device.

## **Who Can I Call for More Information about AT?**

You can call the North Carolina Assistive Technology Program, or NCATP. Their AT centers and satellite programs provide services in all 100 counties in North Carolina in order to help people with disabilities and their families make informed decisions about Assistive Technology. The NCATP can also help school staff with their AT questions.

Services which are available at no charge include:

- Hands-on device demonstration
- Short-term loans of AT devices
- General information about AT and funding resources
- Access to previously-owned AT devices. Go to the NC Technology Exchange Post website at [www.pat.org](http://www.pat.org) for more information.

If your child needs AT, suggest that his/her school contact the NCATP. Through them, the school can purchase:

- Technical assistance in selecting AT devices
- Assistive technology assessments
- Device trial
- Training on specific devices and software
- Consultation services

You can reach the NCATP at (919) 850-2787. See the Special Education Resource listing at the end of this manual for more contact information.

## I. IEP Modifications and Accommodations

Students with disabilities sometimes need additional services to learn on the same level as their peers without disabilities. These services are called **accommodations**. Some students will need changes to the curriculum so that they can learn like their peers without disabilities, although not on the same level. These changes are called **modifications**. (Don't worry if the difference between these two words confuses you—most school people use the words to mean the same thing!)

Below is a list of commonly used supplementary aids, services, modifications and accommodations. Another modification may be appropriate for your child's individual needs.

- Modified grading
- Modified assignments
- Use of different materials
- Graphic organizers (puts the information into visual form)
- Read aloud
- Extended time (extra time on tests)
- Large print or Braille books
- Audio tapes, CDs, videos
- Preferential seating (seat at the front of the class)

- Dictation to a scribe (another person writes down what the child says)
- Study guides
- Testing in a separate setting (usually a smaller group of children)
- Multiple test sessions
- Notes from teachers or peers
- Additional set of textbooks to be kept at home
- Computer (used instead of writing)
- Student marks answers in book
- Teachers check agenda (so homework is written down correctly)
- Interpreter or transliterator

## **J. After Your Child is enrolled in Special Education**

The special education process does not stop once your child qualifies for services and has been placed in a special education program.

### **IEP Addendum (Changes to the IEP)**

An IEP is effective for one year from the date it is written. However, this does not mean that the IEP cannot be changed during that year. Changes to the IEP can be made at any time they are needed.

If you believe that your child's IEP needs to be changed, you have the right to request an IEP meeting at any time. The IEP Team must meet to review the IEP and rewrite, add, or delete information if changes are needed. See Chapter 21, page 178 for a sample letter requesting an IEP review or addendum.

### **Annual Review of the IEP**

At least once each year, the IEP Team must meet and review the student's progress. The Team must rewrite the IEP, creating new goals or changing previous ones so that the student can make progress over the next year. The Team must also consider whether the student needs related services or assistive technology.

# Reevaluation

The school or the parents may wish to reevaluate the student, or do new or additional testing, to determine what the student's needs are. You or the school may request such testing at any time. The IEP Team must meet when testing is complete to review the test results, review the current IEP, and make any necessary changes. See Chapter 21, pages 175 and 176 for sample letters requesting a reevaluation and additional testing.

## Three-Year Reevaluation

At least every three years, the IEP Team must consider whether a reevaluation is needed. The process of reviewing the child's records and discussing whether additional testing is needed is called **reevaluation**. See Chapter 21, page 175 for a sample letter requesting a reevaluation.

Sometimes, the IEP Team will agree that testing is needed in all areas. At other times, the Team will decide that only certain areas of testing are necessary. Or, the Team will agree that additional testing is not required. No matter what the decision, the Team must **talk about** whether to conduct testing at least once every three years. If the parents ask for testing and the Team refuses, the school must tell the parents that they have the right to challenge that decision, and how to do so.

The IEP Team should agree to conduct testing whenever there is a question about whether the student still qualifies for special education under IDEA. Testing may be necessary to determine whether the student still has a disability, if the student continues to require special education, and if the student qualifies for services under IDEA. If the Team agrees that tests are necessary, the Team should discuss and agree on which evaluations will be conducted. (See page 31 for more.)

The IEP Team may agree that the student continues to qualify for special education under IDEA, and that no additional testing is needed to determine eligibility. The Team should still discuss whether testing is needed in order to have up-to-date information in the student's file. An evaluation may give the Team new information about the student's functioning level and what kind of special education, related services, and modifications are needed to meet the student's educational needs. It is better to ask for testing now than to be sorry later that the IEP does not reflect the student's needs.

Although the IEP Team is only **required** to consider the need for reevaluation every three years, the Team is **allowed** to consider the need more often. A student could be

reevaluated every year if the IEP Team decided that was necessary. However, be aware that testing a student too often can be harmful and can lead to invalid test results. Most evaluations cannot be given to the same child more than once per year. If you disagree with the school's testing results, consider asking for an Independent Educational Evaluation (see Chapter 9, page 35) rather than a reevaluation.

Remember that if testing is done, the IEP Team must meet to discuss the results of the tests. The Team must also review the IEP and make any necessary changes based on those results.

## **K. Changing School Systems with Your IEP**

If your child moves to a new school system in North Carolina, his/her IEP and Exceptional Children's records will follow him/her to the new school. The new system must continue to use the IEP from the old school system, and provide comparable services in order to give the child FAPE. "Comparable" services means that the services are "similar" or "equivalent." The new system must then either:

- "adopt" the old system's IEP, or accept the old IEP as its own; or
- develop and implement a brand new IEP.

If your child moves to a new school system in another state, his/her IEP and Exceptional Children's records will also follow him/her to the new school. The new school system:

- must continue to use the IEP from the old state, and provide comparable services in order to give the child FAPE.
- may evaluate your child, if the IEP Team believes this is needed.
- must develop and implement a brand new IEP.

**NOTE:** States often have different requirements for identifying a child for special education services under IDEA. Just because your child qualified in your old state does not automatically mean that he/she will qualify in the new state. If the new school system evaluates your child and he/she still qualifies for special education, the IEP Team must develop and implement a new IEP based on those evaluations.

# Chapter 11: Placement

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Placement is the set of services and the point on the continuum of placements in which those services will be delivered. Placement is **not** a physical location, like a particular school or classroom; it is the actual amount of time that your child gets special education services. It is the end result of screening, referral, evaluation and the development of the IEP. Based on the goals, related services, and modifications that the IEP Team agrees on, a special education program or placement will be recommended for your child. You must give your permission for the first, or initial, placement in a special education program. If your child qualifies for special education, he/she must be placed in an appropriate special education program within ninety (90) calendar days after the school receives the referral.

Schools must offer a spectrum of placements, called a continuum, in which your child's IEP can be implemented. The continuum ranges from the least restrictive setting, the regular classroom, to the most restrictive setting, homebound instruction. Several settings exist between the regular classroom and homebound.

## The Least Restrictive Environment (LRE)

IDEA states that children with disabilities are to be educated “to the maximum extent appropriate” with children who are not disabled. This means that **taking a child out of the regular classroom should only happen when, because of the nature or severity of the child's disability, a satisfactory education cannot be achieved even with the use of supplementary aids and services in the regular classroom.**

If the school cannot meet a student's needs in the regular classroom with supplementary (or extra) aids and services, then the school must provide a **continuum of alternative placements** in order to meet the child's special education needs. The continuum is made up of a variety of placements, each one involving more support and special education services than the previous one. As more supports are added, the student spends less time with his/her peers without disabilities.

The school is required to educate your child in the least restrictive environment, or LRE. This means that the IEP Team must determine which placement along the continuum offers an appropriate education to your child while making sure that he/she is with his/her peers without disabilities as much as is appropriate.

The next section explains the different levels of services that are available along the continuum. The IEP Team makes the placement decision based on the student's IEP goals.

## **The Continuum of Programs and Services**

The continuum of services refers to the amount of special education services a child needs in order to be successful. Some students just need a little support to succeed, while other students need more support. The IEP Team determines a student's placement along the continuum of programs and services as described below. Please see page 59 (page 8 of the IEP) for the form used in most schools.

**Regular:** Students spend 80% of their day or more inside the regular classroom. The regular placement includes students who receive special education services in the regular classroom, as well as children who receive some special instruction in a resource room.

**Resource:** Students spend 40% to 79% of their day with their peers without disabilities. These students may receive special education services in a resource room, or with some of the special education provided in a regular education class.

**Separate:** Students spend less than 39% of their day with their peers without disabilities. Services may be provided in a self-contained classroom with some instruction in a regular education class. The student may spend his/her full day in a self-contained class that is housed in a regular public school.

**Public Separate School:** Special education services are provided in a separate building for more than 50% of the school day. This placement includes students who are placed in a public school for students with disabilities.

**Private Separate School:** Special education services are provided in a separate, private school for more than 50% of the school day. These services may be provided at public expense (meaning the public school system pays for them).

If your child is Deaf or hard of hearing, you have the right to request that the IEP Team consider placement in one of the state residential schools for the Deaf. You have the right to request that a representative from one of those schools participate as a member of your child's IEP Team.

**Public Residential Facility:** Students receive special education services in a public residential facility for more than 50% of the school day. Students in this placement are typically those who have mental health needs, and live in the same facility that provides for their education. This kind of placement might also be a state school for the Deaf that has dormitories.

**Private Residential Facility:** Students receive special education services in a private residential facility for more than 50% of the school day. These services may be provided at public expense.

**Hospital/Homebound:** Students receive special education at home or in a hospital. This includes children that are in-patients and out-patients. Unless there is a medical reason, homebound placements should be temporary, with IEP goals to address the return to a less restrictive environment. There are special procedures the local educational agency must follow if the student is placed in a homebound placement for disciplinary reasons. Placing a child on homebound should **rarely** be used.

If your child exhibits inappropriate behaviors at school, the school might want to put your child on homebound instruction. This is considered a change in placement for disciplinary reasons, and your child has many rights that must be protected (see Chapter 17). Before the school can place your child on homebound due to behaviors, the IEP Team **must** determine that homebound is the least restrictive environment for your child. The IEP Team must appoint someone to review whether homebound is still the LRE on a **monthly** basis.

## Deciding on a Placement

The IEP Team decides the placement for each student who receives special education services. The Team must use the child's IEP goals to determine how much time he/she requires in special education. The amount of time he/she needs services will determine his/her placement. The IEP Team must:

- Decide placement as a Team. Remember, you are an important part of the IEP Team!
- Decide placement based on the student’s IEP.
- Review the current placement and decide on the appropriate placement at least once each year.
- Educate the child in the school he/she would attend if he/she did not have a disability, or in a school as close as possible to home. The exception to this rule is for a low-incidence disability, or one that does not occur in a large portion of the population. For example, some schools do not have a self-contained classroom for children with autism. If your child has autism, and the IEP Team determines that he/she requires placement in a separate placement, your child may have to attend a different school where there is a program for students with autism.

If you are unhappy about the school your child has been assigned to attend, you can appeal the assignment. How you do so depends on whether the assignment is due to the IEP Team’s decision about placement, or whether it is due to the school system’s assignment process.

<p><b>Placement</b></p> <ul style="list-style-type: none"> <li>▪ Determined by the IEP Team</li> <li>▪ Based on your child’s individual needs and his/her IEP</li> <li>▪ Changed through the IEP process</li> </ul>	<p><b>School Assignment</b></p> <ul style="list-style-type: none"> <li>▪ Determined by the school system</li> <li>▪ Based on a variety of factors, including student population and location of schools</li> <li>▪ Changed through the school system’s transfer process</li> </ul>
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Things to keep in mind when considering placement include:

- The definition of the least restrictive environment
- The student’s age
- The nature and severity of the student’s disability

- The degree of intervention needed (whether the child needs a lot of support or just a small amount of support)
- Any harmful effects that a placement might have on the child or on the quality of services

The school cannot remove a student from the regular classroom and put him/her in a more restrictive placement because of:

- Administrative convenience (what is easier for the school)
- Budget concerns, such as lack of space or limited resources
- The type of disability that the student has
- The student's need for modifications to the general curriculum

## **How can I make sure my child is placed in the Least Restrictive Environment?**

Before the IEP meeting:

- Identify your child's strengths and interests
- Identify the supports and modifications that your child will need to be successful in various placements along the continuum

During the IEP meeting:

- Share your dreams and expectations for your child
- Emphasize your child's strengths
- Play an active part in developing the IEP goals
- Ask the school personnel to explain their placement recommendation
  - Why did they recommend this program?
  - Why didn't they recommend a less restrictive environment?

- Would another program be appropriate with the use of aids and modifications?

**ADVOCACY TIP:** An IEP Team will often discuss placement by comparing programs that the school district already has. For example, your child’s Team might say, “Program A is not appropriate for Billy, so he has to be in Program B.” Do not get caught up in the programs argument! Your child has a right to be educated in the LRE, which is based on the **level of services needed**, NOT on the programs that the school system currently offers. Focus on placement in terms of a level of services. If the school system does not offer an appropriate program to match the level of services that your child needs, it must create that program.

One section of the IEP paperwork asks what decisions were made about placement, and why they were made (see Chapter 10, page 59). Be sure that the paperwork explains why the placement was chosen. If you agree with the placement decision, make sure that your child’s IEP includes all of the aids and modifications that are needed to make that program a successful one.

## **What if I disagree with the school about placement?**

If you feel the placement recommended by the school is not your child’s least restrictive environment, or is otherwise not the appropriate placement, appeal in writing and/or request another meeting to restate your case. Ask if this is a “final decision” on the part of the school, and ask to get this in writing. If you still disagree with the Team’s final decision, refer to Chapter 19 for more information about conflict resolution.



## Ideas for Inclusion with Peers without Disabilities

The purpose of the Least Restrictive Environment is to give children with disabilities the opportunity to interact with nondisabled peers to the greatest extent possible. You may hear this called “inclusion” and “mainstreaming.” The law ensures that a child who receives special education services has access to the general curriculum, no matter what the placement along the continuum of programs.

Many students with disabilities are able to have a large part of their academic instruction within the regular classroom. Even children who receive a large part of their instruction from a special educator can often be successful with some academic tasks in the regular classroom, with the use of modifications, accommodations, supports and services.

For those students who cannot succeed in the regular education classroom, even with supports and modifications, they can still participate in school activities with their peers without disabilities. The school must allow children to participate in these activities to the maximum extent appropriate. Parents and school staff should be open-minded and flexible; consider **all** possibilities for inclusion, even if it means that your child will participate in a different way than other students.

The following are some ways to include children with disabilities in activities along with their peers without disabilities.

- Lunch
- Reading buddies
- Physical education
- School plays
- Circle time
- Athletics/sports
- Field days
- Transportation (riding the bus)
- Assemblies
- Clubs and school groups
- Homeroom
- Elective classes (Art, Band, Chorus)
- Student employment
- Field trips
- Library
- Recess

For more information on including students with disabilities in sports, read the Office for Civil Rights' guidance at <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201301-504.pdf>

# Chapter 12: Special Education Forms

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In meetings with special education personnel, you will be asked to sign “official-looking” pieces of papers. These forms are used to document your child’s needs and abilities, and will determine the special education services your child receives. Before you learn more about the most common special education forms, here are some general tips for dealing with all the paperwork.

- Make sure you know what each form means. This chapter will help you.
- Make sure that you understand all of the information on the form. Continue to ask questions until you do understand, and do not sign the form until then.
- Make sure you get a copy of the final form, and draft forms that were used, and any meeting minutes that were taken. Get these **before** you leave the meeting.
- Review each form before you sign it. For some forms, such as the IEP, your signature only means that you participated in the meeting. It does not mean that you agree with everything on the form. On other forms, such as the Consent for Placement form, your signature gives the school permission to do something. Make sure you know what your signature means on each form.

Each form in the special education process has a name, of course. You might hear school personnel call the form a “deck” with a number. This is actually “DEC”, or Department of Exceptional Children. Each form has a number and is labelled with that number, such as the DEC 4. If you do not know which form the school is talking about, ask!

## **A. INVITATION TO CONFERENCE (DEC/PRIOR NOTICE, see page 97)**

This is the form you will receive most often. You will get this form any time a meeting is held regarding your child’s special education services. You will be asked to sign this form to indicate whether you can attend a meeting:

- to discuss your child’s placement in special education for the first time.
- every year to write the IEP, and at any other time you or the school request an IEP meeting.

- after a re-evaluation is done.
- before your child's identification or placement is changed.

Remember that participating in these meetings is the only way that you can be a real partner in making educational decisions for your child. You have the right to meet at a time convenient for you. If you cannot meet during the time suggested by the school, call the person listed on the form and set up another time. If you still cannot attend, take the time to write down your thoughts and ideas about your child's education. Ask to participate by phone. You are an important part of any special education meeting!

On page 43, you learned about when an IEP Team member may be excused from a meeting. The form on page 100 should be sent to you along with the Invitation to Conference so you may give or withhold your consent to meet without that Team member.

## **B. PRIOR NOTICE AND PARENT/GUARDIAN CONSENT FOR EVALUATION/REEVALUATION (DEC 2, see page 100)**

This is usually the first special education form you will be asked to sign. This form gives the school system permission to evaluate, or test, your child to find out if he/she needs and qualifies for special education, what services he/she requires, etc.

Always remember to find out who will be testing your child and what tests will be given to him/her. When your child is first tested for special education, make sure you receive your copy of the *Handbook on Parents' Rights* when you sign this consent form.

## **C. INDIVIDUALIZED EDUCATION PROGRAM (DEC 4)**

You should sign this form at least once every year that your child is in a special education program. See Chapter 10, page 51.

## **D. PRIOR WRITTEN NOTICE (DEC 5, see pages 97-99)**

Once your child has been placed in a special education program, the school must notify you when they want to change your child's identification, placement, or services, or when they refuse to do so. Both federal and state laws require that a very

specific type of written notice, called “Prior Written Notice,” be given to parents before the school system makes or refuses to make a change in the child’s identification, placement or services. The Prior Written Notice must include:

- a statement that you have procedural safeguards, or rights, available to you under federal and state laws. This statement must remind you that your rights are explained to you in the *Handbook on Parents’ Rights*.
- a description of what the school system is or is not going to do.
- an explanation of why the school system decided or refused to do the action.
- a description of other ideas that the school considered but then rejected, and the reasons that the school rejected those ideas.
- a description of evidence that the school used in making its decision. This can include evaluations, testing, educational records, medical records, input from the teachers, and input from the parents.
- a description of any other factors which are important to the school system’s decision.
- information on where you can get help in understanding what the Notice says, and what your rights are.

The school must give you Prior Written Notice:

- in your native language or mode of communication.
- in language that is understandable to the general public.
- before your child is re-evaluated (or when the school refuses to re-evaluate).
- before your child’s category for identification (or label) is changed (or when the school refuses to change the category).
- before your child’s placement is changed (or when the school refuses to change the placement).
- before any services are added or taken out of your child’s IEP (or when the school refuses to add or remove services).

## **E. CONSENT FOR INITIAL PLACEMENT FOR SPECIAL EDUCATION SERVICES (DEC 6, see page 100)**

After the first IEP is written, you will be asked to sign this form. By signing, you give the school system your permission to begin serving your child in a special education program. Before you sign this form, be sure to understand exactly what kind of special education services your child will be receiving.

## **F. REEVALUATION DETERMINATION REPORT (DEC 7, see page 101)**

This form helps the IEP Team decide whether or not your child needs to be re-tested for more information about his/her abilities, needs, and whether he/she requires special education. You will be asked to sign this form whether or not testing is conducted. There is a place on the form to indicate that you agree or disagree with the decision.

\* These forms were updated by the North Carolina Department of Public Instruction in 1-08 and have not been modified.

# INVITATION TO CONFERENCE

Date: 00 / 00 / 2000

Dear \_\_\_\_\_:

Re: Student's Name

For a student to receive the education needed, it is important for the school and the parents to work together. We are requesting that you attend a conference to discuss Student's Name's special needs. You may also bring another individual(s) whom you believe has knowledge or special expertise regarding your child. Although it is not required for you to notify the school of additional participants, it is helpful in making appropriate arrangements. If your child is transitioning from the Part C-Infant Toddler Program, you may request we invite one or more of the Part C-Infant Toddler representatives.

**The purpose of this meeting is to: (Check all that may apply)**

- Discuss special education referral for initial evaluation or reevaluation determination.
- Discuss evaluation results to determine if your child is or continues to be eligible for special education and related services.
- Discuss and/or develop, review, and/or revise your child's IEP.
- Discuss and/or review, and/or revise your child's educational placement.
- Other: \_\_\_\_\_

**Transition Planning:**

*For a child who is or will be 14 years of age or older during the duration of this IEP:*

- Your child is being invited to attend this meeting as required by state and federal statute.

**The following required members of the IEP team are expected to attend the meeting:** (Attach Request to Excuse if all are not checked.)

- LEA Representative                       Special Education Provider of the Student                       General Education Teacher of the Student
- Individual who can Interpret Evaluation Results

**Other participants expected to attend the meeting:**

<input type="checkbox"/> Name	<input type="checkbox"/> Name
<input type="checkbox"/> Name	<input type="checkbox"/> Name
<input type="checkbox"/> Name	<input type="checkbox"/> Name
<input type="checkbox"/> Name	<input type="checkbox"/> Name

**The following agency representative(s) invited to attend the meeting are:**

**(Parental permission to invite agency representative(s) must be in the Exceptional Children confidential record.)**

Name	Name
------	------

**The meeting is scheduled for (date) / / , at (time) \_\_\_\_\_, (place) \_\_\_\_\_.**

If this time is inconvenient, I will be happy to reschedule the meeting at a mutually agreeable time. Please call (phone) \_\_\_\_\_ or email \_\_\_\_\_. If you are unable to attend or would prefer to participate by telephone, a conference call can be arranged. At this meeting, you are entitled to all the due process parental rights described in the Handbook on Parents' Rights.

Sincerely,

Name

Title

School

**Parent/Guardian Response to Invitation:**

**Please respond to this notice by checking the appropriate option below and return one copy of this form prior to the meeting.**

- I will attend the meeting as scheduled.
- I will participate in this IEP team meeting by phone or other means. I can be reached at the following phone number on the date/time mentioned above: (\_\_\_\_)\_\_\_\_\_.
- I cannot attend or participate in the meeting at this time. Please contact me to arrange a mutually agreed upon time.  
Phone (\_\_\_\_)\_\_\_\_\_.

Parent/Guardian Signature: \_\_\_\_\_ Date: \_\_\_\_\_

2<sup>nd</sup> Notice: \_\_\_\_ / \_\_\_\_ / \_\_\_\_\_, Type of Notice: \_\_\_\_\_

## REQUEST TO EXCUSE REQUIRED IEP TEAM MEMBERS

Date: **00 / 00 / 2000**

Dear \_\_\_\_\_:

Re: Student's Name

Pending your written approval for the IEP meeting scheduled on \_\_\_\_ / \_\_\_\_ / \_\_\_\_ .

The following required members of the IEP team will not attend the meeting; however, they will participate by providing written input to all team members **prior to the meeting**.

LEA Representative     Special Education Provider of the Child     General Education Teacher of the Child

Individual who can Interpret the Evaluation Results

The following required members of the IEP team will not attend the meeting because their curriculum area is not being discussed.

LEA Representative     Special Education Provider of the Child     General Education Teacher of the Child

Individual who can Interpret the Evaluation Results

### **Parent/Guardian/Student at Age of Majority**

#### **Response to Request to Excuse Required IEP Team Members:**

I consent to excuse the IEP team member(s) as described above.

I do not consent to excuse the IEP team member(s) as described above. I request all required members of the IEP team be in attendance.

Parent/Guardian or Student at Age of Majority

Signature: \_\_\_\_\_ Date: \_\_\_\_ / \_\_\_\_ / \_\_\_\_

**Please sign and return with the Invitation to Conference prior to the meeting.**

**PARENT/GUARDIAN/STUDENT AT AGE OF MAJORITY  
CONSENT FOR EVALUATION/REEVALUATION**

**Check Purpose:**  **Initial Evaluation**     **Reevaluation**

**Student:** Student Name

**Grade:** Grade

**School:** School Name

Dear \_\_\_\_\_ :

The IEP Team has recognized the need for gathering more information about your child. The proposed screening(s) and evaluation(s) administered by qualified personnel will include the use of assessment instruments in the areas checked below to help identify strengths, areas of concern and to determine the existence of a disability. Each LEA must conduct a full and individualized initial evaluation before the initial provision of special education and related services to a child with a disability.

**AREA**

**INFORMATION**

- |  |   |
|--|---|
| <input type="checkbox"/> Physical Health   | Vision, hearing, medical screening/evaluation.  |
| <input type="checkbox"/> Educational   | A variety of assessments measuring academic achievement and special abilities.  |
| <input type="checkbox"/> Psychological<br><input type="checkbox"/> Intellectual Assessment | A battery of tests and testing procedures measuring mental ability, behavioral/emotional skills, perceptual development, and processing development. An intellectual assessment may or may not yield an intellectual quotient (IQ) score. |
| <input type="checkbox"/> Social Appraisal  | Developmental history, social, personal, and behavioral.  |
| <input type="checkbox"/> Speech/Language   | Understanding and using spoken language or using other modes of communication screening/evaluation.   |
| <input type="checkbox"/> Motor   | Visual motor integration, eye/hand coordination, fine and gross motor.  |
| <input type="checkbox"/> Adaptive Behavior   | Functional behavior that is needed to meet the natural and social demands in one's environment, including daily living and self-help skills.  |
| <input type="checkbox"/> Vocational Evaluation   | A comprehensive process involving an interdisciplinary team approach in assessing an individual's vocational potential, training, and work placement needs.   |
| <input type="checkbox"/> Other   |   |

**PARENT/GUARDIAN CONSENT**

The results of these evaluations will be shared with you. You are entitled to a copy of the evaluation report(s).

Please sign A or B and return to:

Name:

Position:

- A. **YES, I give my permission** for my child to receive evaluation or reevaluation services. I have received the Handbook on Parents' Rights that explains due process procedures.

Signature: \_\_\_\_\_

Date: 00 / 00 / 2000

- B. **NO, I do not give my permission** for my child to receive evaluation or reevaluation services. I have received the Handbook on Parents' Rights that explains due process procedures.

Signature: \_\_\_\_\_

Date: 00 / 00 / 2000

This is the final action (decision) of the local education agency. If you disagree, you, as the parent or adult student, are entitled to the due process rights that are described in your Handbook on Parents' Rights ([www.ncpublicschools.org/ec/policy/resources/rights](http://www.ncpublicschools.org/ec/policy/resources/rights)). The deadline for filing a petition for a due process hearing is one year (1 year) from receipt of this notice.

**If you do not have a copy of the Handbook on Parents' Rights or would like another one, please contact your school principal or call the local director of Exceptional Children Programs. The principal or director can also help you understand your rights if you have any questions, or you can call the Exceptional Children's Assistance Center, 1-800-962-6817. Please save this notice for your records.**

Copy given/sent to parent(s): 00 / 00 / 2000

**PRIOR WRITTEN NOTICE  
Decisions of the Local Education Agency (LEA)**

**Check Purpose:**  **Eligibility**     **Educational Placement/Change in Placement**  
 **Reevaluation**    **Disciplinary Change in Placement**  
 **Other:** \_\_\_\_\_

**Student:** Student Name

**DOB:** 00 / 00 / 2000

**School:** School Name

**Grade:** Grade

Dear \_\_\_\_\_:

State and federal laws regarding students with disabilities require that the Local Education Agency (LEA) notify and inform you if certain changes are being made to your child’s educational program. You must be informed when the school district:

1. Proposes to initiate or change the identification, evaluation, or educational placement of the child or the provision of a free appropriate public education (FAPE) to the child; or
2. Refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child.

The IEP Team or other group of appropriate individuals determined that **(Student Name)**

**ELIGIBILITY**

- Will not be evaluated.
- Is not eligible for special education and related services.
- Is eligible for special education in the category or categories of \_\_\_\_\_.
- Will receive the following related services in order to benefit from special education: \_\_\_\_\_.

**REEVALUATION**

- Continues to meet eligibility criteria for special education as \_\_\_\_\_.
- Eligibility category is being changed from \_\_\_\_\_ to \_\_\_\_\_.
- Will continue to receive the following related services in order to benefit from special education: \_\_\_\_\_.
- Will begin receiving the following related service(s) in order to benefit from special education: \_\_\_\_\_.
- Is no longer in need of the following related services in order to benefit from special education: \_\_\_\_\_.

**Student:** Student Name

**Grade:** Grade

**School:** School Name

**EDUCATIONAL PLACEMENT/CHANGE IN EDUCATIONAL PLACEMENT**

- Initial educational placement is \_\_\_\_\_.
- Educational placement is being changed from \_\_\_\_\_ to \_\_\_\_\_.
- No longer meets eligibility criteria and will be exited from the special education program.
- Is graduating with an NC Diploma and will be exited from the special education program.
- Has reached the maximum age of entitlement (22 years old) and will be exited from the special education program.
- Has not graduated with an NC Diploma or reached the maximum age of entitlement (22 years old); however, is exiting school with a graduation certificate. (Please be aware that students with disabilities are entitled to attend school until reaching maximum age of entitlement (22 years old) or graduating with an NC Diploma. Eligible students who return to school will continue to receive specially designed instruction through their entitlement period.)

**DISCIPLINARY CHANGE IN PLACEMENT**

- Conduct is a manifestation of (Student Name)'s disability.
- Conduct is not a manifestation of (Student Name)'s disability.

**CHANGES IN THE PROVISION OF FAPE/OTHER DECISIONS:** (Provide Proposals or Refusals)

- Proposals: \_\_\_\_\_
- Refusals: \_\_\_\_\_

**EXPLANATION OF ACTION(S) PROPOSED OR REFUSED:** (Each action must be specifically addressed in I-II-III-IV-V.)

- I. The IEP Team or other group of appropriate individuals decided the action(s) stated above on pages 1-2 because: \_\_\_\_\_
- II. The IEP Team or other group of appropriate people also considered the following option(s), including the continuum of alternative educational placements if applicable, and rejected these options because: \_\_\_\_\_
- III. Describe each evaluation procedure, test, record or report, used as basis for the action stated above on pages 1-2: \_\_\_\_\_
- IV. Describe other factors that are relevant to the agency's proposal or refusal: \_\_\_\_\_



CONSENT FOR INITIAL PROVISION OF SPECIAL EDUCATION AND RELATED SERVICES

Dear \_\_\_\_\_ :

Re: Student's Name

DOB: 00 / 00 / 2000

The screenings and evaluations of your child have been completed. Your child is eligible for special education and related services (if required to benefit from special education).

PARENTAL CONSENT

I agree for my child to receive special education and related services, if required to benefit from special education, and:

- Have received a copy of the evaluation report(s), summary of evaluation(s) and a copy of the Prior Written Notice.
• Have received a copy of the Handbook on Parents' Rights.
• Understand that I have had or will have an opportunity to participate in the development of the initial IEP for my child.
• Understand that an IEP team, of which I am a member, will review and revise, as appropriate, the educational program and educational placement of my child at least annually.
• Understand that an IEP team, of which I am a member, will conduct a reevaluation of my child at least once every three years.
• Understand that providing my consent is voluntary and can be revoked at anytime. I understand that if I revoke consent and the LEA has reason to believe my child continues to be eligible for special education and related services, that the LEA can choose to utilize dispute resolution mechanisms such as the facilitated IEP process, mediation, or due process in an attempt to resolve the dispute and to continue providing special education and related services (if required to benefit from special education).

(Parent Signature(s))

(Date)

I do not agree for my child to receive special education and related services. I have received a copy of the evaluation report(s), summary of evaluation(s) and a copy of the Prior Written Notice. In addition I received a copy of the Handbook on Parents' Rights. I understand my child will not receive any services or protections provided by the Individuals with Disabilities Education Act (IDEA) for students with disabilities.

(Parent Signature(s))

(Date)

Copy given/sent to parent(s) by \_\_\_\_\_ on (date) 00 / 00 / 2000.

Return to: \_\_\_\_\_

REEVALUATION DETERMINATION REPORT

Check Purpose

- ( ) 3 Year Reevaluation
( ) Reevaluation: Add/Delete Related Service
( ) Other

Student: School: Grade: Present Category of Disability: DOB:

The above named student is due for reevaluation by:

Review of Existing Evaluation Data

Record Review (attendance, past and current grades, work samples, state testing program, relevant medical/health information, discipline reports, IEP progress, etc.):

Summary of Previous Assessment(s) [may attach most current DEC 3, and if applicable 3a, 3b, or 3c / Summary of Evaluation Results]:

Summary of evaluations and information provided by the parent(s):

Summary of classroom based assessments and observation:

Summary of observations by teachers and service providers:

Determination of Needed Additional Data, if any

Is additional data needed to determine:

- A) continued presence of a disability?
B) present level of educational performance and educational needs?
C) continued need for special education and/or related services?
D) whether any additions or modifications to special education and/or related services are needed to meet IEP goals and participation in the general curriculum?

If yes to any of the above, which will occur? (check one):

- ( ) collection of data without formal assessment
( ) abridged evaluation consisting of the following (obtain parent permission on DEC 2)

( ) comprehensive evaluation will be conducted (obtain parent permission on DEC 2)

If no additional data or assessment is needed, state the reasons for this decision:

Table with 3 columns: IEP Team Signatures, Position, Date. Rows include LEA Representative, Regular Education Teacher, Special Education Teacher, and Parent.

I disagree with the IEP Team decision to obtain no additional assessment information concerning my child. I request that additional assessment(s) be completed prior to determining continuing eligibility.

(Parent Signature) (Date)

# Chapter 13: High School Diploma Courses of Study

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During his/her eighth grade year, your child will have to decide which of the two high school Courses of Study he/she wishes to pursue. This will depend on your child's plan and goals for education, training, and employment after high school.

## Future-Ready Core

This Course follows the NC Standard Course of Study, and the student earns a high school diploma. This Course prepares the student to attend a four-year university in the UNC system. This Course is made up of classes that are required for admission into a four-year university. This Course used to be called the "College/University Prep Track."

## Future-Ready Occupational

This Course prepares a student to enter the workforce. The difference here, however, is that only students with an IEP are eligible for the OCS. The IEP team must meet and decide whether the student can succeed in the Standard Course of Study, with appropriate accommodations, modifications, supplemental aids and services. If he/she cannot, the OCS might be appropriate for the student. The OCS is based on practical use of academics and on internships or employment for school credit. Generally speaking, students in the OCS program are those who are categorized as Intellectually Disabled. This Course may still be referred to as the "Occupational Course of Study" or OCS.

**NOTE:** Students who do not meet the standards for any of the Courses of Study may be eligible to receive a certificate of achievement or a graduation certificate. This option is typically reserved for students with the most severe disabilities.

# Chapter 14: Transition and Vocational Education

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## Transition

Transition is the movement from high school to post-secondary activities, or “life after high school.” The IEP Team will look at your child’s future needs for living and employment in the community of his/her choice, and discuss ways to help your child meet those needs and goals.

IDEA requires schools to provide transition services for students with disabilities. Transition services are **“a coordinated set of activities for a child with a disability that... facilitate the child’s movement from school to post-school activities...”** Post-school activities may include:

- post-secondary education (university, community college, etc.)
- vocational training (technical schools, training programs, etc.)
- employment (including supported employment, workshops, etc.)
- continuing and adult education
- adult services
- independent living
- community participation

Just as with children without disabilities, post-secondary activities are determined by the student’s needs, interests and preferences. They include “instruction, related services, community experiences, the development of employment and other post-school adult living objectives, and... the acquisition of daily living skills and functional vocational evaluation.”

In North Carolina, the IEP must address transition services starting at age 14. Be aware that this is different from the requirement in IDEA. If you read the IDEA, you will see that transition planning must begin at age 16. In North Carolina,

however, we begin planning for “life after high school” when your child turns 14 years old.

Beginning at age 14, and each year after that, the IEP Team must discuss the student’s goals and needs for life after high school. The student’s IEP must include a statement about the student’s goals for education, employment, and living arrangements after high school. The IEP must also include a statement that indicates which course of study the student is following, and whether he/she will receive a diploma or certificate of completion. (See Chapter 13, page 102, for more information.)

Beginning at age 16, and each year after that, the IEP Team must determine the goals that need to be addressed now, while the student is still in school, in order to help him/her reach his/her post-secondary goals. Based on the student’s preferences, needs, and interests, the Team will determine what services are needed. The Team will also identify the people responsible for working on each goal. **NOTE:** many school districts in North Carolina require this portion of the transition plan to be developed beginning at age 14.

Remember that the transition plan becomes part of the child’s IEP. Like the rest of the IEP, it must be reviewed at least annually. Changes can and should be made to the transition plan whenever your child’s needs and goals change. The school is responsible for implementing your child’s transition goals. An **important difference** from the rest of the IEP: because transition plans look at long-term goals, specific goals can span across many years, rather than just one year.

This transition piece of IDEA entitles your child to services through the school system to prepare him/her for life after school. However, when your child leaves school, an adult services agency will have to declare him/her eligible for services. This means that the agency must decide if your child meets the agency’s guidelines to qualify for services. One of the reasons for transition planning is to ensure that this eligibility determination is made, so that there is no break in needed services when your child finishes high school.

## **The Transition Plan**

The Transition Plan is a written document that outlines what training and supports a student needs to live, work and participate in the community as an adult. This plan is part of the Individualized Education Program (IEP). A good transition plan

takes the wishes and dreams of the student and makes them into a realistic plan of action, using available community resources and support from people determined to make the transition goals successful.

In addition to the people who are regularly members of your child's IEP Team, the school must invite your child to any meetings about his/her transition plan. Your child should participate in the IEP Team meeting as much as possible; the Team is planning for his/her future, after all! If your child is unable to participate or chooses not to attend the meeting, the IEP Team must ensure that your child's preferences and interests are considered in developing the transition plan.

The school must also invite any outside agencies involved with (or likely to become involved with) your child to IEP meetings about his/her transition plan. For example, if your child has a case manager or community support worker, this person may be invited to the IEP meeting to talk about transition planning. If a representative from the agency is present at the IEP meeting, the agency can agree to be responsible for working on certain transition goals. Be sure to tell the school which outside agencies your child is involved with, or may be involved with after high school. Get ideas from the school about other agencies that should be invited to the meeting. Remember that YOU are your child's best advocate!

It is a good idea not to wait until the formal transition plan to begin planning for your student's life after high school. Early transition planning is especially important if your child has severe disabilities or if adult services in your area are very limited.

Remember that the transition goals and objectives will be updated each year at the IEP meeting, so tell the IEP Team whether your concerns have changed and whether additional planning might be needed. For example, you and your child may still plan for him/her to live with you after high school, but you now wish to consider having a personal care attendant come to your home to help. Situations and needs change; the transition plan should change to reflect those changes. **If you want another meeting to discuss changes, ask for one.**

A sample transition plan form is included on the next few pages. Some schools include transition goals with the student's other annual IEP goals, rather than use this form. If your school system is not using this particular form, they are still required to include the same information. Use the sample transition plan in this manual to educate yourself on what is included in the plan.

\* The following form was developed by the North Carolina Department of Public Instruction and has not been modified.

## SECONDARY TRANSITION COMPONENT

**Duration of Special Education and Related Services: From: 00 / 00 / 2000 To: 00 / 00 / 2000**

**Student: Student Name**

**DOB: 00 / 00 / 2000**

**School: School Name**

**Grade: Grade**

Has the student been informed of his/her rights, if age 17 and older?  Yes  N/A

### **Section A - Student Needs, Strengths, Preferences and Interests (Beginning at age 14 and updated annually)**

The following people gave information about the student's needs, strengths, preferences and interests and course of study selection:

- Student
- Parent(s), Guardian(s) and Family Members
- Adult Service Agency Representatives (specify): \_\_\_\_\_
- School Staff
- Other (Explain): \_\_\_\_\_

Indicate which age appropriate transition assessments were conducted for the development of measurable postsecondary goals and transition activities and the date they were conducted:

#### **INFORMAL ASSESSMENT(S):**

- Interest and Skill Inventories \_\_\_\_\_
- Observations/Situational Assessments \_\_\_\_\_
- Rating Scales \_\_\_\_\_
- Interviews \_\_\_\_\_
- Other (Explain): \_\_\_\_\_

#### **FORMAL ASSESSMENT(S):**

- \_\_\_\_\_
- Other (Explain): \_\_\_\_\_

### **Section B – Course of Study (Beginning at age 14 and updated annually)**

The student is following a course of study that leads to the high school diploma:

- Future Ready Core Course of Study (effective with the 9<sup>th</sup> grade class of 2009/2010)
- College/University Prep Course of Study\*
- College Tech Prep Course of Study\*
- Career Preparation Course of Study\*
- Occupational Course of Study

(\*Not applicable to students entering 9<sup>th</sup> grade beginning with the freshman class of 2009-2010.)

The student is following extensions of the standard course of study and pursuing the graduation certificate \_\_\_\_\_.

The student is in middle school and is following the North Carolina Standard Course of Study \_\_\_\_\_; or the extensions of the North Carolina Standard Course of Study \_\_\_\_\_.

### **Section C – Postsecondary Goals (Beginning at age 16 and updated annually)**

Indicate the student's measurable post-secondary goals in each of the following areas on an annual basis:

**Education/Training:** \_\_\_\_\_

**Employment:** \_\_\_\_\_

**Independent Living (if appropriate):** \_\_\_\_\_

## SECONDARY TRANSITION COMPONENT

Duration of Special Education and Related Services: From: 00 / 00 / 2000 To: 00 / 00 / 2000

**Student:** Student Name

**Section D – Transition Services (By age 16 and updated annually)**

<b>Transition Areas</b>	<b>Transition Activities</b>	<b>Responsible Person and/or Agency</b>	<b>Anticipated Completion Date</b>
<b>Instruction</b>			00 / 00 / 2000
<b>Related Services</b>			00 / 00 / 2000
<b>Community Experiences</b>			00 / 00 / 2000
<b>Employment</b>			00 / 00 / 2000
<b>Adult Living Skills</b>			00 / 00 / 2000
<b>Daily Living Skills (if appropriate)</b>			00 / 00 / 2000
<b>Functional Vocational Evaluation (if appropriate)</b>			00 / 00 / 2000

# Completing the Transition Form

## A. STUDENT NEEDS, STRENGTHS, PREFERENCES AND INTERESTS

This section describes the people who provided information about the student in order to develop the transition plan. It also describes the ways in which this information was gathered—assessments, observations, interviews, etc. Any forms or notes used should be included in the student’s special education file.

## B. POST-SECONDARY GOALS

The student’s goals for “life after high school” go here. The goals should address any education or training the student wants to attend, the type of employment the student would like to have, and the student’s preferred living arrangement. These goals are for post-secondary life; they must address what the students will do **after high school**, not what the student will do during high school.

## C. COURSE OF STUDY

One course of study is marked, depending on which high school course the student is following. Use this information to plan the student’s goals and what services he/she needs now. For example, if the student is on the Occupational Course of Study, a goal in Section B for the student to attend a four-year university is not a realistic one.

## D. TRANSITION ACTIVITIES

This section details the services the student needs and the goals he/she will work on now in order to achieve the goals in Section B. Each goal must detail what the student will do or learn while he/she is still in the public school system. The people or agencies who will work on this goal with the student must also be listed here. Remember, transition plans are about the long-term; goals can have a completion date beyond the end of the annual IEP.

## Vocational Rehabilitation Services

Vocational Rehabilitation Services, or VR, are available during the latter part of high school to students who have an IEP. VR services are designed to help prepare a young person for employment. Services may include individual counseling, work preparedness

training, job seeking skills training, vocational evaluation, job placement assistance, and educational or vocational training.

A referral to VR can be made at any time during high school. At the very latest, a VR referral should be made by the beginning of your child's second-to-last school year. The VR Counselor should be invited to IEP meetings to discuss services VR can provide during the student's transition to life after high school. The VR counselor must coordinate with the transition team and arrange a separate meeting to write an eligible student's individualized VR plan or Individualized Plan for Employment (IPE).

If your child has not received a vocational assessment, ask **when** it will be completed. If your school system is not recommending or offering vocational services for your child, ask **why not** and contact VR Services at (800) 689-9090.

## Vocational Education

The Carl D. Perkins Vocational Education Act was reauthorized (passed again) in 1998. Usually called "Perkins III," this is a **vocational education** law, **not** a special education law. However, the law does consider the needs of high school student with disabilities to participate in vocational programs. The purpose of Perkins III is to develop the academic and vocational (work) skills of high school students who decide to enroll in vocational education programs. The program does this by giving money to and placing rules on schools and other agencies that provide vocational training to young people and adults.

Perkins III is a vocational education law, so it applies to students with **and** without disabilities. Students with disabilities must have equal access to vocational programs and be allowed to participate fully. The law specifically requires schools to provide programs designed to prepare students for "further learning and for high skill, high wage careers."

## Benefits Counseling

Obtaining employment and receiving a paycheck can impact a person with a disability's public benefits. There are ways to preserve these benefits while transitioning to full-time employment or maintaining part-time employment. If your student receives Supplemental Security Income (SSI) or other public benefits, you should contact Vocational Rehabilitation at (800) 689-9090 and ask to meet with a benefits counselor. A benefits counselor can explain available work incentives and help your child devise a plan to manage his/her benefits while maintaining employment. This assistance may be available from VR or from a partner agency, such as the Arc or UCP/Easter Seals,

depending on the area in which you live. This is an important step to help your child make an informed decision in planning his/her life after high school.

## **Independent Living**

North Carolina has several Centers for Independent Living, or CILs, throughout the state. A CIL serves people with disabilities through advocacy, independent living skills training, peer support, and information and referral services to promote independent living, equal access, and full participation for all people with disabilities. Because the CILs are community-based, each CIL may also have different programs. CIL services may help connect a person to appropriate resources such as housing, services, transportation, etc., and provide independent living skills training and support. If there is a CIL that serves your area and your student wants to live independently after high school, the CIL can be a valuable resource during transition planning. Contact the NC Statewide Independent Living Council at (919) 835-3636 or [www.ncsilc.org](http://www.ncsilc.org) for information on your local CIL.

Vocational Rehabilitation can provide similar services through its Independent Living program. Contact VR at (800) 689-9090 for more information.

# Chapter 15: The NC Annual Testing Program

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The No Child Left Behind Act of 2001 (NCLB) requires states to create standards for what children should learn in each grade, and what they should know before moving on to the next grade. Each year, students across North Carolina take standardized tests to determine if they are meeting these standards. These tests make up the North Carolina Annual Testing Program.

The IDEA requires that all students who receive special education services participate in the state's annual testing program. Regardless of the type or level of disability, **all students** must participate in the North Carolina Annual Testing Program. Students may take these tests under the same conditions as other students, or with appropriate accommodations. Some students may take the North Carolina Alternate Assessments instead.

It is important to understand the state-wide testing program and what appropriate accommodations are available for your child. The testing accommodations that your child needs must be discussed during the development of the IEP and included in the final copy. If testing accommodations are used that are not appropriate for the tests, your child's score can be invalidated and he/she may have to retake the test.

## State-wide Tests

### NC End-of-Grade Tests (EOG)

The End-of-Grade Tests, or EOGs, are given in grades 3 through 8. They measure a student's knowledge of grade-level information, as determined in the North Carolina Standard Course of Study (the standard curriculum for students of a particular grade in NC). Students take benchmark EOGs at two or three times throughout the school year, and take the final EOG exam during the last three weeks of school. The benchmark tests help show a student's growth throughout the year, as well as identify problem areas where he/she may require more instruction. Scores are given at a Level I, II, III or IV (I is lowest and IV is highest). The End-of-Grade Tests are the Mathematics Test, Grades 3-8; the Reading Comprehension Test, Grades 3-8; and the Science Test, Grades 5 and 8.

## **NC Writing Assessment**

The Writing Assessment is given during the second half of the school year in grades 4, 7, and 10. It measures whether a student has the expected writing abilities at each of the three grade levels.

## **NC End-of-Course Tests (EOC)**

The End-of-Course Tests, or EOCs, are given in grades 9 through 12. They are given during the last two weeks of certain high school courses and measure the student's achievement on grade-level standards in the subjects tested. EOCs are given in Algebra I/Integrated I, Biology and English II.

## **Accommodations**

Your child may need accommodations to participate in the North Carolina State-wide Testing. Part of the IEP process includes discussing which accommodations your child needs. Approved accommodations include:

- Assistive technology devices
- Braille test editions
- Braille writer
- Dictation to a scribe (someone else writes what your child says)
- Testing at home or in the hospital
- Interpreter signs or Transliterator cues test (not allowed on Reading or English tests)
- Large-print test editions
- Magnification devices
- Multiple test sessions

- One test item per page (not allowed on Writing test)
- Extended time
- Student reads test aloud to self
- Student marks in book (another person transfers answers to bubble sheet)
- Test administrator reads test aloud (not allowed on Reading or English tests)
- Testing in a separate room

## **North Carolina Alternate Assessments**

Students with disabilities are required to participate in the NC State-wide Testing program. Even with accommodations, some students cannot take the standard tests that are given. These students may be tested through one of the North Carolina Alternate Assessments. The IEP Team will discuss and determine whether, based on your child's individual needs, an alternate assessment is appropriate. Two different alternate assessments are currently available for students with disabilities. Based on your child's unique needs, the IEP Team will determine which of the assessments is appropriate.

### **READY NCEXTEND2**

- For a student who is not identified as having a significant cognitive disability, and who is following the Standard Course of Study (this means the student is using the same curriculum as the student's peers without disabilities).
- For a student who is not likely to achieve grade-level goals within the school year covered by the IEP or a student who requires different test designs because of the nature of his/her disability.
- Material is based on the Standard Course of Study for the grade in which the student is enrolled.
- Available for Reading, Math and Science EOGs and the English II, Algebra I/Integrated I and Biology EOCs.
- Uses modified multiple choice or essay format.

- The accommodations that are allowed on general EOGs and EOCs are also allowed with the READY NCEXTEND2.

## **NCEXTEND1**

- For a student who is identified as having a significant cognitive delay
- For a student who has severe and pervasive delays in development and in adaptive behavior (e.g. communication, daily living skills, self-care skills) and who needs extensive instruction. These are students who are working on functional ways to apply skills, so they can live as independently as possible.
- Material is based on the Extended Content Standards for the Standard Course of Study.
- Available for Reading, Math and Science EOGs.
- Uses performance tasks.



## Chapter 16: Bullying

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Your child has the right to go to school and learn without being bullied by other children. Use this chapter as a guide to learn what you can do to help your child overcome general bullying and disability-based harassment.

### School Violence Prevention laws

In North Carolina, no student or school employee may subject a student to bullying or harassing behavior. “Bullying or harassing behavior” can be a communication or physical act that causes the student to reasonably fear that he/she will be hurt or have his/her property damaged. “Bullying or harassing behavior” can also be a communication or physical act that is so severe that it creates a situation that interferes with the student’s education.

The law that a student cannot be harassed or bullied applies to anything that happens on school property, at a school-sponsored event, or on a school bus. The law applies to a variety of behaviors, including those that seem to be motivated by race, gender, or disability. In other words, no student or employee may harass or bully your child based on the fact that he/she has a disability.

Each school system is required to adopt a policy that prohibits bullying or harassing behavior. The policy must explain how a student or parent may report bullying and must include a method for making anonymous reports. The policy must also explain the school system’s process for investigating these reports. The consequences that may be given to a student or employee who is found to have bullied or harassed a student must be listed in the policy as well.

If your child is being bullied, either because of his/her disability or for another reason, you should consider using the School Violence Prevention laws and your local school system’s policy to help you handle the bullying. First, contact your child’s teachers and/or the principal to alert them to the problem. It is possible that the school staff does not know about the problem, or that they don’t know how bad it is. Talking to the school staff may be the easiest and fastest way to stop the bullying.

If you are not satisfied after speaking with the school staff, call the person identified in your school system’s bullying policy to make a report. Tell this person what has been happening in your child’s school and ask for help in addressing the problem.

You can also use your child's IEP to address the bullying. Ask yourself:

1. Is my child being bullied when he/she should be getting instruction?
2. Is the bullying so severe that my child is not getting the benefits of his/her IEP?
3. Does the bullying prevent my child from making progress towards his/her IEP goals?

If the answer is yes, ask in writing for an IEP meeting. Talk with the IEP Team about services or modifications that can be put in the IEP to help your child avoid situations where he/she gets bullied. For example, if the bullying happens in the hall between classes, ask for an accommodation to let your child leave class a few minutes early. Also talk about services that will teach your child how to handle bullying, such as social skills training or speaking with a guidance counselor.

## Section 504

Section 504 of the Rehabilitation Act is a civil rights law that protects people with disabilities. (See Chapter 20, page 168 for more on this law.) Every child that is eligible for special education services under IDEA is also protected under Section 504.

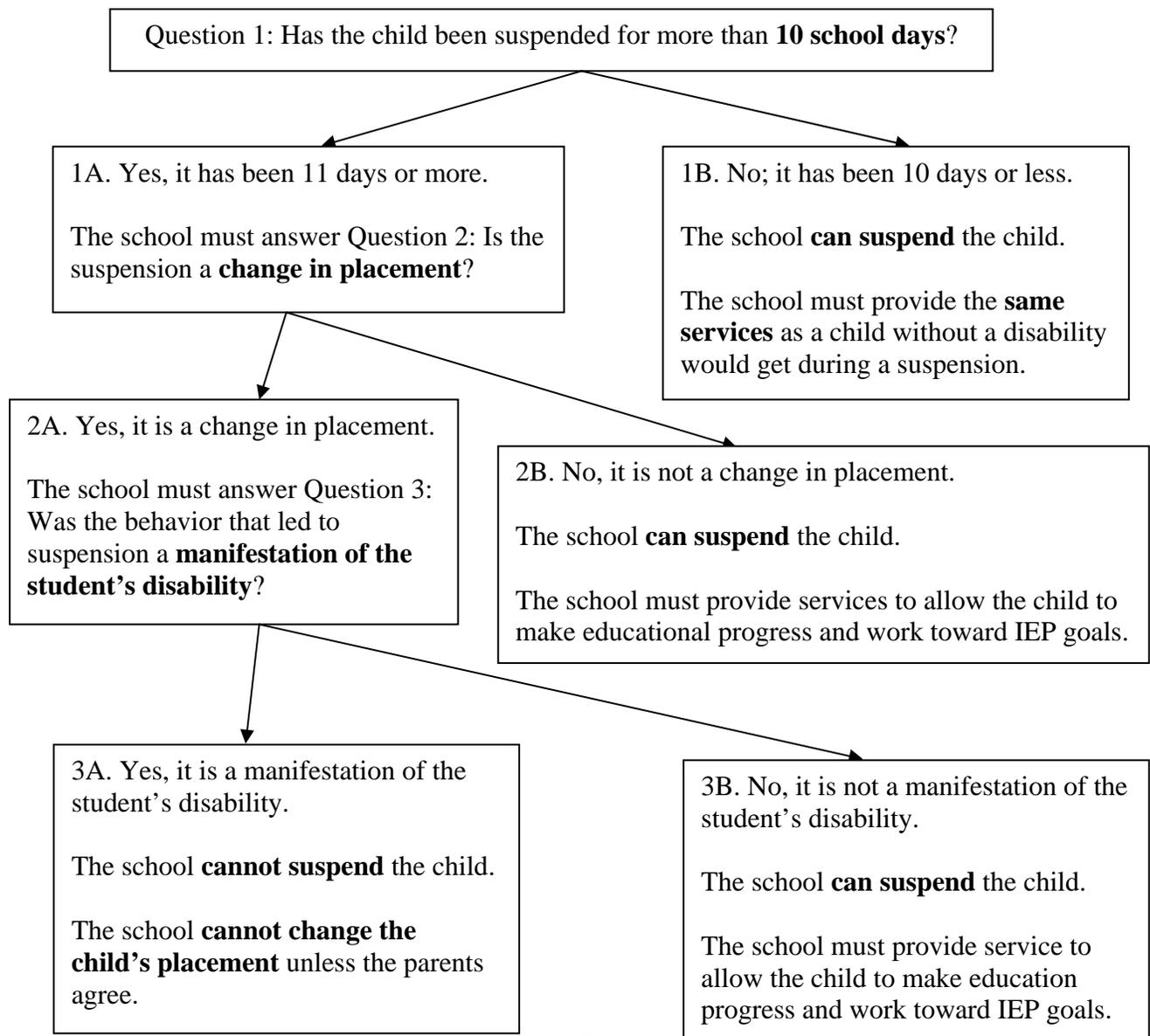
Section 504 specifically protects students against disability-based harassment. If your child is being targeted by bullies because he/she has a disability, you may be able to file a complaint with the Office for Civil Rights (OCR) in the U.S. Department of Education. OCR can investigate disability-based harassment that is so severe that it interferes with a student's education. You can read more about OCR and learn how to contact your local office in Chapter 20, page 171.



# Chapter 17: Discipline

When school officials decide to suspend a student who is eligible for special education services, the school must follow certain procedures under IDEA. While suspension might be appropriate in particular situations, the IDEA discipline procedures make sure that the school provides special education and related services to students with disabilities who have been suspended for more than 10 days.

## A. The Discipline Process under the IDEA



## Question 1: Has the child been suspended for more than **10 school days**?

### **Answer 1B: The First Ten School Days**

A student with a disability receives very little protection under IDEA until he or he/she has been suspended for more than 10 school days in the current school year. The procedures about discipline only take effect beginning on the 11<sup>th</sup> day that the child is suspended. In other words, whenever a school proposes a suspension from school for more than 10 days (consecutively or in a series of suspensions that constitute a pattern), certain steps and procedures must be followed to prevent the denial of educational services for more than 10 days.

School officials *may* suspend a child with a disability for 10 days or less during the school year, but *only if* suspension would be used in the situation with a child who does not have a disability. For example, if smoking a cigarette in the school bathroom usually results in a two-day suspension, a student with a disability should not be suspended for more than two days for smoking in the bathroom. A student with a disability who receives a longer suspension would be the target of illegal disability-based discrimination.

During the first 10 school days that the student is suspended, the school system does not have to provide any education services to that student **unless** the school system would provide education services to a student without disabilities who was suspended. For example, if a student without disabilities is allowed to make up a test that he/she missed while suspended, a student with a disability must be allowed to make up missed tests as well. State law requires the school to allow any student who is suspended for less than 10 school days to take his/her textbooks home during that suspension and to have access to his/her homework assignments.

### **Answer 1A: Beyond the First Ten School Days**

If a student with a disability is suspended for more than 10 school days within the same school year, the school system **must** provide educational services to that student. The school must provide these services beginning with the 11<sup>th</sup> day of suspension or expulsion. Remember, the educational services must still be individualized to meet your child's needs.

The services provided during a student's suspension must enable that student to progress appropriately in the general curriculum. This does not mean that the student *must* make progress, or that he/she must get good grades. This only means that the school system must provide services that would enable, or *allow*, the student to make progress. In other words, the school system must give the student the opportunity to learn what his/her peers are learning in school.

Additionally, the services must allow the student to advance appropriately toward achieving his/her IEP goals. In other words, the school system must give the student instruction that is based on his/her IEP goals. The school system is still responsible for implementing the student's IEP, despite the suspension.

## **Question 2: Is the suspension a change in placement?**

Once a student has been suspended for more than 10 school days in a school year, the school system must provide educational services to that student. In order to determine what services must be provided, and in what location, the school personnel must decide whether the student's suspension(s) is a change in placement under IDEA.

Sometimes, a student is suspended frequently during the school year, or is suspended for a long period of time. In this case, the student often cannot be considered to be in the same program that he/she was in before all of the suspensions. This is what is called a change in placement. School personnel must decide on a case-by-case basis whether the student's suspension(s) constitute a change in placement.

### **The Change in Placement Analysis**

When a child is suspended for **more than ten consecutive days** (more than 10 days in a row), the suspension is **always** a **change in placement**.

When a child is suspended for more than ten days, but they are **not consecutive days**, the school system must determine whether or not this is a change in placement. To do so, the school must consider whether the suspensions constitute a pattern.

**A pattern exists** and therefore constitutes a **change in placement** where:

- the suspensions total up to more than ten school days within the school year;

- the behavior that caused the suspension is similar to the behaviors that caused other suspensions; and
- factors such as the length of suspension, the total amount of time of suspensions, and how close together the suspensions were, show a pattern.

For example, a change in placement would occur when a student is suspended for a total of 21 days over the course of two months for fighting. The behavior is the same for each suspension, and would likely result in suspensions for similar amounts of time. The suspensions were also close together, showing a pattern of suspensions for fighting. Therefore, a change in placement would exist.

**A pattern does not exist**, and therefore **there is no change in placement**, where the factors above are not found. For example, a student is suspended for two days in September for talking back to his/her teacher, suspended for three days in October for smoking in the parking lot, suspended for five days in January for fighting, and suspended for two days in April for throwing food in the cafeteria. Although the suspensions total up to more than 10 days in the same school year, there is no pattern here. The suspensions were each for different behaviors and for different lengths of time. They were also spread out over a period of 8 months. Since there is no pattern, there is no change in placement.

## **Answer 2B: Not a Change in Placement**

If there is no change in placement, school officials must talk to the student's special education teacher to decide what services the student needs to make educational progress and to work towards his/her IEP goals, as described earlier.

## **Answer 2A: A Change in Placement**

If the suspensions create a change in placement, the IEP Team must conduct something called a manifestation determination review (this is explained more in the next section). You should also get a copy of the *Handbook on Parents' Rights*.

### **Question 3: Was the behavior a manifestation of the student's disability?**

A Manifestation Determination Review, or MDR, is a process in which the IEP Team looks at the child's behavior and decides whether or not the behavior was caused by (is a manifestation of) the child's disability. The Team must meet to have the MDR within 10 school days from the date the student's suspension or expulsion began. The rights of a student who has been subject to a change in placement are determined based on whether the behavior was a manifestation of his/her disability.

Many school systems use a worksheet to guide them through the MDR process. The IEP Team **must** consider all relevant information about the student, including:

- Evaluations conducted by the school or provided by the parents
- Personal observations of the child
- The child's current IEP and educational placement
- Characteristics of the child's disability
- Any outside influences on the child, such as problems at home, death in the family, or gang involvement.

You should think about whether your child's other service providers have any relevant information and should be involved in the MDR meeting. You have the right to ask for any person to attend the MDR meeting who has information about your child or his/her particular disability. It is best practice to have the school psychologist at the MDR meeting as well.

Using this information, the IEP Team must decide whether the behavior was caused by the child's disability, under the following standard:

- If the conduct in question was caused by or had a direct and substantial relationship to the child's disability; or
- If the conduct in question was the direct result of the school's failure to implement the IEP.

### **Answer 3A: The Behavior IS a Manifestation of the Student's Disability**

If the IEP Team determines that the student's behavior was caused by his/her disability, the school system **may not** discipline the student for that particular incident. The student must be allowed to return to school immediately, and to go back to the placement in his/her current IEP (unless the parents and the school agree to a change in placement). The IEP Team should determine whether additional services might be needed to support the student and prevent a similar incident.

### **Answer 3B: The Behavior IS NOT a Manifestation of the Student's Disability**

If the IEP Team determines that the student's behavior was not caused by his/her disability, then the school system **may** discipline the student for that particular incident. However, the student is still entitled to receive a FAPE (Free and Appropriate Public Education). The IEP Team must determine how services will be delivered to the student to enable him/her to make educational progress and work towards his/her IEP goals. These services can be delivered in a variety of locations, including an "alternative school" in the school district or through homebound services. In order to provide homebound instruction, the IEP Team must determine that this is the least restrictive environment in which the student can receive services while suspended. If the Team does determine homebound to be the least restrictive environment, they must then determine when and how the student will receive instruction. The person teaching the student must be a qualified teacher. Also, behavior intervention services must be implemented as part of the homebound instruction. The head of the student's IEP Team (usually the EC teacher) must review the placement once a month and determine if homebound instruction is still the least restrictive environment during the suspension.

If you disagree with the IEP Team's determination that the behavior was not a manifestation of your child's disability, you can challenge the suspension.

## **B. The 45 Day Interim Alternative Educational Setting**

In three special cases, the rules about discipline for a student with a disability are completely different. These three cases are:

- When the student brings a weapon to school or a school function. A weapon is a “dangerous weapon” that is capable of causing death or serious bodily injury. A pocket knife with a blade that is less than 2 ½ inches long is specifically excluded from the definition of a dangerous weapon.
- When the student has, sells or distributes illegal drugs at school or a school function. This does not apply to medications that are legally prescribed to the student, unless the student tries to sell or distribute them.
- When the student inflicts serious bodily injury on another person while at school or a school function. “Serious bodily injury” is an injury that is likely to or does cause death, disfigurement, or substantial loss of the use of a body part.

In one of these three situations, school officials decide what penalty to impose. As in other cases, the discipline must be the same as it would for a student without a disability. For example, if a student would normally be required to attend a drug awareness program upon his/her first offense, the principal cannot give a greater punishment to the student with a disability.

In any of these three situations the IEP Team (and **only** the IEP Team) may place the student in an Interim Alternative Educational Setting (IAES) for 45 **school days**. Placement in an IAES is not a suspension; it is placement in a setting that is different from the one in which the student usually attends school.

As discussed earlier, a student with a disability cannot be suspended if the IEP Team determines that the behavior was a manifestation of his/her disability. However, in the three situations described above, **it does not matter whether the behavior was a manifestation of the student’s disability or not**. The student may still be moved to an Interim Alternative Educational Setting. A student who is suspended and/or placed in an IAES must continue to receive services to enable the student to:

- Participate in the general education curriculum (called the Standard Course of Study in NC);
- Progress toward meeting the goals set out in the IEP; and
- Receive behavioral support services and modifications so the behavior does not happen again.

It is very important for parents to be sure that the services include preventive measures to keep the behavior from occurring again when the student returns to the original

educational placement. The IEP Team is required to conduct a Functional Behavioral Assessment and develop a Behavior Intervention Plan for a student who is placed in an IAES.

If you disagree with the IEP Team's decision to place your child into an Interim Alternative Educational Setting, you can challenge the decision. Your child will remain in the IAES until either the 45 school days are over, or the issue is resolved by a court or hearing officer. Parents may request that the hearing be expedited (held quickly), so that it is held within 20 school days of the date you request it. A decision will be reached within 10 school days of the end of the hearing.

## **C. Behavioral Services**

### **Functional Behavioral Assessment (FBA)**

When a student has been suspended for more than 10 school days in the same school year, or there has otherwise been a change in placement, the IEP Team must meet to develop a plan to address the student's behavior. Development of the plan involves two steps: completing a Functional Behavioral Assessment (FBA) and developing a Behavior Intervention Plan (BIP). The Team must meet within 10 school days of the date that the suspension began. Because this is the same timeline used for the Manifestation Determination Review, the IEP Team will often conduct the MDR and develop the FBA and BIP all in the same meeting.

A Functional Behavioral Assessment is a procedure where the IEP Team analyzes the particular behavior in order to understand the behavior and what purpose it serves for that child. For example, a child may use inappropriate humor in class. Through discussion, the IEP Team might discover that the child is not trying to get attention from his/her peers, but is instead trying to distract the teacher from the struggles he/she is having with an assignment. The Team then uses this information to develop appropriate interventions for the student.

Because the FBA helps the IEP Team understand why the child behaves a certain way, it can be a very important tool in the behavior intervention process. Therefore, the IEP Team may decide to do a FBA at any time that the Team believes it might be helpful. As a member of the IEP Team, a parent may request that the Team perform an FBA for his/her child experiencing behavior problems at school. The Team is only required to do the FBA when the child is suspended for more than ten days within a school year.

See Chapter 21, page 181 for a sample letter requesting an FBA.

## **Behavior Intervention Plan (BIP)**

A Behavior Intervention Plan is a written plan that addresses a particular behavior. The goal of the BIP is to put positive behavioral interventions and supports in place in order to address the undesirable behaviors. The BIP must have goals and objectives that address the student's behavior. The BIP becomes part of the IEP, and must therefore be reviewed annually by the IEP Team. A BIP must be developed as soon as possible after the FBA is completed.

In the previous example, our student used inappropriate humor to distract from his/her academic struggles. The BIP might have a goal such as: "When the student does not understand an assignment, he/she will request teacher assistance." The BIP should include a positive reward for using the desirable behavior. A BIP is more likely to be successful if the student helps the Team determine how he/she will be rewarded. A student will work for a reward that is meaningful to him/her!

If the student already has a BIP, the IEP Team must meet within 10 school days of the date he/she was suspended to review the BIP and consider whether the plan needs to be changed.

See Chapter 21, page 181 for a sample letter requesting a BIP.

## **D. Students without IEPs**

In previous chapters, you learned that the process of evaluating, classifying, and placing a student in special education can take as long as 90 days. Congress also wanted to protect this student in case of a suspension. Even if the child does not have an IEP, he/she may be entitled to all of the same protections under IDEA as if he/she did have an IEP. A student has these protections if the school had knowledge that he/she was a child with a disability before the behavior occurred.

The key to whether a student without an IEP is entitled to these procedural safeguards is the knowledge of the school system. The school is said to have knowledge of the student's disability if, before the behavior happened:

- The parent has expressed concern to the school, *in writing*, that the child needs special education;

- The parent has requested (in writing) that the school evaluate the student for special education; or
- The child’s teacher or other school personnel has expressed specific concerns to the principal, EC Director, or other administrator, about a pattern of behavior by the child.

If the school **did have knowledge** of the student’s disability, then the protections under IDEA all apply to the student. If the school system **did not have knowledge**, the student can be disciplined just as any other student would be. The school may decide to, or the parent may request that the school, evaluate the child based on the behavior, but the suspension can stand and the school need not provide services.

Remember, even if the student has a disability and does not qualify for special education services, he/she is still protected by other laws and cannot be punished more severely than a child without a disability would be. More severe punishment would be illegal disability-based discrimination.



## Cheat Sheet: Discipline

1. Has the student been suspended for more than 10 school days during the current school year?
  - a. Yes—The IEP Team must meet within 10 school days to develop an FBA and BIP. Go to question 2.

- b. No—the student may be suspended the same way as student without disabilities would be. The school must continue to provide FAPE to the student.
  
- 2. Has the student been suspended for more than ten *consecutive* school days during the current school year?
  - a. Yes—this is a change in placement. Go to question 5.
  - b. No—this may or may not be a change in placement. Go to question 3.
  
- 3. Has the student been suspended for a series of days that make up a pattern?
  - a. Yes—this is a change in placement. Go to question 5.
  - b. No—this is not a change in placement. Go to question 4.
  
- 4. There has not been a change in placement. The school system must talk to the student’s teacher to decide what services must be provided so the student can make educational progress and work towards his/her IEP goals.
  
- 5. There has been a change in placement. The IEP Team must conduct a manifestation determination review within 10 school days of the suspension. Was the behavior a manifestation of the student’s disability?
  - a. Yes—the suspension must end and the student must return to school.
  - b. No—the suspension may stand and the student must be provided FAPE during the suspension.

# Chapter 18: Seclusion, Restraint, and Corporal Punishment

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## Seclusion and Restraint in NC Public Schools

In North Carolina, schools are allowed to use seclusion and restraint as a last resort in emergency situations. An emergency situation might be one where there is a substantial threat that a child will seriously harm himself/herself, other children or school staff. Restraints and seclusion should never be used as discipline. This Chapter will explain what seclusion and restraint are, and how to reduce the need for these practices.

Seclusion and restraint laws for North Carolina public schools can be found in Chapter 115C-391.1 of the North Carolina General Statutes. The law requires schools to create policies and procedures for the safe use of seclusion and restraints in the public schools. See page 19 for information on where to find this law.

### What is seclusion?

Seclusion means putting a student alone into an enclosed space and preventing the student from leaving that space. Sometimes a school will use a small office for seclusion, placing the student into the room and locking the door from the outside. Other places, such as a bathroom, may also be used. Remember that, while it should only happen in a safe and approved space, seclusion can happen in any enclosed space if the student is forced into the space and cannot leave.

**IMPORTANT:** Many schools use sensory rooms or time-out spaces where a student can go when he/she needs to cool down or relax. These spaces are not seclusion rooms. The student is not forced into that space, and can leave when he/she feels ready to do so.

A school may use seclusion as a last resort in emergency situations. For example, a school may seclude a student who has a weapon or other dangerous object. A school may use seclusion if a student's behavior creates a threat of imminent (immediate) physical harm to the student or to other people. The student must be released from seclusion immediately as soon as his/her dangerous behaviors have stopped. Seclusion should only be used to respond to an emergency situation, and not to punish a student for negative behaviors.

If your school is using seclusion techniques, the space used must meet certain standards. Any student who is in seclusion must be monitored closely, by an adult, who is able to see and hear the student at all times. The space used for seclusion must be well-lighted and have appropriate ventilation, heating and cooling. The space must be free of objects that could harm the student. These standards are just the minimum. Some school systems have created standards beyond these. You should contact your school district's EC Director for a copy of the district's seclusion and restraint policies.

## **What is restraint?**

There are three different types of restraint: physical restraint, mechanical restraint, and chemical restraint. A school may use physical or mechanical restraint in some situations. A school may never use chemical restraints; in other words, the school cannot give your child medication or other chemicals to control his/her behavior.

**Physical restraint** means that school staff place their hands on a student and use physical force to restrict the movement of all or part of that student's body. It can sometimes be difficult to know what is considered a restraint and what is not. For example, if a child is about to run out into a parking lot or traffic, and a teacher grabs his/her arm to prevent harm to the child, that is not considered a restraint. But if a teacher stands behind the child and holds that child's arms in something that looks like a bear hug, it is considered a restraint.

A school may use physical restraint as a last resort in emergency situations. For example, a school may restrain a student who has a weapon or other dangerous object. A school may use physical restraint if a student's behavior creates a threat of physical harm to the student or to other people. Restraint should only be used to respond to an emergency situation, and not to punish a student for negative behaviors.

Because physical restraints can be harmful or even deadly to a student, North Carolina requires schools to offer training in proper restraint techniques. Ask whether your child's teacher has received training and is certified in the use of restraints.

**Mechanical restraint** means that school staff use a device or material to restrict the movement of all or part of the student's body. Strapping or belting a student into a "time-out" chair is an example of the use of mechanical restraint. A seatbelt is technically a mechanical restraint; this type of restraint is not illegal, though, if it is used to secure a student during transportation.

A school may use mechanical restraint as a last resort in emergency situations. For example, a school may restrain a student who has a weapon or other dangerous object. A

school may use mechanical restraint if a student's behavior creates a threat of physical harm to the student or to other people. A school may not restrain a child who is crying or having a tantrum and is not dangerous to himself/herself or other people. Restraint should be used only to respond to an emergency situation, and not to punish a student for negative behaviors.

**NOTE:** Handcuffs are mechanical restraints. Police officers, including school resource officers, may use handcuffs in the lawful exercise of their duties. A resource officer may place handcuffs on a student with a disability in the same way he/she would on a child without a disability.

## Reporting the use of seclusion and restraints

Any time your child is secluded or restrained, school staff *should* give you a written incident report of the seclusion or restraint.

You should receive this notice as soon after the incident as possible, but no later than 30 days after the incident. Your written notice must include:

- The date and time of day of the restraint or seclusion
- How long the seclusion or restraint lasted
- The events leading up to the incident
- The strategies used to stop the behavior and avoid the incident
- A full description of any injuries to the student
- The name of a school employee that you may contact about the incident

It is best practice for the school to notify you of *any* use of restraint or seclusion, and you should ask for the school to notify you any time seclusion or restraint is used. Be aware, however, this is not required by law. The school is only *required* to notify you if staff use a prohibited mechanical restraint, use seclusion for longer than 10 minutes or what is permitted in your child's IEP, or use physical restraint that causes observable injury to your child.

The school employee involved in the seclusion or restraint should also notify the principal of any restraint or seclusion that was used and of any injuries to the student. This should be done by the end of the day of the incident, but no later than the end of the next day.

After you receive written notice that a seclusion or restraint was used with your child, you should request an IEP Team meeting. At the meeting, talk about your child's Behavior Intervention Plan or 504 Plan. The IEP Team should modify the plan in order to address the student's disruptive behaviors and thus reduce the need for restraints and seclusion in the future.

## **Reducing the use of seclusion and restraints**

Seclusions and restraints are not appropriate for certain populations such as students who have experienced sexual trauma, physical abuse, or for students who have suicidal tendencies, self-injurious behaviors, and diagnoses of cardiac, neurological or respiratory conditions.

As a parent, you should play an active role in making sure that seclusions and restraints are as rare as possible. Be an involved member of your child's IEP Team. Ask about the techniques used to calm your student, to teach appropriate behaviors, and to stop negative behaviors before they escalate into a dangerous situation. Be sure to share techniques that you use at home. Ask for the school's seclusion and restraint policy. Ask about the training that teachers receive in behavior management and in restraints. Remember, seclusion and restraint should only be used as a last resort.

Disability Rights NC has a self-advocacy packet designed to help you advocate against the use of seclusion and restraint with your child. Contact us to request a copy.

## **Corporal Punishment in the Schools**

Corporal punishment, or physical punishment, usually in the form of paddling, is still allowed in North Carolina schools. State law gives the local school system the authority to decide whether or not that school system will allow corporal punishment. The majority of the school systems in our state have banned corporal punishment in their schools.

In the school systems that do allow corporal punishment, there are very specific rules that must be followed. Each year, the county must adopt and review policies about corporal punishment. At the very least, the county must require that:

- Corporal punishment is not used in the presence of other students.

If your school system is one that allows corporal punishment, you have the right to choose whether corporal punishment can be used on your child. At the beginning of the school year, you should receive a form from the school district that allows you to “opt out” or to state, in writing, that you do not want corporal punishment used on your child.

- Students are told ahead of time about the types of misconduct that could result in corporal punishment.
- Corporal punishment is administered only by a principal, assistant principal, or teacher.
- Corporal punishment is witnessed by one of the above individuals.
- The witness is told, in the student’s presence, the reason for the punishment before it is administered.
- The student’s parents must be notified that corporal punishment has been administered and provided a written explanation of the reasons it was used.

North Carolina law protects school personnel who use reasonable force in administering corporal punishment. If you believe that your child has been harmed and file a lawsuit, you will have the burden of showing that the individual used excessive force. You may pursue this with a lawsuit.

# Chapter 19: Conflict Resolution Procedures

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## A. Disagreeing with an IEP Team Decision

The IEP Team makes many important decisions about your child's education. Your goals should always be to work with school personnel to develop the best program possible for your child. There may be times when you feel the school's recommendations, suggestions, or refusals of your requests are not what your child needs. Below is an outline of the steps you can use to disagree with a decision.

1. Ask for another IEP meeting.
  - Bring any new or additional information you have.
  - Explain your position and the reasons for it.
  - Ask for Prior Written Notice, or a DEC 5 (see Chapter 12, page 97). This form will let you know that the IEP Team has made an "official" decision that you disagree with.
2. Contact the school principal and the Exceptional Children's Director in writing.
  - In some situations, contacting the principal is helpful. In some cases, it is not. We recommend that you write to the principal and send a courtesy copy to the EC Director.
  - List what you understand about the IEP Team's decision.
  - Explain why you disagree with the decision.
  - Tell the principal that you plan to appeal the decision.
  - You might ask the principal to meet with you to discuss this before you go further. If you do, give the principal a deadline. For example, say "I'd like to meet with you before taking further action. Please call me within one week from the date of this letter."
  - You might ask for another IEP meeting to be held with the EC Director present.

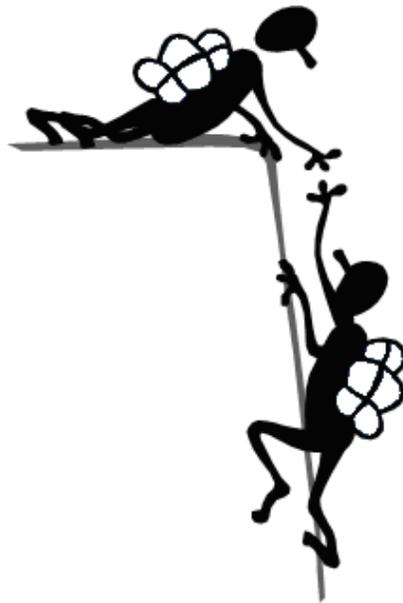
3. Consider using a Facilitated IEP meeting or mediation.

- See page 135 in this Chapter to learn more.

4. Consider filing a formal complaint with DPI or a Due Process Petition.

- See page 146 in this Chapter to learn more.

The most important thing to remember when you disagree with the IEP Team is that **it is okay to ask for help**. It is natural to get frustrated or emotional during a disagreement about your child. Asking for help will allow you to understand the IEP process and your rights. It can also help to keep you focused on doing what is best for your child. Find other parents of students with disabilities in your school or town and form a support group. Contact an advocacy group. Bring someone to the IEP meeting with you. You do not have to do it alone!



## **B. Facilitated IEP Meeting**

If you feel that you are not being heard, or that the relationship between you and the school staff is too strained to have a good, productive meeting, then you might consider requesting a facilitated IEP meeting.

Facilitation is a process of using a neutral facilitator (he/she won't take sides between the parent and the school) who helps guide the meeting and helps everyone on the IEP Team (parents too) communicate effectively. The neutral facilitator does not suggest anything to be included in the IEP, but he/she does help everyone stay focused on your child and on problem solving. The facilitator can make sure that your voice is heard as an important member of the IEP Team.

Facilitation is not required by law; it is a service provided by the North Carolina Department of Public Instruction (DPI). It is a wonderful tool that you can use, and it is free to you and to the schools.

If you wish to request a facilitator, you should copy and fill out the form that follows. You can fax the form to the DPI Facilitation Coordinator at (919) 807-3755. You can also go online to <http://ec.ncpublicschools.gov/>. On the left menu, click on "Dispute Resolution" and then "Facilitation." Fill out the FIEP Request Form and mail or fax it to the Facilitation Coordinator.

After you complete the form and send it to DPI, someone at DPI will call and talk to you about your request. After this, a facilitator will be selected. That facilitator should call you and talk to you about what you want to get out of your next IEP meeting. If the meeting is not already scheduled, the facilitator will also try to figure out dates and times that the Team can meet. The facilitator will also call the school people to discuss the issues with them and try to figure out what they would like to happen as a result of the meeting. The facilitator will make a meeting agenda based on all those conversations and lead the meeting.

Because a facilitator really slows everyone down and brings out all the issues, the IEP meeting may be a longer one than you are used to. You should be prepared to set aside three hours for the meeting.

Before requesting a Facilitated IEP meeting, please read DPI's Facilitated IEP Meeting Questions & Answers that follow.

\* The following forms were developed by the North Carolina Department of Public Instruction and have not been modified.

## **CHOOSING TO USE FACILITATORS AT IEP TEAM MEETINGS**

*Parents or school systems have the right to request the Department of Public Instruction to provide facilitation services to assist the IEP team in making determinations regarding identification, evaluation, educational program, placement or the provision of a free appropriate public education for students with disabilities.*

*The facilitated IEP meeting will be conducted by a qualified and impartial facilitator at no cost to the parent or the school.*

### **1. What is a facilitated IEP meeting?**

Facilitation is a process utilizing an impartial, neutral facilitator to guide the process of the meeting and to assist members of the IEP team in communicating effectively. An IEP is developed by a collaborative team whose required members share responsibility for the process, content and the results.

### **2. What are the benefits of facilitation?**

- Focus remains on the student.
- Team members control the outcome.
- Working relationships between school representatives and the student's parents are maintained.
- Team members are able to discuss facts, feelings, and desired outcomes.
- Opportunities for creative, win-win solutions are possible.
- DPI facilitation services are free to the parties.

### **3. When should I consider facilitation?**

In most cases parents and school representatives are able to reach determinations regarding identification, evaluation, educational program, placement or the provision of a free appropriate public education for students with disabilities through discussions and consensus decision-making.

However, a facilitator may be useful when the school personnel want to concentrate on the IEP issues to be determined rather than on the meeting process; if communication between parents and school personnel is becoming tense; or if parents and school personnel are becoming apprehensive about the next IEP meeting. A facilitator may also be used for any transition IEP meeting where there are typically more people at the table.

### **4. Who may request facilitation?**

- Parents, including guardians and surrogate parents, of a child with a disability (or a child suspected of having a disability)
- An adult student with a disability
- A school representative

## **5. How is facilitation different from mediation?**

Both mediators and facilitators have training and experience in helping clarify points of view, communicating more effectively, and resolving conflict. The mediation process is specifically designed to settle disputes. Facilitation is the process of helping the IEP team complete a task, solve a problem, or come to agreement to the mutual satisfaction of the participants. There does not need to be a conflict between the parties.

## **6. What is the role of the facilitator?**

- To plan and design the meeting process, in partnership with the parties.
- To set a positive and welcoming tone for the meeting.
- To clarify the purpose of the meeting, the desired outcomes, the process to be used, and the roles of each person.
- To keep the discussion focus on the child.
- To draw out opinions and encourage full participation from all IEP team members.
- To monitor the pace of the meeting.
- To maintain neutrality, reflecting content and process back to the group.

## **7. How does one make a request for a facilitator?**

A request for facilitation can be made by completing a Mediation/Facilitation Request Form. After completing all the information required by the form, it is then mailed or faxed to the following address:

Facilitation Coordinator  
DPI Exceptional Children Division  
6356 Mail Service Center  
Raleigh, NC 27699-6356  
Fax: (919) 807-3755

A staff person from the Department of Public Instruction (DPI) will contact the other party to provide notice of the request and to explain the process. As the LEA is legally responsible for convening IEP team meetings, the LEA must agree to have a DPI facilitator present. Conversely, the parent's consent is sought when the LEA requests the facilitator's presence. The Facilitation Coordinator will appoint a facilitator who will contact both parties to determine the desired outcomes and to develop the agenda for the meeting.

The form can also be downloaded by clicking the web site address:

<http://ec.ncpublicschools.gov/parent-resources/dispute-resolution/facilitation>

## **8. How does one prepare for a facilitated IEP meeting?**

Facilitation is an opportunity for parents and schools to communicate persuasively their view of the child's needs and the program elements required for the child to make progress. Before entering into a facilitated IEP team meeting, the parties should take some time to define for themselves what they expect the outcome of the meeting to be. They should have a realistic view of the range of probable outcomes. However, IEP meetings work best when parents and school staff are open to listening carefully to each other, and feel free to explore new options. It is difficult for the meeting to be successful when the parties lock themselves into a position and are unable to move away from that position.

## **9. What happens at a facilitated IEP meeting?**

- The facilitator explains his or her role, describes consensus decision-making, gets agreement on the agenda, establishes roles of group members (ex. scribe and time keeper), and guides the discussion toward the desired outcomes.
- The facilitator guides the parties through the items on the agenda. Ideas are recorded on pages for all team members to see, so information is visual as well as auditory.
- The facilitator ensures participation from all team members and uses a variety of strategies for reaching consensus.
- Determinations are documented and a prior written notice is issued to the parent.

NC DPI Exceptional Children Division

**FACILITATED IEP TEAM MEETING PROGRAM  
REQUEST FORM**

**STUDENT INFORMATION**

Student's Name: \_\_\_\_\_

Date of Birth: \_\_\_\_\_ Age: \_\_\_\_\_ Area of Exceptionality: \_\_\_\_\_

Student's School: \_\_\_\_\_ Grade: \_\_\_\_\_

Principal's Name \_\_\_\_\_

Local Educational Agency (school system or Charter): \_\_\_\_\_

**PURPOSE OF IEP TEAM MEETING**

Initial referral, evaluation, eligibility, placement process

Reevaluation process

Annual review

IEP review and revise, as appropriate

Manifestation determination review (disciplinary removal)

Other. Explain \_\_\_\_\_

Why you want a facilitator: \_\_\_\_\_

Has a meeting date been scheduled?  If so, when and what time? \_\_\_\_\_

**PARENT CONTACT INFORMATION**

Parent/Guardian's Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone #s: \_\_\_\_\_

E-mail: \_\_\_\_\_

**NAME OF PERSON SUBMITTING THIS REQUEST\*\***

Print Name: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**\*\* Requests must be submitted at least 7 days before a scheduled IEP Team meeting.**

**SEND SIGNED FORM VIA MAIL OR FAX TO:**

Facilitation Coordinator  
NC DPI Exceptional Children Division  
6356 Mail Service Center  
Raleigh, NC 27699-6356  
Fax: (919) 807-3755

## **C. Mediation**

Mediation is a process that can be used to resolve differences in what the parents and the school system think is appropriate regarding a child's special education services. There are many benefits to choosing to mediate a disagreement:

- Mediation might resolve the issue faster than a more formal complaint process.
- Mediation helps both parties to understand the other's ideas and positions, which can help maintain good working relationships.
- Mediation is free, whereas a due process hearing can be costly in time lost from work and attorney's fees.
- Mediation is voluntary, meaning that either side can refuse to mediate. If both sides agree to mediate, this usually means that both sides are willing to listen, negotiate, and work together to reach an agreement.
- Any agreement that you reach in mediation is legally binding. The Department of Public Instruction is responsible for enforcing the agreement. You can also file for a Due Process hearing to enforce the agreement.
- Anything that is said in mediation is confidential. It cannot be used by you or against you later if you file a formal state complaint or file for a Due Process hearing.

### **What is Mediation?**

Mediation is an informal meeting between you and school system personnel to discuss and try to resolve your differences about your child's identification, evaluation, placement, or special education services.

A mediator will lead the meeting and try to help both you and the school personnel reach an agreement. The mediator is a neutral person (meaning he/she does not work for the school system) who has been trained in ways to resolve disputes. Normally, the person has some knowledge about special education. The mediator is not a judge, and he/she will not make any decisions during the meeting. The mediator is there only to help define the issues, and encourage and empower the parties to reach a resolution. The

mediator can help each side to see the other's point of view and to problem-solve in a way that reaches the heart of the issues.

The mediator should stress that the meeting is about your child, his/her educational needs, and how the parties can work together in the best interest of the child. The mediator may talk to both sides together, or may talk to each party individually. All discussions that you have during mediation are confidential. The school system cannot use anything said at mediation against you later at a due process hearing (and you cannot use it against them).

## **When should you Consider Mediation?**

Most of the time, you and the school system can resolve your differences through discussions or IEP Team meetings. If you reach a point where you cannot agree, you should consider requesting mediation.

You may request mediation instead of filing for a Due Process hearing. If you do file for Due Process, the Department of Public Instruction will automatically send you an invitation to mediate. You are not required to attend mediation before a Due Process hearing, but it is encouraged. If you are interested in mediation, it might be more practical to request the mediation before filing for Due Process.

## **Filing a Request for Mediation**

Either a parent or the school system can request mediation. To do so, you must complete a mediation request form and mail or fax it to:

Mediation Coordinator  
Department of Public Instruction  
6356 Mail Service Center  
Raleigh, NC 27699-6356

Fax: (919) 807-3243

You can get a copy of the mediation request form from your child's school, your Exceptional Children Director or office, in the *Handbook on Parents' Rights*, or from the Department of Public Instruction. You can also find the form on the DPI website at

<http://ec.ncpublicschools.gov/>. On the left menu, click on “Dispute Resolution” and then “Mediation” and select the 2007 Mediation Request Form. The form is included at the end of this chapter as well.

## Preparing for Mediation

Most mediation meetings take place 2-3 weeks after they are requested. Take the time to get ready for the mediation, so that it can be as successful as possible.

1. Review the ground rules of mediation
  - a. It is usually best to limit the number of people who participate in mediation to the key parties. You may bring an advocate or other key person with you. DPI encourages you to go without an attorney. If you do decide to bring an attorney, you must tell the school and DPI of that decision, in writing, at least 7 days before the mediation.
  - b. At least one person on both sides of the disagreement must have the authority to make decisions and reach an agreement.
  - c. A typical mediation meeting lasts 3 ½-4 hours, so plan to set aside the whole day.
  - d. Because mediation is confidential, there will not be a written record of the discussion. Neither party may tape-record the mediation. You may take personal notes of the discussion.
  - e. When and if the parties reach an agreement, the mediator will help you write a mediation agreement. DPI will keep a copy.
2. Review your assertive communication skills.
  - a. Read Chapter 22 of this manual.
  - b. Remember that the reason for this meeting is to resolve differences and come to an agreement about your child’s education. Your personal opinions about school staff are not the issue. Stick to the facts about what your child needs.

3. Know your issues.
  - a. Write down exactly where you and the school system disagree.
  - b. If there is more than one area of disagreement, put them in order of importance.
4. Decide where you are willing to compromise.
  - a. Think about ways to negotiate.
  - b. Know which issues are most important to you and your child.
5. Be creative.
  - a. Think about different ways to provide a service or program for your child.
  - b. Think about other options that you would be willing to agree to.



\* The following form was developed by the North Carolina Department of Public Instruction and has not been modified.



**CONTACT INFORMATION**

Parent/Guardian's Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

E-mail: \_\_\_\_\_

Parent/Guardian's Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

E-mail: \_\_\_\_\_

**ACCESSIBILITY NEEDS (of the parent or adult student with a disability)**

Translation Needs (Please specify):

Interpreter Needs (Please specify):

Accessibility Needs (Please specify):

**SUBMISSION INFORMATION**

Name of Individual Completing this Request Form:

Print Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Date of Submission: \_\_\_\_\_

**SEND SIGNED FORM VIA MAIL OR FAX TO:**

Mediation Coordinator  
NC Department of Public Instruction  
6356 Mail Service Center  
Raleigh, NC 27699-6356

Telephone: (919) 807-3979  
Fax: (919) 807-3755

## **D. DPI Complaint**

A DPI Complaint is a formal written complaint that a parent may file with the NC Department of Public Instruction (DPI). It is your written statement, signed by you, that the school system is not following a particular law. A DPI Complaint can be brought by any agency, organization, or person.

Your DPI Complaint must be about a violation of IDEA or state law and procedure. You cannot use this process to challenge official IEP Team decisions, such as a decision about placement or a decision to exit your child from special education. (If you receive a DEC 5 or Prior Written Notice about the IEP Team's actions, this is probably an official IEP Team decision.) You may use a DPI Complaint to address something that the school system did that is against the law. Examples include:

- Improper identification or evaluation procedures
- Failure to provide related services
- Failure to give you access to your child's records
- Failure to provide the services in your child's IEP
- Failure to follow IDEA disciplinary procedures

### **Filing a DPI Complaint**

Writing a DPI Complaint is as simple as writing a letter. Your complaint must include:

- The name of the student involved (if there is a particular student)
- The name of the local school system and the specific school
- A description of how you believe the law has been violated
- The facts that form the basis for your opinion (what, when, where, etc.)
- What you would like the NC Department of Public Instruction to do to resolve the problem
- Your signature

You should attach documents, such as your child's evaluations or letters from school personnel, to help explain your complaint. You may send your complaint to:

Director, Exceptional Children Division  
Department of Public Instruction  
6356 Mail Service Center  
Raleigh, NC 27699-3656

You may also deliver the complaint by hand to:

Director, Exceptional Children Division  
Department of Public Instruction  
301 N. Wilmington Street  
Raleigh, NC 27601-2825

It is important to know that there is a **time limit** on when you can file a DPI Complaint. You must file a complaint within one year of the violation of the law. If you ask for compensatory education (or for the school to provide the services that it did not provide because of the violation of the law), DPI may consider violations of the law that have happened in the past three years. This is a very rare situation; to be safe, file your complaint within one year of the violation.

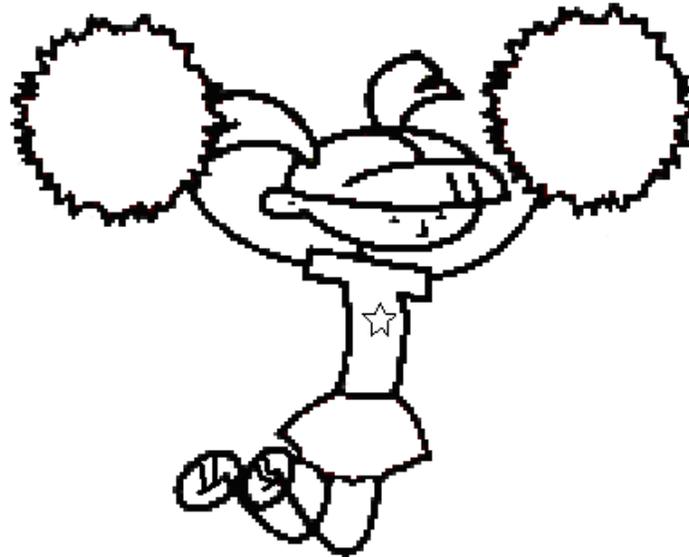
## After You File

If your complaint is incomplete, or is about something that you cannot file a DPI Complaint for, someone from the Division of Exceptional Children at DPI will contact you. That person will explain what you need to do to make the complaint acceptable.

If your complaint is or becomes official, the Division of Exceptional Children will give a copy of the complaint to the school system involved. The school system has 30 days to investigate your complaint and report back to the state. The school system may provide additional evidence to DPI about your complaint.

Once the 30 days of investigation are over, the Director of the Division of Exceptional Children has an additional 30 days to investigate and review all the evidence, and to write a final report on your complaint. The Director will send a copy of this report to you and the school system. The report will outline the facts that DPI has discovered and whether those facts show that the school violated the law. If a violation is found, the report will also contain a Corrective Action Plan (what the school must do to fix the violation).

You should have an answer to your complaint within 60 days after DPI receives it. If you do not receive a decision in a timely manner, contact the investigator assigned to your complaint at the Division of Exceptional Children. The decision of DPI is final.



## **E. Due Process**

The IDEA guarantees parents the right to an “impartial due process hearing” when they disagree with the school system or want to challenge the school’s failure to provide the student with services or educational programs that they believe the child needs. The right to a hearing is called “Due Process,” and so we call this a Due Process hearing. Due Process guarantees parents a right to notice, or to be told what the school’s decision is and why. Due Process also guarantees parents a chance to have their side of the disagreement heard before any important rights are taken away.

Each state is allowed to establish its own procedures for giving parents their Due Process rights. In North Carolina, you do not have the right to go directly to state or federal court with your complaint. Instead, you must first request a hearing with the Office of Administrative Hearings (OAH). OAH is a special part of our state court system that hears cases involving administrative law, which includes special education.

## What is Due Process?

It is very important to understand that Due Process is a real lawsuit in court. All of the rules about how to file paperwork, how to present evidence, and how to appeal a decision apply to a Due Process hearing. It is a true legal fight that has many drawbacks as well as benefits. It is a last resort, and should only be used if other means of settling differences are unsuccessful.

A Due Process hearing takes place in front of a judge from OAH. This person is called an Administrative Law Judge, or ALJ. The school system will **always** be represented by an attorney in a Due Process hearing. The U.S. Supreme Court has stated that a parent can go through Due Process without hiring a lawyer, because parents have rights under IDEA and can represent themselves in regard to those rights. However, because Due Process is a formal legal proceeding, you should think long and hard about getting an attorney to help you.

## When should you consider Due Process?

When all other attempts to settle your differences with the school system have failed, you might consider filing for a Due Process hearing. Problems that are appropriate for a Due Process hearing include:

- A child has not been identified or has been incorrectly identified as having disabilities under IDEA.
- A child's IEP is not appropriate to meet his/her needs.
- A child has an IEP but parts or all of it are not being implemented (followed).
- A child is otherwise being denied a Free Appropriate Public Education (FAPE).

As mentioned above, Due Process is a true legal proceeding. Before you decide to file for a Due Process hearing, consider the following:

- Due Process is an adversarial legal proceeding. At this point, the parties are not trying to reach an agreement. Each side wants to be the winner. Have you considered how this might affect your relationship with your child's teachers and other school staff?

- You may be at a disadvantage during a Due Process hearing.
  - The school system will be represented by a lawyer who knows and understands special education law.
  - The hearing is a legal proceeding, governed by rules of court and rules of evidence that you may not know or understand.
  - Have you considered hiring an experienced special education attorney? Can you afford to do so? There are few attorneys with special education experience in the state. Can you find one who is available to take your case?
  
- Due Process can take a long time.
  - Although there are certain timelines to be followed, and a Due Process case can be decided in as little as 45 days, it can go on much longer. Legal motions, scheduling delays, and emergencies can lengthen the case. Are you willing to stay with the case for that long?
  - Legal decisions by a judge can be appealed. Have you considered what might happen if you win and the school appeals?
  - Can you take time off from your job and away from your family to prepare for the trial and to go to court?
  
- One of the benefits of a Due Process hearing is “Stay Put.” Stay Put means that the school cannot change your child’s special education program or placement while you are going through Due Process. Remember that Stay Put does not apply for a disciplinary change of placement. Have you considered whether Stay Put would benefit your child?
  
- Court can be stressful. Are you prepared for that stress?

We do not want to discourage you from filing for Due Process. You have the right to request a Due Process hearing. Just make sure that your decision to do so is an informed one.

## Filing for Due Process

It is important to know that there is a **time limit** on when you can file for a Due Process hearing. You must file within **one year** from the date the school system made the decision you disagree with. If you file even one day after that year ends, your case will be thrown out of court forever. For example, if the school system decides on May 19, 2008 to move your child to a separate classroom, you must file your Due Process request by the end of the day on May 18, 2009.

If you decide to file for Due Process, OAH will provide a form to help you file. You may contact OAH at:

Office of Administrative Hearings  
1711 New Hope Church Road  
Raleigh, NC 27609

You can also call OAH at (919) 431-3000, or download the form at [www.ncoah.com/forms.html](http://www.ncoah.com/forms.html). A copy of the Due Process Request Form is also available at the end of this chapter. To fill out the Request Form, called a Petition for a Contested Case Hearing:

1. Type or fill out the form in black ink.
2. You are the Petitioner in this case, since you are the person requesting, or petitioning, the court to give you a hearing. The Board of Education for your school system is the Respondent, or the person responding to the claim.
3. Be sure to put the name of both parents if each has the legal right to make decision for the child. In these situations, both parents will have to give consent in negotiations, and a lawyer will refuse to represent only one of you.
4. Be as objective and brief as possible, and stick to the facts. Remember not to use sarcasm or insults in your Petition. This is your chance to make a first impression on the ALJ. The Request Form is an official court paper and will be part of the permanent court file.
5. Make 4 copies of your completed request form.
  - a. Keep one for your records.
  - b. Send one copy to the Superintendent of the school system.
  - c. Send one copy to the Division of Exceptional Children at the NC Department of Public Instruction.
  - d. File the original form and one copy with OAH.

6. You may file the original Petition and one copy at OAH:
  - a. In person, from 8 AM to 5 PM, at 1711 New Hope Church Road, Raleigh.
  - b. By certified mail.
  - c. By fax at (919) 431-3100. You must mail the original and one copy to OAH within seven business days of the fax.
  - d. By electronic transmission to [oah.clerks@oah.nc.gov](mailto:oah.clerks@oah.nc.gov). You must mail the original and one copy to OAH within seven business days of email.

Within five days of filing your Petition, you will receive a packet of information from OAH. This packet will give you the number assigned to your case (such as 03-EDC-2022), information on important deadlines, the date and place of your hearing, and what documents you must file with OAH. If this packet is too confusing, consult a lawyer.

## **Resolution Session and Mediation**

After you file the Petition for a Contested Case Hearing, the Department of Public Instruction will send you an invitation to participate in mediation (see page 140 of this Chapter). You will also be contacted by the school system’s attorney to schedule a “resolution session.” This is a meeting between you and school system officials to try again to resolve your complaints without a hearing. It is similar to mediation, but there is no mediator to help the parties come to an agreement.

The school system must hold a resolution session within 15 days of receiving your Petition. Parents and relevant members of the IEP Team who are knowledgeable about the facts in the Petition must participate; someone with decision-making authority on behalf of the school district must also attend. The school district cannot have its attorney at the meeting unless the parents’ attorney attends. If no resolution is reached within 30 days of filing the Petition, the full due process hearing may occur within all applicable timelines set by law. At this point, three things can happen:

1. You and the school system both agree to participate in mediation rather than the resolution session;
2. You and the school system both agree to attend a resolution session rather than mediation; or
3. You and the school system both agree, in writing, not to use mediation or the resolution session.

We cannot urge strongly enough that you participate in either mediation or a resolution session. This is an important step in the due process proceeding. More importantly, it is a chance to resolve your complaint without going through a trial. It is **highly** recommended that you agree to try one of these methods of dispute resolution.

## **Your Rights for the Due Process Hearing**

- You should receive a copy of the *Handbook on Parents' Rights*.
- You should be told where you can get legal advice. If this information is not available from your local school system, contact Disability Rights NC at 1-877-235-4210.
- You have the right to bring an attorney and other people with special knowledge about children with disabilities to the hearing. Parents also have the right to request that the child attend the hearing and that the hearing be open to the public.
- You have the right to present evidence, cross-examine witnesses, and require their attendance.
- You have the right to be given any evidence that is presented at the hearing at least five days before the hearing begins.
- You have the right to a written finding of fact and a written decision within 45 days after OAH received your initial request for the hearing.
- Unless you and the school system agree otherwise, and unless your case involves a disciplinary change in placement, you have the right to “stay put,” or to have your child remain in the last agreed-upon educational placement until after the hearing and any appeals.

## **The Decision**

Once the parents and the school system have presented evidence to the ALJ, a transcript (written record) of the case will be made and given to both parties. The judge may ask each side to submit a proposed decision. This is a document that includes proposed Findings of Fact (facts based on what was presented in court) and Conclusions of Law

(how those facts and the law support each party's position). Parents who represent themselves in the Due Process hearing will be at a disadvantage in writing this decision.

The document that the ALJ then issues is called a Final Decision. Sometimes it is in favor of the Petitioner (the person filing the lawsuit), sometimes for the Respondent, and sometimes part of the decision is favorable to each side (called a split decision).

## **The Appeals Process**

Parents and school systems both have the right to appeal the Final Decision of the ALJ. To do so, you must appeal to a State Hearing Review Officer (SHRO). The Final Decision will tell you where and how to appeal. It will also state that you must appeal within 30 days. An appeal must be in writing.

The SHRO is a person who does not work for the school system or Board of Education and has no interest in the outcome of the case. The SHRO is appointed by the Director of the Division of Exceptional Children and paid by the state.

Once an appeal is filed, you will have a short time to file a written argument to support your position. A decision is usually reached within 30 days. The SHRO usually will not meet with the parties face-to-face, but will review the entire file and your written arguments to determine if the facts and evidence support the Final Decision of the ALJ. In a complicated case, the SHRO may meet with both parties and need additional time to make a decision.

If either party disagrees with the decision of the SHRO, they have the right to file an appeal in either state or federal court.

## **Attorney's Fees**

A parent who wins their court case is entitled to recover reasonable attorney's fees. To get attorney's fees, you must file another court document in state or federal court. These fees are paid by the Board of Education's insurance company. No special education money may be used to pay these fees.

"Recover" fees means that the local school system will pay your attorney, or give you the amount you have already paid to your attorney. The fees must be "reasonable," or

similar to what other attorneys would ask for similar services. Fees cannot be awarded for an attorney's participation in an IEP Team meeting unless that meeting was ordered by the judge. Also, the attorney may not be able to recover fees if a settlement was offered and rejected. If the school offers to settle more than ten days before the hearing, and you get no more at court than you would have received in the offer, the attorney may not get fees from the school system.

In very rare cases, a school system that wins at Due Process might be able to recover attorney's fees from the parents. This is only possible if the parent files a lawsuit that is "frivolous, unreasonable, or... for any improper purpose." Because it is very unlikely that the school will be able to get attorney's fees from you, this should not stop you from considering the use of Due Process. We are pointing this out just to encourage you to contact an attorney to help you determine if your case might be unreasonable or without any legal merit.

The U.S. Supreme Court has held that expert witness fees cannot be recovered. At the time this manual was printed, Congress was considering a law that would make expert fees part of the attorney's fees that you may recover. As of the time this manual was printed, however, a parent who wins at Due Process cannot recover expert witness fees. This is another factor to consider when you decide whether to file for a Due Process hearing.

\* The following forms were developed by the North Carolina Office of Administrative Hearings and have not been modified.

**INSTRUCTION FOR FORM H-06E**  
**“PETITION FOR A CONTESTED CASE” AND “CERTIFICATE OF SERVICE”**

**PLEASE PRINT CLEARLY OR TYPE**

You are completing a contested case petition for a hearing (sometimes referred to as a "due process hearing") on a special education case. A hearing is designed to resolve legal disputes between parents of children with disabilities and school systems concerning identification, evaluation, placement, a manifestation determination, and/or the denial of a free appropriate public education (FAPE). The petition starts a proceeding against the school board. At the hearing an independent administrative law judge will determine the facts and law supporting your allegations about the educational services provided or not provided to your child. Normally, you have the burden of proving that the school board has violated the law and you must provide evidence and witnesses to support your allegations.

**FILL IN BLANKS:**

Fill in your county of residence on line (1). Special education cases are confidential and the Office of Administrative Hearings will not disclose your identify or that of your child, without authorization. Print the name of the student and guardian on line (2). Print the name of the school board about which you are complaining on line (3). Print the name of school or charter school that the student attends on line (4). Enter student's name on line (5); student's birthdate on line (6); and the address of the student's home or residence on line (7).

Check all of the items that apply in section (8). In section (9) describe the problem and state the facts that support your Petition using additional pages if needed; and in section (10) describe the resolution or remedy you are seeking as a result of this contested case (additional pages may be attached if needed).

Enter the date on line (11), your telephone number on line (12), your address on line (13), print your name or initials on line (14), and sign the petition on line (15).

**CERTIFICATE OF SERVICE:**

**You must mail or hand deliver** a copy of your completed petition to the school board named on line (3) and complete the “ Certificate of Service” section on your petition, entering the name of the Superintendent of the school board to whom you mailed or delivered the petition on line (16). You should contact the school board office to determine the name of the Superintendent. Print the name of the school board on line (17), the address of the school board on line (18), sign your name on line (19) and enter the date on line (20).

**FILING YOUR PETITION WITH THE OFFICE OF ADMINISTRATIVE HEARINGS:**

Your contested case will commence or begin as soon as you file your completed original petition, along with a copy, properly signed, with the Office of Administrative Hearings. Below are the mailing and physical addresses:

**Office of Administrative Hearings  
6714 Mail Service Center  
Raleigh NC 27699-6714**

**Office of Administrative Hearings  
1711 New Hope Church Road  
Raleigh, NC 27609-6285**

If you mail this petition form, the case commences or begins when it is **received and filed** in this office.

You may file your petition by fax during normal business hours by faxing the petition to the Clerk's Office at (919) 431-3100.

You may file your petition by electronic mail by an attached file either in PDF format or a document that is compatible with or convertible to the most recent version of Word for Windows by sending the electronic transmission to [oah.clerks@oah.nc.gov](mailto:oah.clerks@oah.nc.gov). Electronic mail without attached file shall not constitute a valid filing.

**OAH must receive the original signed Petition and one copy** within **seven business days** following the fax or electronic transmission for the petition to be deemed "filed" on the fax or electronic transmission date.

**In addition to the above**, please also mail or fax a copy of the petition form to the N. C. Department of Public Instruction, 6356 Mail Service Center, Raleigh, NC 27699-6356 or by fax at 919/807-3243.

If you have any **questions** about how to complete this petition form, you should contact an attorney or call the North Carolina Department of Public Instruction, Exceptional Children's Division at (919) 807-3969.



(10) Describe the resolution or remedy you are seeking: (Attach additional pages if necessary)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(11) Date: \_\_\_\_\_ (12) Your phone number ( \_\_\_\_\_ ) \_\_\_\_\_

(13) Print your full address: \_\_\_\_\_  
(street address/p.o. box) (city) (state) (zip) (county)

(14) Print your name: \_\_\_\_\_

(15) Your signature: \_\_\_\_\_

---

**You must** mail or deliver a **COPY** of this Petition to the Superintendent of the board of education named on line (3) of this form. You should contact the school board to determine the name of the current superintendent to be served.

**CERTIFICATE OF SERVICE**

I certify that this Petition has been served on the Local or County Superintendent of Schools named below by depositing a copy of it with the United States Postal Service with sufficient postage affixed **OR** by hand delivering it to the named superintendent.

(16) \_\_\_\_\_ (17) \_\_\_\_\_  
(name of Superintendent served) (school board listed on line 3)

(18) \_\_\_\_\_  
(street address/p.o. box) (city) (state) (zip)

(19) \_\_\_\_\_ (20) Date: \_\_\_\_\_  
(your signature or initials)

---

This form has been developed to assist parents, or guardians in petitioning for an impartial due process contested case hearing.

When you have completed this form you **MUST** mail or delivery the **ORIGINAL AND ONE COPY** to the Office of Administrative Hearings, 6714 Mail Service Center, Raleigh, NC 27699-6714 or 1711 New Hope Church Road, Raleigh, NC 27609-6285.

## F. Office for Civil Rights

If you feel the school has discriminated against your child because of his/her disability, you may file a complaint with the Office for Civil Rights. A complaint should be sent to the regional office that serves your state. In North Carolina, write to:

Office for Civil Rights/DC  
US Department of Education  
400 Maryland Avenue, SW  
Washington, D.C. 20202-1475

Phone: (202) 453-6020  
Fax: (202) 453-6021  
TDD: (800) 877-8339  
Email: [OCR.DC@ed.gov](mailto:OCR.DC@ed.gov)

Your complaint must be in writing or completed online at the website for OCR. It must be signed, and it must be filed within 180 days of the act of discrimination. Your letter should explain:

- who was discriminated against
- in what way, by whom or by what institution
- when the discrimination took place
- who was harmed
- who can be contacted for further information
- the name, address and telephone number of the person making the complaint and the institution about which the complaint is being made

You may contact the OCR for help.

# Chapter 20: Other Laws You Should Know

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## A. FERPA

### What is FERPA?

The Family Educational Rights and Privacy Act (FERPA) is a federal law that gives parents and guardians of students under age 18, and students over 18, the right to inspect and review the student's education records. FERPA also prevents a school from giving out personally identifiable information in the education record without written permission from the parent or student (if over age 18). FERPA protects information that, if given out, would violate the student's right to privacy.

FERPA does not protect all information about a student, however. In some cases, the school system has the right to disclose information about the student's records without the parent's permission. For example, school officials can give a student's information to other school officials, including teachers at the school who have a real interest in the child. A school can also give information to another school if the student is transferring to that school.

### To What Does FERPA Apply?

FERPA applies to educational records, which are records maintained by the school system that are directly related to a student. The definition of "record" under FERPA is very broad, and includes (but is not limited to) those records that are printed, handwritten, or recorded using visual, audio, or computer equipment.

It is important to know that even personal notes kept by teachers or administrators are considered education records under FERPA, unless those notes are strictly for personal use and have never been shared with anyone other than a temporary substitute. Once a personal note has been shared and discussed with other staff, it is considered an educational record.

## **What should be in My Child's Educational Records?**

Every school system keeps educational records for their students. Schools keep a "cumulative folder" on all students that has information about immunizations, physical exams, test scores, and other similar information. In addition, a school system may keep a file that has to do with any discipline decisions that have been made involving the student.

The records of a special education student will have information that is not included in the files of other students. This information is kept in a separate and confidential file. This file should contain all of the information used to make decisions about the student's special education services, including:

- information that identifies the student (name, birth date, etc.)
- special education forms with your signature on them
- observation notes
- copies of IEPs
- IEP progress reports
- evaluation and test results (but not the actual tests)
- correspondence from parents or outside evaluators, doctors, etc.
- meeting minutes
- other information concerning the student's programs (from the parents or the school system)

## **How Can I Use FERPA?**

FERPA gives certain rights to you as a parent. FERPA also places certain responsibilities on the school system. You can use FERPA to protect information about your child.

## **Rights of the Parent:**

- The right to inspect and review any of your child's records. The school must agree to your request "in a reasonable period of time," no longer than 45 days after your request, and sooner if you are preparing for an IEP meeting or a hearing.
- The right an explanation of anything in the record.
- The right to receive copies of the records. The school may charge a reasonable fee for the copies, unless this cost would prevent you from copying the records.
- The right to ask the school to change any statement in your child's records which you feel is wrong or misleading. The school must either change the statements in a reasonable period of time or let you know, in writing, that they refuse to do so. They must inform you of your right to a hearing if they refuse to change the records.
- The right to give your consent, or permission, before records are given to anyone not involved in the child's education, or before the school uses your child's records for anything other than providing special education and related services.

## **Responsibilities of the School:**

- To inform you of your right to access the records.
- To tell you how to request a review of the records, or how to set up a meeting to inspect and review the records.
- To have a schedule of fees for copies.
- To have a list of the types of educational records kept by the school system, where they are kept, and the names and addresses of people in charge of the records.
- To have a written policy on disclosing information from records, parents' right to inspect records, and parents' rights to request corrections in the records.
- To keep records confidential.
  - Confidential means "private" or "secret."
  - The school system must have a person in charge of making sure that records are kept confidential.
  - The school must train all people who collect or use the information about the state's confidentiality policies and procedures.

- The school must keep a list of the employees who are allowed to see these records and a record of who has actually inspected the file.
- The school must permit parents to see information only on their own child.
- To get your permission before releasing confidential information about your child.
- To inform you when your child's confidential information is no longer needed.
  - You can request to have this information destroyed or changed so that it cannot be identified as belonging to your child.
  - If you request that the information be destroyed, make sure you have a copy; request one if you don't. This information may be needed later for social security, insurance, etc.

## **How do I Review my Child's Records?**

To get specific records, ask the school to provide a copy of the records you need. For example, ask for a copy of your child's last evaluation, or a copy of the minutes from the last IEP meeting. Put your request in writing.

You also have the right to access all of your child's educational records. Notify the EC Director or the Principal in writing that you would like to conduct a review of all of your child's educational records (see page 180 for a sample letter). Sometimes files are kept at various locations, and giving a few days notice will allow the school to gather all of the records in one place. The school should have someone knowledgeable about the records available to answer any questions you may have. The following checklist may help you review your child's records.

# Items to Note for Record Review

Child: \_\_\_\_\_  
School: \_\_\_\_\_ Age: \_\_\_\_\_  
Grade/Program: \_\_\_\_\_  
Date Records Requested: \_\_\_\_\_  
Date School Answered: \_\_\_\_\_  
Date of Record Review: \_\_\_\_\_  
School Staff Present: \_\_\_\_\_

## Number and Name of Files Reviewed

\_\_\_\_\_  
\_\_\_\_\_

### RECORD REVIEW

- \_\_\_\_\_ Is identifying data (names, ages, etc.) correct and up-to-date?
- \_\_\_\_\_ Are evaluations current (no more than three years old)?
- \_\_\_\_\_ Do the evaluations reflect strengths as well as weaknesses?
- \_\_\_\_\_ Do the evaluations provide suggestions for programming or do they simply give numerical scores?

#### As related to the individual child's needs, do the records include:

- \_\_\_\_\_ psychological (psycho-educational) evaluations
- \_\_\_\_\_ PT (Physical Therapy) evaluations
- \_\_\_\_\_ OT (Occupational Therapy) evaluations
- \_\_\_\_\_ Speech/Language evaluations
- \_\_\_\_\_ academic achievement reports (report cards, progress notes, etc.)
- \_\_\_\_\_ standardized test results such as EOGs and other statewide tests
- \_\_\_\_\_ current and past IEPs
- \_\_\_\_\_ medical records
- \_\_\_\_\_ behavioral evaluation
- \_\_\_\_\_ vocational evaluation
- \_\_\_\_\_ parent letters and comments and other correspondence

Other: \_\_\_\_\_  
\_\_\_\_\_

Date Record Correction Requested: \_\_\_\_\_  
Date Approved/Denied: \_\_\_\_\_  
Copies Requested: \_\_\_\_\_  
Date Received: \_\_\_\_\_

## What if the School is not following FERPA?

If the school refuses to let you see or correct your records, or releases information without your consent, send a written complaint to:

Family Policy Compliance Office  
U.S. Department of Education  
400 Maryland Avenue, SW  
Washington, D.C. 20202-5920

This office is responsible for enforcing FERPA. Be sure you file your complaint as soon as possible and **keep a copy of your letter**. Or you can file a complaint with the State (see Chapter 19, page 146).

## Should I Keep My Own Records?

Yes! Good record keeping is an important step in making sure your child receives an appropriate education. You should keep records to document your requests for services, evaluations, and any other information concerning your child's special needs. This includes observations of your child's behavior and development at home, at play, with friends and relatives, in school or any other situation. It means keeping written notes of when you are contacted by professionals or when you telephone, write or visit with a medical, educational or other professional.

- Start keeping a notebook listing the names, addresses, and phone numbers of people you contact. Write down the questions you ask and the answers you receive.
- Keep a copy of all your child's school records in the book.
- Keep copies of all letters you write to school personnel, advocates and other people involved with your child.
- Put as much in writing as you can and ask others to do the same. (See Chapter 21)
- Include information on your rights, such as the *Handbook on Parents' Rights*, the *Policies*, and this manual.

Writing down every step you take can be the evidence that finally makes change happen! Keeping accurate records of who you spoke to, when you spoke with him/her, what

he/she said, and how long you waited between the question and the answer will be to your advantage. Keep a “telephone log” of calls, and make a record of requests and agreements with a letter.

No two parent records, or Home Files, will be alike. We can suggest the types of materials that should be kept in your Home File, but your child’s individual needs will make the contents of the file **individual**. Organize your file in a way that will make it easy for YOU to find the information. At the very least, your file should contain any school records with your signature, copies of all evaluations, and all written correspondence with the school.

## Home File Checklist

- \_\_\_ 1. Birth Certificate
- \_\_\_ 2. Immunization Records
- \_\_\_ 3. Medical Records
- \_\_\_ 4. School Records
  - \_\_\_(a) Academic Achievement Reports  
(tests, report cards, transcripts)
  - \_\_\_(b) Psychological Evaluations
  - \_\_\_(c) PT, OT, Speech/Language, Vocational Evaluations
  - \_\_\_(d) Current and Past IEPs
  - \_\_\_(e) Behavioral/Social Evaluations
- \_\_\_ 5. Samples of child’s work and other accomplishments
- \_\_\_ 6. Telephone Logs
- \_\_\_ 7. Correspondence
- \_\_\_ 8. Other, as you see the need

## **B. SECTION 504 OF THE REHABILITATION ACT OF 1973**

### **What is Section 504?**

Section 504 is part of a federal law called the Rehabilitation Act of 1973. Congress recognized that many people with disabilities had been victims of discrimination that denied them an equal chance to lead full, productive lives. Congress passed Section 504, which does not allow any program that receives federal money to discriminate against people with disabilities. The law states:

“No otherwise qualified individual with a disability in the United States shall, solely by reason of his/her disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.”

### **What Does Section 504 Say?**

Section 504 is a civil rights law that protects individuals against certain discriminatory practices. This law ensures that a child with a disability has equal **access** to an education. Section 504 does not guarantee that a child with a disability will receive an individualized educational program that is designed to meet the child’s individual educational needs. Under Section 504, the child may receive accommodations and modifications. Procedural protections (parent and student rights) are not available under Section 504 the way they are available under IDEA.

To qualify for protection under Section 504, the child must have a disability that substantially limits a major life activity. Major life activities include things like talking, walking and learning. So, for example, a young man with cerebral palsy may have a very hard time walking. Walking is a major life activity. Therefore, this disability qualifies the young man for protection under Section 504. The young man may or may not qualify for services under IDEA, depending on whether he needs special education.

It is important to know that **all children** identified under IDEA have been identified as a child that has a disability that affects learning. Learning is a major life activity, so all children who are served under IDEA are also entitled to protections under Section 504.

## Why is Section 504 Important?

Since Section 504 is a general civil rights law that applies to *all* persons with disabilities, it is broader than IDEA in some ways. In other words, Section 504 provides some rights not specifically given in IDEA.

- The **definition of “disabled”** used in Section 504 includes more people than in other laws— IDEA applies only to children with disabilities who require special programs and services to benefit from education. Under Section 504, a disabled person is any person who:
  - has a physical or mental disability which substantially limits one or more major life activities
  - has a record of such a disability
  - is regarded as having such a disability

In other words, a person can be disabled and given the civil rights protections of Section 504 without being eligible for special education under IDEA.

- Section 504 covers **accessibility and comparability** of programs.
  - **Accessibility**— Any program that receives federal funds must be readily accessible to people with disabilities. In other words, public buildings must be free of barriers so that people with disabilities can come and go as freely as persons without disabilities, and “reasonable accommodations,” such as interpreters or other modifications, must be provided.
  - **Comparability**— The services and activities provided for students with disabilities must be similar to services for students without disabilities. For instance, if children without disabilities can attend special events during school hours, children with disabilities must also be given that opportunity. Children with disabilities must also be allowed to participate in non-academic and extracurricular services and activities such as physical education, recreational sports, transportation, health services, school-sponsored clubs, school-sponsored employment and assistance in obtaining outside employment. These services must be offered in a way that gives students with disabilities an equal opportunity for participation.

## What Else does Section 504 Say about Education?

Section 504 provides guidelines for educational services for **qualified** children with disabilities. A qualified child with a disability must be:

- the same age as a child without disabilities who receives the service;
- the age that it is mandatory under state law to provide services to persons with disabilities;
- a person for whom a state is required to provide Free Appropriate Public Education under the Individuals with Disabilities Education Act; or
- other children not specifically listed in IDEA but “perceived as disabled.”

Section 504 says that an **appropriate education** means to provide regular or special education and related aids and services.

- Education services must be designed to meet a child with a disability’s individual needs as adequately as the needs of persons without disabilities.
- Each child with a disability must be educated with children without disabilities, to the maximum extent appropriate to the needs of the child with the disability.
- Non-discriminatory evaluation and placement procedures must be established to guard against misclassification or misplacement of students, and a periodic re-evaluation must be conducted with students who have been provided special education and related services.
- Due process procedures must be established so that parents and guardians can review evaluation and placement decisions made concerning their children, and can participate and be represented by counsel in any impartial hearing.

**SPECIAL NOTE:** A child who is served under a 504 Plan *may* also be eligible for vocational services through Vocational Rehabilitation (VR), such as vocational evaluation, career planning, and vocational guidance and counselling. **A child with a 504 Plan is less likely to receive the attention to transition planning and referral to VR as a child with an IEP. Ask the Transition Coordinator, 504 Coordinator, or a guidance counsellor at your child’s high school to make a referral to VR.**

## What if the School is not following Section 504?

If your child has a 504 Plan and you feel there has been an act of discrimination on the basis of disability against your child and/or against other children in a program receiving money from the U.S. Department of Education (all state and local school systems receive federal money), you may file a complaint with the **Office for Civil Rights (OCR)**. In North Carolina, write to:

Office for Civil Rights/DC  
US Department of Education  
400 Maryland Avenue, SW  
Washington, D.C. 20202-1475

Phone: (202) 453-6020  
Fax: (202) 453-6021  
TDD: (800) 877-8339  
Email: [OCR.DC@ed.gov](mailto:OCR.DC@ed.gov)

The complaint must be in writing or completed online (there is a complaint form that OCR recommends that is available on its website). You must sign the complaint, and file it within 180 days of the action about which you are complaining. You should include:

- who was discriminated against
- in what way, by whom or by what institution
- when the discrimination took place
- who can be contacted for further information
- the name, address and telephone number of the person making the complaint
- include as much background information as possible about the discrimination

These are suggestions only. The OCR needs as much information as possible to respond to your complaint. You can contact the regional office listed above for help in preparing your complaint.

# **Chapter 21: Documentation and Letter Writing**

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Letter writing is a very important part of getting and maintaining good special education services for your child. People remember letters; they may forget a telephone call. And there can be no misunderstanding of what you said or requested if that request is in writing. Remember, if it's not in writing, it didn't happen!

Requests for services, discussions of problems, questions about programs or services, and documentation of agreements made during meetings should all be done in writing. **In the event you pursue Due Process, your case will be stronger if you have letters or other written documentation.**

Letters do not need to be fancy or typewritten. **They must include:**

1. the date you wrote the letter
2. the name and address of the person the letter is written to and his/her title (principal, etc.)
3. your child's name and some background information
4. an explanation of the problem or issue
5. your question or request
6. if documenting a meeting, a list of what you understood to be said or agreed upon
7. a "thank-you" to the person for helping you
8. a "time limit" for a response or answer
9. your full name, address and phone number

**DON'T FORGET TO KEEP A COPY!**

## To Whom Do I Write?

If you are documenting a meeting, write the letter to the person who was in charge of the meeting. If you are making a request, write to the person who can give you an answer. For example, the classroom teacher cannot tell you why the school system doesn't offer physical therapy, but the Exceptional Children's Director can.

If you are trying to solve a problem, write the first letter to the "location" of the problem. For example, if the problem is in the classroom, write to the teacher; if in the school building, write to the principal. If the problem is with the special education program, write to the Exceptional Children's Director. If you are trying to get testing, a change in your child's program, or other issues concerning the IEP, write the IEP Team in care of the principal. If you are unsure whom to write, it is always appropriate to write to the Exceptional Children's Director for your school system.

If you have not received a response to the first letter within your "time limit," then write the next letter (with a copy of the first letter enclosed) to the supervisor immediately above the person to whom you first wrote.

**DON'T FORGET TO KEEP A COPY!**



# SAMPLE LETTERS

The following letters are samples of letters that you might need to write to a principal, EC Director, or other school system staff. Use these letters as a guide to help with your own letter writing. If you do not see a letter that is helpful in your situation, you may contact the Exceptional Children's Assistance Center for other sample letters. **REMEMBER, keep a copy of every letter you write.**

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## LETTER REQUESTING AN EVALUATION

(Be sure to keep a copy for your notebook or file.)

(Date)

(Name of Principal)

(Name of school)

(Address of school)

Dear (Name of Principal),

I am the parent of (name of child). My child is having problems with his/her school work and I feel he/she may have a disability. Please refer him/her for testing to see if he/she qualifies for special education and related services.

I would appreciate hearing from you within the next ten days. Please call me if you have any questions.

Thank you for your help.

Sincerely,

(Your name)

(Your telephone)

cc: (Name)

Exceptional Children's Director, (your school district)

(Address of EC Director)

## LETTER REQUESTING RE-EVALUATION

(Be sure to keep a copy for your notebook or file.)

(Date)

(Name of EC Teacher or Case Manager)

(Name of school)

(Address of school)

Dear (Name of EC Teacher),

I am the parent of (name of child). I feel that my child should be re-evaluated because (choose one)

- his/her special education evaluation is over three years old;
- his/her special needs have changed (illness, accident, improvement, etc.); or
- other reason you feel your child should be re-evaluated.

Please let me know whom to contact to schedule a re-evaluation. I look forward to hearing from you within the next ten days.

Sincerely,

(Your name)

(Your phone number)

cc: (Name)

Exceptional Children's Director, (your school district)

(Address of EC Director)

## LETTER REQUESTING ADDITIONAL TESTING

(Be sure to keep a copy for your notebook or file.)

(Date)

(Name of EC Teacher or Case Manager)

(Name of school)

(Address of school)

Dear (Name of EC Teacher),

I am the parent of (name of child). I have studied the results of the school system's evaluation of my child and feel that he/she was not evaluated

- in every area of suspected disability; or
- by someone with experience testing students with my child's disability.

I believe more testing is needed

- in the following areas (list); or
- by someone familiar with my child's disability.

Thank you for your help. I look forward to hearing from you within the next ten days.

Sincerely,

(Your name)

(Your phone number)

cc: (Name)

Exceptional Children's Director, (your school district)

(Address of EC Director)

## LETTER REQUESTING INDEPENDENT EVALUATION

(Be sure to keep a copy for your notebook or file.)

(Date)

(Name)

Exceptional Children's Director, (your county)

(Address for EC Director)

Dear (Name of EC Director),

I am the parent of (name of child). I do not agree with the school system's evaluation of my child. Because I do not agree, I am requesting an independent evaluation at public expense.

Please let me know as soon as possible if the school system will agree to pay for this evaluation. Also send me a list of places I can contact for an independent evaluation and the billing instructions.

I will send you the results of the evaluation and I understand that those results must be considered in any future decisions about my child's education.

Thank you for your help. I look forward to hearing from you within the next ten days.

Sincerely,

(Your name)

(Your phone number)

## LETTER REQUESTING REVIEW OR REVISION OF AN IEP

(Be sure to keep a copy for your notebook or file.)

(Date)

(Name of EC Teacher or Case Manager)

(Name of school)

(Address of school)

Dear (Name of EC Teacher),

I am the parent of (name of child). I recently reviewed my child's IEP which was written in (month and year), and I believe that (select one or more)

- the IEP is "out of date" (more than one year old);
- the IEP does not meet my child's needs because of (change, illness, etc.);
- certain goals and objectives need to be changed;
- my child has not been working on the goals and objectives; or
- (other reason you feel the IEP should be reviewed or revised).

I request that an IEP meeting be held as soon as possible to review and, if necessary, to change my child's IEP. Please contact me so that the meeting can be scheduled.

Thank you for your help. I look forward to hearing from you within the next ten days.

Sincerely,

(Your name)

(Your phone number)

cc: (Name)

Exceptional Children's Director, (your school district)

(Address of EC Director)

## LETTER DOCUMENTING A TELEPHONE CALL OR MEETING

(Be sure to keep a copy for your notebook or file.)

(Date)

(Name)

(Title)

(Address)

Dear (Name),

Thank you for taking the time to (meet with me / talk to me on the phone) on (date). I appreciate your concern for (child's name).

- I understand from that discussion that you are concerned about \_\_\_\_\_; or
- As I mentioned, I am concerned about\_\_\_\_\_.

You feel \_\_\_\_\_ will help and the school has agreed to \_\_\_\_\_.

I also said that I would \_\_\_\_\_.

Thank you for your help.

Sincerely,

(Your name)

(Your phone number)

## LETTER REQUESTING ACCESS TO SCHOOL RECORDS

(Be sure to keep a copy for your notebook or file.)

(Date)

(Name of EC Teacher or Case Manager)

(Name of school)

(Address of school)

Dear (Name of EC Teacher),

I am the parent of (name of child). I am writing to request access to his/her school records. I would like to make an appointment to see and make copies of all school system records and files concerning my child. Please have someone available to answer my questions about the records.

I need to review the records before (date) so that I can prepare for (an IEP or mediation) meeting concerning my child.

Thank you for your help.

Sincerely,

(Your name)

(Your phone number)

cc: (Name of Principal)

(Name of school)

(Address of school)

# LETTER REQUESTING FUNCTIONAL BEHAVIOR ASSESSMENT OR BEHAVIOR INTERVENTION PLAN

(Be sure to keep a copy for your notebook or file.)

(Date)

(Name of EC Teacher or Case Manager)

(Name of school)

(Address of school)

Dear (Name of EC Teacher),

I am the parent of (name of child). My child has recently had behavior difficulties in school. I am writing to request that my child's IEP Team conduct a Functional Behavioral Assessment to determine whether (he/she) needs a Behavior Intervention Plan.

Please advise me about the IEP Team meeting date regarding this assessment. I look forward to hearing from you soon.

Thank you for your help.

Sincerely,

(Your name)

(Your phone number)

cc: (Name)

Exceptional Children's Director, (your school district)

(Address of EC Director)

## Chapter 22: Communication Skills

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If you want to be an equal partner in your child's educational planning, you must learn to effectively communicate your views and feelings to school personnel. Good communication with school staff is partly having a **positive attitude** and **viewing yourself as a partner**. It also means having **confidence** in yourself, having the ability to **say what you mean**, and being able to **listen** to others.

Many times parents are willing to communicate and deal with school personnel but are unsure how to go about it. Parents often feel they cannot talk with teachers, principals and other professionals because they have the "I'm just a parent" attitude. **YOU CAN** advocate for your child by practicing confident ways of discussing issues with others.

You will be talking with people individually and in groups. Whether you are speaking with one person or many people, good communication skills are necessary. You don't need to be a great speaker. You just need to know how to communicate and understand that **communication is a two-way street**.

### **NOTHING PERSONAL!**

One of the keys to good communication is "NOTHING PERSONAL." Personalities and your personal likes and dislikes have no place in your communications with school personnel. For example, saying "you are a bad teacher" creates an unpleasant situation and does not change anything for your child. On the other hand, saying, "this classroom is not working for my child," does not hurt feelings and puts you in the position of requesting a change in program for your child.

In the ideal world, you will be good friends with all of your child's teachers and other school staff. In the real world, this might not happen, but the person who cannot be your "friend" can still be a good teacher or service provider for your child. However, if that person is not meeting your child's needs, **remember, there are no personal issues - the only issue is the quality of your child's program**.

You may occasionally be working with a "professional" who may bring personal comments into your meeting. For example:

- "if you were more organized at home, your child might do better at school."
- "you are being unreasonable."

- “you want everything for your child at the expense of the other children in my class.”

Your response to that type of comment should be “I am sorry you feel that way about me, but that is not the issue. The issue is whether this program is meeting the needs of my child.” Never respond to a personal comment with a statement about the other person. **It is important to keep the meeting focused on your child;** do not change the topic to your personal relationship with the staff.

## When You Have Something to Say

There are three styles or types of communication and behavior: passive, aggressive, and assertive. We each use all three types of communication, but we should work to consistently communicate in an **assertive** manner.

### Passive Behavior

Allowing other people to treat you, your thoughts and feelings in the way they want.

#### Characteristics of Passive Behavior

- You avoid all problems.
- You establish a pattern of others taking advantage of you.

#### Results of Passive Behavior

- You feel powerless.
- You become angry and resentful.
- You waste time.

If you are passive and allow others to ignore your right to be involved in your child’s education, you will not feel good about your relationship with the school and probably will not achieve your goals for your child. For example, when you go to a meeting and do not speak up, and don’t say what you want to say, you leave the school grumbling, “I should have said...” or “Why didn’t I say...” You leave feeling powerless and like you have accomplished nothing. You also feel angry at both yourself and the school staff, and this anger gets in the way of good communication and working relationships.

## **Aggressive Behaviors**

Standing up for what you want, regardless of the rights and feelings of others.

### Characteristics of Aggressive Behavior

- You attack people, not problems.
- You let anger get out of control.
- You demand, not request.

### Results of Aggressive Behavior

- You only get temporary satisfaction.
- You offend others.
- Others fear and avoid you and are less willing to help you.

**(bad)** “John’s speech class had better start next week, or you’ll be sorry!”

**(good)** “John’s really not making progress because of the lack of speech services. Why isn’t he receiving speech and whom do I contact to get this started as soon as possible?”

The “bad” statement will stop the conversation with school staff. The “good” statement will, hopefully, produce the schedule for the services, the reason why speech is not being provided, or get you the name of the person to contact to push for the service.

You might get some very temporary satisfaction from telling the teacher or principal “what you think about them.” But this type of communication offends others and also makes personalities, not your child, the issue. Remember, aggressive statements stop two-way communication, are offensive, and prevent working relationships that can solve problems. Don’t be afraid to ask for a break so you can calm down and avoid aggressive behavior.

## **Assertive Behavior**

Standing up for personal rights and expressing thoughts, feelings and beliefs in direct, honest and appropriate ways which respect the rights of other people.

### Characteristics of Assertive Behavior

- You focus on problems, not personalities.
- You establish good working relationships.
- You deal appropriately with anger.
- You express your feelings.

## Results of Assertive Behavior

- People will respect you.
- There is a good chance of problems being resolved.
- You feel good about yourself.

Assertiveness is a skill that can be learned through practice. Some people confuse assertiveness with aggression, but they are VERY different! Assertiveness means that you say what you think without attacking the other person or his/her ideas. Assertiveness is the difference between “I” and “You.”

**(bad)** “**You**’ve got to be kidding!”

**(good)** “**I** disagree with that. I think...”

**(bad)** “**You** make me mad.”

**(good)** “**I** don’t feel comfortable talking with you about this.”

**(bad)** “**You** are rude.”

**(good)** “**I** don’t feel like my opinions are being heard.”

## Tips on Being Assertive

1. Say what you really want to say.
2. Be clear and to the point.
3. Be firm, be persistent.
4. Use “I” statements.
5. Describe your feelings.
6. Watch your voice – keep volume low and tone calm.
7. Maintain good eye contact.
8. Relax.

9. Avoid nervous laughter, jokes and gestures.
10. Avoid whining, pleading, screaming and sarcasm.

## **Don't Forget to Listen!**

Communication has two sides—you also have to be willing to listen. Listening is a skill and has to be learned. Listening means giving your attention to another person so you can hear what is being said. We sometimes let things get in the way or put up barriers that keep us from truly hearing what the person is trying to say.

Barriers to Listening:

- The opinions are different from yours.
- You have had the conversation before.
- You don't like the person.
- The person is saying something you don't want to hear.
- You feel anxious or the comments cause stress.
- The person is asking for something - your time, support, etc.

## **Listening Tips**

1. STOP TALKING.
2. Wait to hear what is being said.
3. Turn off your “negative feelings” about the person.
4. Don't jump to conclusions.
5. Ask questions.

6. Paraphrase. Put what others have said into your own words. For example, “I think I understand. You’re saying that…” and then put what you understand in your own words.
7. Take notes.

And remember that the other person can be experiencing the same feelings that you are. They, too, can be frustrated, uptight, insecure, threatened, tense or upset. When you are feeling frustrated, they may also be frustrated; when you are feeling angry, they may also be angry; when you are feeling afraid, they may be afraid; when you are feeling helpless, they, too, may be feeling helpless. And only **communicating assertively** and **really listening** can make it possible for a real partnership to develop.

One more tip: If you have had problems in the past, don’t assume the situation will always be bad. Try opening your next meeting this way: “I know we’ve disagreed in the past, and I really want our communication to improve. We’re all here to do what is best for my child’s education. I hope we’ll all really listen to each other at this meeting.”

# ABCs of Special Education

<b>ADHD</b>	Attention Deficit Hyperactivity Disorder
<b>AFB</b>	American Federation for the Blind
<b>ALJ</b>	Administrative Law Judge
<b>APE</b>	Adaptive Physical Education
<b>ARC</b>	Provides advocacy and services for persons with developmental disabilities
<b>ASHA</b>	American Speech-Language-Hearing Association
<b>AT</b>	Assistive Technology
<b>AU</b>	Autistic
<b>BIP</b>	Behavior Intervention Plan
<b>CDSA</b>	Children's Developmental Services Agency (formerly DEC)
<b>CDL</b>	Center for Development and Learning (formerly DDDL); clinic at UNC Chapel Hill
<b>CP</b>	Cerebral Palsy
<b>D-B</b>	Deaf-Blind
<b>DD</b>	Developmental Disability
<b>DHHS</b>	NC Department of Health and Human Services
<b>DOC</b>	NC Department of Correction
<b>DPI</b>	NC Department of Public Instruction
<b>DRNC</b>	Disability Rights North Carolina
<b>DSB</b>	NC Division of Services to the Blind
<b>DVE</b>	NC Division of Vocational Education
<b>DJJ</b>	NC Department of Juvenile Justice and Delinquency Prevention
<b>EC</b>	Exceptional Children
<b>ECAC</b>	Exceptional Children's Assistance Center
<b>ED</b>	Seriously Emotionally Disabled
<b>EI</b>	Early Intervention
<b>ESY</b>	Extended School Year
<b>FAPE</b>	Free Appropriate Public Education
<b>FBA</b>	Functional Behavioral Assessment
<b>FERPA</b>	Family Educational Rights and Privacy Act
<b>HI</b>	Hearing Impaired

<b>IDEA</b>	Individuals with Disabilities Education Improvement Act of 2004
<b>ID-Mild</b>	Intellectual Disability – Mild
<b>ID-Moderate</b>	Intellectual Disability – Moderate
<b>ID-Severe</b>	Intellectual Disability – Severe
<b>IEE</b>	Independent Educational Evaluation
<b>IEP</b>	Individualized Education Program
<b>IFSP</b>	Individualized Family Service Plan
<b>LEA</b>	Local Education Agency
<b>LDA</b>	Learning Disability Association
<b>LRE</b>	Least Restrictive Environment
<b>MDR</b>	Manifestation Determination Review
<b>MU</b>	Multiple Disabilities
<b>NCCCBD</b>	N. C. Council for Children with Behavioral Disorders
<b>NCSHLA</b>	NC Speech, Hearing and Language Association
<b>OAH</b>	Office of Administrative Hearings
<b>OCR</b>	Office for Civil Rights, U.S. Department of Education
<b>OHI</b>	Other Health Impaired
<b>OI</b>	Orthopedically Impaired
<b>OSEP</b>	Office of Special Education Programs, U.S. Department of Education
<b>OSERS</b>	Office of Special Education and Rehabilitative Services, U.S. Department of Education
<b>OT</b>	Occupational Therapy
<b>PLP</b>	Present Level of Performance
<b>PT</b>	Physical Therapy
<b>SBE</b>	State Board of Education
<b>SEA</b>	State Education Agency
<b>SI</b>	Speech Impaired
<b>SLD</b>	Specific Learning Disabled; sometimes LD - Learning Disabled
<b>TBI</b>	Traumatic Brain Injury
<b>VI</b>	Visually Impaired
<b>VR</b>	NC Division of Vocational Rehabilitation Services

# FAMILY EDUCATIONAL DICTIONARY

<b>Academic</b>	Related to learning. This usually refers to subjects such as reading, writing, math, social studies, and science.
<b>Achievement Test</b>	A test that measures what a child has already learned. Scores are reported in the form of standard scores, percentile ranks, and sometimes grade equivalents. For example, 2.3 means second grade, third month.
<b>Acuity (auditory)</b>	The ability of a person to receive and tell the difference between sounds.
<b>Acuity (visual)</b>	The ability of a person to see and understand the difference in symbols or letters used for reading.
<b>Adaptations</b>	Adjustments or changes
<b>Adaptive Physical Education (APE)</b>	Physical education program designed for an individual student whose disability prevents him/her from participating safely and/or successfully in regular PE.
<b>Adaptive Behavior</b>	A wide range of skills that are used by a child to meet his/her everyday needs.
<b>Annual Review</b>	Looking over the program and plan of a student each year and changing it as needed.
<b>Appropriate</b>	Suitable
<b>Aptitude Test</b>	A test which measures the capability or talent for learning something.
<b>Architectural Barrier</b>	Any physical structure that prevents persons with disabilities from having normal or easy access to a location.
<b>Asperger's Syndrome</b>	A person with Asperger's Syndrome usually has

normal intelligence and language development. The person may have problems with social skills, handling change, or reading social cues such as body language. The person might also have a preoccupation with a particular interest, or be oversensitive to sounds, smells, tastes, etc. Asperger's Syndrome is sometimes referred to as "high-functioning autism."

**Assessment/Evaluation**

The activities in the testing process leading up to development of an appropriate individualized education program (IEP), the placement for a child with disabilities, and reevaluations of the child for purposes of determining continued eligibility.

**Assistive Listening Device (ALD)**

A device designed to improve the ability of a person to hear in specific listening situations.

**Assistive Technology (AT)**

Any item, piece of equipment, product, or service that is used to increase, maintain, or improve the functioning of a person with disabilities.

**Attention Deficit Hyperactivity Disorder (ADHD)**

A person with ADHD has a persistent pattern of hyperactivity or problems with attention. To qualify for special education services, the child must show this pattern in more than one location (ex. both school and home), and it must affect the child's education. A child with ADHD may:

- have messy or careless work
- daydream
- fail to follow through on tasks
- frequently change to a different activity or thought
- be forgetful
- be impatient
- blurt out answers or interrupt others
- fidget
- be easily distracted.

Social skills may be affected. Despite the name, hyperactivity does not have to be present if inattentiveness is more prevalent. ADHD was formerly referred to as ADD (Attention Deficit Disorder), and one may still hear "ADD." When ADHD is the primary diagnosis, a child may be

eligible for special education under the “Other Health Impaired” category.

**Attention Span**

The ability of a person to work, without stopping, on a single task (sometimes measured in length of time).

**Audiological Exam**

A test of a person’s hearing ability.

**Audiology**

The study of hearing and hearing disabilities.

**Auditory**

Having to do with hearing.

**Auditory Attention**

The ability to pay attention to what that is heard.

**Auditory Comprehension**

The ability to understand what is heard.

**Auditory Discrimination**

The ability to detect very small differences between sounds in words. (tap-cap; cap-cop)

**Auditory Memory**

The ability to remember what is heard (words, numbers, stories). This includes both short- and long-term memory.

**Auditory Perception**

The ability to remember information correctly, and in the order given, after you have heard it.

**Augmentative and Alternative Communication (AAC)**

Any device, system, or method (other than natural speech) that improves or enhances a person’s ability to communicate. This includes sign language, letter boards, speech-generating devices, computer software, etc.

**Autistic/Autism**

A person with autism has a severe and continuing developmental disability that affects communication and behavior. The main features include disturbances of:

- developmental rates;
- responses to sensory stimulation;
- speech, language and learning abilities;
- ability to relate to people, events and objects.

**Behavior Intervention Plan (BIP)**

A written plan for a student with disabilities that outlines positive behavioral interventions and supports to address problem behaviors. The plan becomes part of the IEP, and it needs to be reviewed at least annually, or more often if the IEP Team feels it is necessary. The IEP Team needs to consider whether a plan is needed in all cases where a student's behavior interferes with his/her own learning or that of others.

**Behavior Modification**

A procedure that is based on the belief that all behavior is learned, and therefore, can be unlearned (changed). You must decide the specific behavior to be changed and decide on a definite plan for accomplishing that goal.

**Cerebral Palsy**

A person with CP has a brain injury that happened before, during, or shortly after he/she was born, and that now affects his/her motor skills. People with CP are affected in different areas of the body, in the number of body parts affected, and in their symptoms. Common characteristics of CP include involuntary movements, problems making voluntary movements because muscles are spastic or tense, and a loss of coordination.

**Children with Disabilities**

Children who because of mental, physical, or emotional disabilities are unable to have all of their educational needs met in a regular classroom without special education or related services, or who otherwise are unable to be adequately educated without assistance in the regular public school programs.

**Chronic**

Refers to diseases, mental illnesses, or symptoms that continue over long periods of time, and may exist throughout the lifetime of a person.

**Chronological Age**

The exact age of a person expressed in years and months.

<b>Cognitive Development</b>	Process by which the brain develops the abilities to think, learn, reason, and remember.
<b>Confidentiality</b>	All records that can be connected to an individual child are kept in confidence according to federal regulations. This means that no one is allowed to see them except authorized school personnel, the parents, the child when appropriate, and others by special permission.
<b>Consent</b>	Permission. In education, this means that parent approval must be given (for example, to test a child or place him/her in a special education program).
<b>Continuum of Programs and Services</b>	A list of all the placements available for special education, moving from least restrictive to most restrictive; for example: <ul style="list-style-type: none"> <li>▪ regular class with special help and modifications</li> <li>▪ special class in regular school, such as resource</li> <li>▪ special school for students with disabilities</li> <li>▪ homebound or hospital instruction</li> </ul>
<b>Cross-Categorical</b>	A classroom in which students with different disabilities all receive special education services together.
<b>Deaf-Blind</b>	Deaf-Blind students have both hearing and visual disabilities. Together, they cause such severe communication and other developmental and educational problems that the students cannot be taught in special education programs that teach children who are either deaf <i>or</i> blind.
<b>Depth Perception</b>	Ability to judge depth or distance in space; for example, how far away a stop sign is when driving.
<b>Developmental</b>	The changes that occur during the process of natural growth.
<b>Developmental Delays</b>	Behind the normal developmental pace in reaching developmental milestones.

<b>Developmental Milestones</b>	Mastery of the physical and cognitive skills needed to progress to the next skill in early childhood in the areas of cognitive, emotional and social, language, sensory, and motor development; for example, crawling, walking, and talking.
<b>Diagnosis</b>	The process of identifying the nature, cause or extent of a disease or response; a term which comes to education from medicine.
<b>Discrimination</b>	In education, the process of knowing differences; for example, visual discrimination is the identification of small differences in size, shape, texture.
<b>Due Process</b>	A legal term, which in education refers to the right to a hearing if you disagree with the school system on the identification, educational plans, or placement for your child.
<b>Dysgraphia</b>	Inability to develop legible handwriting.
<b>Dyslexia</b>	A person with dyslexia has a reading disability. He/she may have trouble relating letters to sounds, or switch around letters within words.
<b>Evaluation, Medical</b>	Examination and diagnosis by a physician.
<b>Evaluation</b>	Testing to see if a child should receive special education services. This may include: adaptive behavior evaluation, educational evaluation, health screening, vision evaluation, hearing evaluation, psychological evaluation, social/developmental history, speech-language evaluation, vocational evaluation.
<b>Exceptional Children (EC)</b>	All children who, because of mental, physical or emotional disabilities, need special education.
<b>Expressive Language</b>	Skills required to produce language for communicating with other people. Speaking and writing are expressive skills.

<b>Extended School Year (ESY)</b>	Special education and related services that are provided to a student with disabilities beyond the normal school year. ESY must be for IEP goals and provided at no cost to the parent.
<b>Fine-Motor Coordination</b>	Development and control of small muscles such as those used to cut, hold a pencil, etc.
<b>Formal Assessment</b>	A published, standardized test used to measure characteristics such as intelligence or achievement. Such tests have a standard set of directions for their use and interpretation.
<b>Free Appropriate Public Education (FAPE)</b>	A legal guarantee that no child can be denied an education because of a disability, that the education must be given without cost to parents, that the education must be planned on the basis of the child's unique needs, and that it must meet the standards of the state education agency.
<b>Functional Behavior Assessment (FBA)</b>	A procedure for observing and analyzing undesired behaviors in order to understand the behavior and identify the triggers for the behavior. This information is then used in the development of appropriate interventions, often outlined in the form of a Behavior Intervention Plan.
<b>Gateway Year</b>	A student's last year in: preschool before moving to elementary school; elementary school before moving to middle school; and middle school before moving to high school.
<b>Goal</b>	A statement which describes the new skill to be learned by the child during the coming year. It must be related to the child's progress and testing results.
<b>Gross Motor Coordination</b>	Use of large muscle groups to do things, such as running, jumping, etc.
<b>Hearing Impaired</b>	Children with hearing losses who, with or without amplification (devices to improve hearing),

may require various instructional changes and related services in order to make full use of school experiences. “Hearing impaired” is a generic term which includes all hearing losses ranging from mild to profound. Although schools still use the term “hearing impaired,” the term “hard-of-hearing” is generally preferred.

**Homebound Services**

A placement along the continuum of programs; it is special education and related services that are provided in the home. This is generally disfavored because it is the most restrictive educational environment.

**Inclusion**

The participation of students with disabilities in settings in the school and the community alongside their peers without disabilities. This may include a regular classroom and non-classroom activities such as lunch, assemblies, library, PE, and extracurricular activities like sports, clubs, and employment. Inclusion is sometimes referred to as “main-streaming.”

**Individualized Education Program (IEP)**

A written statement for each child with a disability describing goals, placement, and related services for the child. It must be based on the results of the child’s evaluation, and must be developed at a meeting of parents, teachers, supervisors and the student where appropriate. It must meet state educational standards.

**Informal Assessment**

Using procedures, such as classroom observations, interviews, or teacher-made tests which have not usually been tried out with a large group of people, and which do not necessarily have a standard set of instructions for their use and interpretations.

**Intellectually Disabled**

A category used to classify students for special education. It describes a child with a significant cognitive deficit and a reduced rate of learning. It exists at the same time as deficits in adaptive behavior, begins at a young age, and negatively affects the student’s educational performance.

**Intellectually Disabled – Mild (ID-Mild)**

A classification used to qualify children for special education services. A child who scores between 66 and 70 on an I.Q. test and needs a special education program may be classified by the IEP Team as a student who is ID-Mild.

**Intellectually Disabled – Moderate (ID-Moderate)**

A classification used to qualify children for special education services. A child who scores between 51 and 65 on an I.Q. test and needs a special education program maybe classified by the IEP Team as a student who is ID-Moderate.

**Intellectually Disabled – Severe (ID-Severe)**

A classification used to qualify children for special education services. A child who scores below 50 on an I.Q. test and needs a special education program may be classified by the IEP Team as a student who is ID-Severe.

**Intelligence Quotient (I.Q.)**

The score obtained on a test of mental ability; it is usually found by relating a person’s test score to his/her age.

**Intelligence Test (I.Q. Test)**

A standardized series of questions and/or tasks used to measure abilities— how a person thinks, reasons, solves problems, remembers, and learns information.

**Least Restrictive Environment (LRE)**

A legal guarantee that every child will be given an opportunity to learn with same-aged students without disabilities in a setting as nearly like a regular classroom as possible.

**Local Educational Agencies (LEAs)**

Refers to all city and county school systems, the NC Department of Health and Human Services, the NC Department of Corrections, the Department of Juvenile Justice, and all state-approved charter schools.

**Mental Age**

A person’s intellectual ability, expressed in terms of years and months.

**Modify**

To change.

**Motor Perceptual Test  
Multiple Disabilities  
(MU)**

Tests of eye and hand working together.  
A category used to classify students for special education. A child labeled as MU has a primary disability that is cognitive (learning) and/or behavioral, in combination with one or more other disabilities. The combination of disabilities causes such developmental and educational issues that the student cannot be accommodated in special programs that primarily serve only one area of disability.

**Neurological  
Examination**

Tests to determine diseases of or damage to the nervous system.

**Non-discriminatory  
Assessment**

Test tools and methods which are “fair” to the student in the sense that they are: given in his/her native language; given with reference to the child’s age, socioeconomic and cultural background; given by trained persons; appropriate, even if the child has a physical, mental, speech or sensory disability.

**Norms**

Information about “normal” or typical performance on a standardized test. Individual test scores can be compared to the typical score made by other persons in the same age group or grade level.

**Objectives  
(or Benchmarks)**

Specific and concrete statements of what skills a student should acquire during the duration of the IEP. A breakdown of the annual goals into smaller steps to be accomplished on the way to achieving the annual goal.

**Observation**

A careful look at the child in school or other environments to note how he/she works and behaves in different situations; the purpose of the observation is to learn more about the child than can be learned from a test.

**Occupational Therapy  
(OT)**

Treatment provided by a therapist trained in helping the patient develop sensory, motor, self-help, and other skills that will aid the student’s functioning abilities. In special education, occupational therapy is provided to those students who need it in order to

benefit from special education in the least restrictive environment.

**Ocular**

Having to do with the eyes.

**Orthopedically Impaired (OI)**

A category used to classify students for special education. A student labeled as OI has a disability related to bones, joints, nerves and connective tissue; the disability causes problems with his/her educational performance. The term includes disabilities caused by birth defects, diseases or other causes.

**Other Health Impaired (OHI)**

A category used to classify students for special education. A student labeled as OHI has a continuing or sudden onset of health problems which cause limited strength, energy or alertness, and affect the student's educational performance. The health problems may include heart conditions, tuberculosis, rheumatic fever, nephritis, asthma, sickle cell anemia, hemophilia, epilepsy, lead poisoning, leukemia, diabetes, genetic disabilities, or ADHD.

**Parent**

A parent, a guardian, a person acting as a parent of a child, or a surrogate parent who has been appointed officially within DPI regulations.

**Peer Group**

Other persons of the same age.

**Peer Interaction**

Social contact with other persons of the same age.

**Percentile Rank**

A number between 0 and 99 that tells what percentage of individuals in a group scored above and below a certain score. A percentile rank of 78 says that the person scored higher than 78% of the group and lower than the other 22%. Percentile rank should not be confused with percentage score on a test.

**Perception**

The process of understanding information through the senses (smell, touch, taste, sight and hearing).

<b>Perceptual Motor Test</b>	A test that requires the person to use his/her skills in receiving and interpreting sensory information in responding to tasks that require actions, such as drawing a line between two given lines.
<b>Perseveration</b>	Continuing to behave or respond in a certain way when it is no longer appropriate. Difficulty in shifting from one task to another. Extreme attention to one particular idea or object.
<b>Phonetics</b>	Study of all the speech sounds in a language and how these sounds are produced.
<b>Phonics</b>	The teaching of reading by relating the sound of the letter with the equivalent written letter.
<b>Physical Therapy</b>	Treatment of disabilities and diseases of bones, joints, muscles and nerves by physical manipulation, exercises, etc. In special education, it may be provided as a related service if it is necessary for the child to benefit from the educational program.
<b>Placement</b>	Tells how much time the child will spend with children who are not disabled.
<b>Primary Disability</b>	The child's disability which causes the largest number of problems in the educational process and for which the greatest amount of special education plans are designed.
<b>Psychomotor</b>	Refers to muscle responses, including development of fine motor (small) muscles (cutting, writing) and gross motor (large) muscles (walking, jumping).
<b>Reading Comprehension</b>	The ability to understand what one has read.
<b>Receptive Language</b>	Receiving and understanding spoken or written communication. Listening and reading are receptive language skills.
<b>Regular Setting</b>	A placement along the continuum of programs. Students in the regular setting receive the majority of

their education with nondisabled children, and are in the regular classroom for more than 80% of the school day. The portion of the school day where the child receives special education in such cases is often referred to as “pull-out” if it is provided outside the regular classroom. Special services from a resource teacher within the regular classroom are usually called “co-teaching” or “inclusion teaching.”

**Related Services**

Those other supports or services that an individual child needs in order to benefit from his/her education. They are paid for by the public school and may include:

- transportation to and from school or for related services
- counseling services
- psychological services, including testing and interpretation
- speech-language services or audiology
- school health services
- occupational or physical therapy
- social work services
- medical services (for diagnosis only)
- parent training

**Reliability**

The extent to which a test provides accurate information.

**Resource Setting**

A placement along the continuum of programs. Students in the resource setting receive special education services provided by a special education teacher. The students are educated with their peers without disabilities for 40%-79% of the school day.

**School Psychologist**

A person trained to give psychological tests, interpret results, and suggest appropriate educational approaches to learning or behavioral problems.

**School Social Worker**

A person trained to identify and assess a student’s educational needs, including social, emotional and

adaptive needs. He works as a go-between among home, school and community.

**Screening**

Screening is the first-step testing plan to try to identify children who may need more testing for special education services.

**Self-Contained Classroom (Separate Setting)**

A placement along the continuum of programs. The students are educated with their peers without disabilities for 39% of the day or less. This setting is designed for children who cannot have their needs met in less restrictive programs.

**Self-Help**

Refers to feeding, dressing and other activities necessary for functioning in a family, in school and in the community.

**Sensory-Motor**

Coordination, involving fine (cutting, writing) and gross (walking, jumping) motor activities.

**Service Provider**

Any person or agency providing some type of service to children and/or their families.

**Seriously Emotionally Disabled (ED)**

A classification used to qualify children for special education services. A child who exhibits inappropriate behaviors and is unable to learn in the regular education setting, even after receiving supports and intervention strategies to control and change his/her behaviors, may be classified by the IEP Team as a student who is ED.

**Sibling**

Brother or sister.

**Social Acceptance**

The ability to get along with one's peers (friends).

**Social Maturity**

The ability to assume personal and social responsibility expected of persons of similar age.

**Spasticity**

Muscle tension that may limit movement.

**Special Education**

Specially designed teaching to meet the needs of children with disabilities.

**Special Education Teacher**

Person trained to test and teach a child with a disability so that child can do the best work he can and learn as much as he can in spite of the disability.

**Specific Learning Disabled (SLD)**

A classification used to qualify children for special education services. A child who has a processing disability that interferes with the typical way of learning may be classified by the IEP Team as a child who is SLD. For purposes of special education services, a student classified as SLD is one who, after receiving extra teaching help in the regular classroom, still has a large difference between his/her ability and his/her actual academic achievement. This difference, or discrepancy, may exist in listening, oral expression, written expression, reading, and/or mathematics.

**Speech-Language Impaired or Disabled (SI)**

A classification used to qualify children for special education services. A student who has a disability that affects language, voice, the ability to say words correctly, or to speak smoothly may be classified by the IEP Team as a student who is SI. The disability may range from mild to severe.

**Speech Therapist/Pathologist**

Person trained to diagnose speech or language needs and provide help for the child in improving speech and language skills.

**Standardized Achievement Test**

A series of questions designed to measure facts and information a student has learned; achievement levels are compared with same-age peers.

**Supplementary Aids and Services**

Aids, services, and other supports that enable a child with disabilities to be educated with children without disabilities to the maximum extent appropriate.

**Syndrome**

A group of symptoms that usually occur in a particular disability or disease.

**Therapy**

A treatment planned to improve a specific physical or emotional problem.

<b>Transition</b>	In education, this refers to moving a student from high school to a job, continuing education, vocational training, etc.
<b>Transition Plan</b>	A statement added to the IEP beginning at age 14, and updated annually, that outlines the services that will be provided to the student to prepare him/her for leaving high school and entering the work world or some type of training or educational program beyond high school. Starting at age 16, or sooner if needed, the transition plan must include a statement of which agencies will be responsible for the transition services.
<b>Traumatic Brain Injury (TBI)</b>	An open or closed head injury that causes difficulties with a student's learning ability so that special education is required.
<b>Validity</b>	The extent to which a test really measures what it is designed to measure.
<b>Visually Impaired (VI)</b>	<p>A classification used to qualify children for special education services. A child who has one of the following three kinds of visual disabilities may be classified by the IEP Team as a child who is VI.</p> <ol style="list-style-type: none"> <li>1) A child who is functionally blind, or who has so little remaining vision that he must use Braille as his/her reading medium.</li> <li>2) A child who has a loss of vision, but is able to use regular or large type as his/her reading medium. he/she usually has visual acuity between 20/70 and 20/200 in his/her better eye after correction.</li> <li>3) A child who is legally blind, or who has a visual acuity of 20/200 or less in the better eye after correction, or restricted peripheral vision.</li> </ol>
<b>Vocational Education</b>	Educational programs which are directly related to preparing individuals for paid or unpaid employment or additional preparation for a career (other than those

requiring a college degree).

**Vocational Rehabilitation  
(VR)**

Services that help prepare a student for employment or a vocational program after high school. Services may include individual counseling, work preparedness training, job search skills training, vocational evaluation, job placement assistance, and educational or vocational training. VR services are available during the latter part of high school to many students who have an IEP, and to some students who have a 504 plan.

# Special Education Resources

These organizations may be able to provide you with additional information about your child's disability, how that disability may affect your child's education, and on the rights you and your child have in special education. Some of the organizations may be able to provide advocacy or legal representation.

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## Advocates for Children's Services

## Legal Aid of NC

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Advocates for Children's Services (ACS) provides free legal services to low-income families. ACS represents special education students who are involved in the foster care system.

Online: [www.legalaidnc.org/acs](http://www.legalaidnc.org/acs)

Phone: (919) 226-0052

Office: 201 West Main Street, Suite 400  
Durham, NC 27701

Mail: P.O. Box 2101  
Durham, NC 27702

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## The Arc of North Carolina

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The Arc of North Carolina provides advocacy, information and referral, support and services to people with developmental and cognitive disabilities. The Arc of NC and many of its affiliated chapters in the state provide information and advocacy related to educational issues, including IEPs. To find a local chapter, call our 800 number or visit our website.

Online: [www.arcnc.org](http://www.arcnc.org)

Phone: (800) 662-8706  
(919) 782-4632

Office: 343 East Six Forks Road, Suite 320  
Raleigh, NC 27609

## **Autism Society of North Carolina**

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The mission of the Autism Society of NC is to provide support and promote opportunities which enhance the lives of individuals within the autism spectrum and their families. Parent Advocates across the state carry out this mission by offering expertise in a variety of areas, including:

- Information and Referral – to help individuals and families network with other families, individuals and providers; connecting families with a local support group
- Mental Health Services – guiding families on how to access the system
- School Issues – IEPs, how to collaborate with school personnel, etc.
- Transition Planning – what issues to consider as a child with autism nears adulthood
- Residential and Vocational Support – options and how to access available services
- Crisis Services – where to turn when help is needed
- Workshops – providing trainings and presentations to various groups

Online: [www.autismsociety-nc.org](http://www.autismsociety-nc.org)

Phone: (800) 442-2762 (NC only)  
(919) 743-0204

Office: 505 Oberlin Road, Suite 230  
Raleigh, NC 27605

## **BEGINNINGS For Parents of Children Who are Deaf or Hard of Hearing, Inc.**

BEGINNINGS provides emotional support, unbiased information, and technical assistance to parents of children who are deaf and hard of hearing, deaf parents with hearing children, and professionals serving those families. BEGINNINGS assists parents of children from birth through age 21 by providing information and support that will empower them as informed decision makers, helping them access the services they need for their child, and promoting the importance of early intervention and other educational programs.

Online: [www.ncbegin.org](http://www.ncbegin.org)

Voice/TTY: (800) 541-4327 (NC only)  
(919) 715-4092

Office: 302 Jefferson Street, Suite 110  
Raleigh, NC 27605

## **Brain Injury Association of North Carolina**

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The Brain Injury Association of North Carolina provides information and referral specifically related to Traumatic Brain Injury and Acquired Brain Injury. The Association may be able to provide advocacy services at your child's IEP meeting.

Online: [www.bianc.net](http://www.bianc.net)

Phone: (800) 377-1464  
(919) 833-9634

Main Office: 2113 Cameron Street, Suite 242  
Raleigh, NC 27605

Mail: P.O. Box 10912  
Raleigh, NC 27605

## **Council for Children's Rights**

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The Council for Children's Rights provides advocacy and legal representation in special education and school discipline cases in Mecklenburg County.

Online: [www.cfcrights.org](http://www.cfcrights.org)

Phone: (704) 372-7961

Office: 601 East Fifth Street, Suite 510  
Charlotte, NC 28202

## **Children and Adults with Attention-Deficit/Hyperactivity Disorder (CHADD)**

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CHADD and the National Resource Center on ADHD offer free information on ADHD and special education, in both English and in Spanish. Information specialists are available to respond to individual questions. Please contact the national office to find your local chapter of CHADD.

Online: [www.chadd.org](http://www.chadd.org)

Phone: (800) 233-4050

National Resource Center: [www.help4adhd.org](http://www.help4adhd.org)

The Children's Law Clinic represents low-income parents and children in special education and school discipline matters from the following counties: Alamance, Caswell, Chatham, Durham, Franklin, Granville, Orange, Person, Vance, Wake, and Warren.

Online: [www.law.duke.edu/childedlaw](http://www.law.duke.edu/childedlaw)

Phone: (919) 613-7169  
(888) 600-7274

Office: Box 90360  
Durham, NC 27708-0360

## **Exceptional Children's Assistance Center**

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The Exceptional Children's Assistance Center, ECAC, is a private non-profit organization committed to improving the lives and education of ALL children and is home to the North Carolina Parent Training and Information Center (PTI). ECAC provides a variety of services to families with children who have disabilities or special needs, their educators, and other professionals. Services include individual assistance with educational issues or concerns, a toll-free Parent Info Line, workshops and training opportunities, IEP Partners, Lending Libraries, Information Packets, and newsletters. All services are provided at no cost to North Carolina parents and families!

Online: [www.ecac-parentcenter.org](http://www.ecac-parentcenter.org)

Parent Info Line: (800) 962-6817

Main office: 907 Barra Row, Suites 102/103  
Davidson, NC 28036

For a complete listing of office contact information, please see page 3.

## **Exceptional Children Division, Department of Public Instruction**

The mission of the Exceptional Children Division is to assure that students with disabilities develop mentally, physically, emotionally, and vocationally through the provision of an appropriate individualized education in the least restrictive environment. The Division provides information about special education to parents in order to achieve this goal.

Online: [www.ec.ncpublicschools.gov](http://www.ec.ncpublicschools.gov)

Phone: (919) 807-3969

Office: 301 North Wilmington Street  
Raleigh, NC 27601

Mail: 6356 Mail Service Center  
Raleigh, NC 27699-6356

## **Family Support Network**

Family Support Network of North Carolina (FSN-NC) is a statewide network of affiliated local programs offering parent-to-parent support, information, workshops, and other activities for families with children who have special needs. The Central Directory of Resources (CDR) provides information and referral for families with children who have special needs and their service providers. Through our toll-free phone number, referrals are made to service agencies, parent programs, support groups, and disability organizations on a local, state and national level. Printed information is provided on diseases, disabilities, chronic illnesses and related issues. Agency referral information is also available on our website. The CDR has a Spanish-speaking Resource Specialist and some printed information is available in Spanish. All services are offered free of charge.

Online: [www.fsnnc.org](http://www.fsnnc.org)

Phone: (800) 852-0042 (toll-free)  
(919) 966-2841

Mail: CB # 3550  
Chapel Hill, NC 27599-3550

## **FIRST Community Resource Center**

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FIRST is a resource center for families in Western NC whose children have or are at risk of having disabilities. FIRST gives support to families, one-to-one help during times of crisis, or specific information dealing with school issues and access to community services through state and government agencies. Staff who are bilingual in Spanish are available for all projects. The projects include:

- Community Parent Resource Center — Offers free parent training related to educational issues, rights under IDEA and Section 504, and advocacy training for parents to become better advocates for their children with disabilities. Contact: Janet Price-Ferrell.
- The SUNSHINE Project — Provides training about services to childcare providers on child-specific needs and classroom strategies, specific diagnoses and disabilities issues, and consultation on the individual child’s needs for successful classroom inclusion. Contact: Janet Price-Ferrell or Brooks Davis.

Online: [www.firstwnc.org](http://www.firstwnc.org)

Phone: (828) 277-1315

Mail: P.O. Box 802  
Asheville, NC 28802

## **First in Families of North Carolina**

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First in Families of NC does “whatever it takes” to support individuals to achieve independence and become more connected to their community. First in Families chapter teams are committed to providing flexible resources for people with developmental disabilities and their families, typically meeting needs not filled by traditional funding and support services. Currently 38 counties are covered under FIFNC chapters. For a list of those counties, please visit our website.

FIFNC also offers assistance with lifetime planning through Lifetime Connections, available to families throughout NC.

Online: [www.fifnc.org](http://www.fifnc.org)

Phone: (919) 251-8368

Mail: 3109 University Drive  
Durham, NC 27707

## **HOPE Parent Family Resource Center**

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The Center serves families in Alexander, Burke, Catawba, Caldwell and McDowell counties. The Center provides training and information to assist parents in understanding procedural safeguards, their children's disabilities and educational needs, and promoting parents' abilities to communicate effectively with personnel responsible for providing early intervention, special education, and related services. The Center also focuses on increasing parent decision-making and involvement in the development and implementation of their children's IFSPs or IEPs, along with the use of a broad range of community resources.

Online: [www.fsnhope.org](http://www.fsnhope.org)

Phone: (828) 256-5202

Office: Family Support Network/HOPE  
P.O. Box 11395  
Hickory, NC 28603

## **National Alliance on Mental Illness North Carolina (NAMI NC)**

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NAMI NC offers a variety of services to children and adults with mental illness.

- Call the Helpline for information about mental illness, referral to resources, or to locate one of the support groups in several locations around the state.
- Young Families offers workshops to parents, teachers, and professionals. Some program advocates offer support groups in different locations around the state.
- NAMI Basics is a free education program for parents and caregivers of children with mental illness. The program can teach you to be an effective caregiver, to cope with the traumatic impact of mental illness, and to be the best possible advocate and caregiver for your family and yourself.

Online: [www.naminc.org](http://www.naminc.org)

Helpline: (800) 451-9682 (NC only)

Phone: (919) 788-0801

Office: 309 West Millbrook Road, Suite 121  
Raleigh, NC 27609

## **North Carolina Assistive Technology Project**

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The NC Assistive Technology Project can provide free demonstrations of Assistive Technology devices to parents and children with disabilities. The Project can also provide free two-week loans of these devices. Please go to the website to find your local project center.

Online: [www.ncatp.org](http://www.ncatp.org)

Phone: (919) 233-7075 (voice/TTY)

Main Office: 4900 Waters Edge Drive, Suite 250  
Raleigh, NC 27606

## **North Carolina Division of Vocational Rehabilitation**

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The NC Division of Vocational Rehabilitation has partnered with local schools all across the state to assist students in making a successful transition from their school life to jobs and careers. The program is designed to assist individuals with disabilities (physical, mental, or learning related) who require assistance to prepare for, locate, or maintain employment compatible with their interests, skills and potential. For eligible students, Vocational Rehabilitation may be able to provide vocational guidance and assist with training, job placement and other services. For more information, contact Alma Taylor, Program Specialist- Transition.

Online: <http://www.ncdhhs.gov/dvrs>

Phone: (800) 689-9090  
(919) 324-1500 (VP)

Office: 805 Ruggles Drive  
Raleigh, NC 27699

Mail: 2801 Mail Service Center  
Raleigh, NC 27699-2801

## **North Carolina Early Intervention Services**

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The Infant-Toddler Program in the Early Intervention Branch of the Division of Public Health provides early intervention services for families and their children with special needs, ages birth to three years old. Early intervention services help nurture the growth and development of young children and provide support to their families.

Online: [www.bearly.nc.gov](http://www.bearly.nc.gov)

Phone: (919) 707-5520

Office: 5605 Six Forks Road  
Raleigh, NC 27609

Mail: 1916 Mail Service Center  
Raleigh, NC 27699-1916

## **North Carolina Families United**

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Families United is the North Carolina chapter of the National Federation of Families for Children's Mental Health. Families United believes that children and youth with serious emotional, behavioral and mental health challenges, and their families, should have a person-centered, family-driven System of Care to ensure their independence, safety, happiness and success in their homes, schools and communities. It links families to state and community partners in order to improve the lives of these children and their families.

Online: [www.ncfamiliesunited.org](http://www.ncfamiliesunited.org)

Phone: (336) 395-8828

Office: 209 B. North Graham Hopedale Road  
Burlington, NC 27127

## **NC Office on Disability and Health**

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The NC Office on Disability and Health (NCODH) works to promote the health and wellness of persons with disabilities in North Carolina. The goals of the NCODH are to increase awareness and understanding of the health-related needs of individuals with disabilities; to improve access and inclusion; to develop health promotion programs and educational materials for consumers and professionals; and to affect disability policy related to these areas. The NCODH is a collaborative endeavor between the Women and Children's Section, Division of Public Health of the Department of Health and Human Services, and the Frank Porter Graham Child Development Institute at the University of North Carolina at Chapel Hill. NCODH has produced a number of publications that are available free of charge to NC residents. These publications and other materials can be viewed and ordered on our website.

Online: [www.fpg.unc.edu/~ncodh/](http://www.fpg.unc.edu/~ncodh/)

Phone: (919) 966-2622

Mail: FPG Child Development Institute  
Campus Box 8185  
The University of North Carolina at Chapel Hill  
Chapel Hill, NC 27599-8185

TEACCH is a statewide program for the treatment and education of individuals of all ages with autism and related communication disabilities. Its mission is to provide life-long assistance to people with autism and their families by providing direct clinical services including diagnostic evaluations, treatment planning and implementation, early childhood intervention services, and supported employment assistance. In addition to direct services, TEACCH provides consultation services and conducts training programs for families and professionals, provides educational opportunities for undergraduate and graduate students, and participates in a variety of autism research projects. TEACCH has nine regional outpatient clinics located in Asheville, Chapel Hill, Charlotte, Fayetteville, Gastonia, Greensboro, Greenville, Raleigh and Wilmington. It also operates the Carolina Living and Learning Center, a residential/vocational training farmstead facility for adults, outside of Pittsboro.

Online: [www.teacch.com](http://www.teacch.com)

Phone: (919) 966-2174

Main office: 100 Renee Lynne Court  
Carrboro, NC 27510

Mail: Campus Box 7180  
Chapel Hill, NC 27599-7180

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## **Wrightslaw**

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Parents of children with disabilities run into obstacles when they advocate for their children. Two obstacles are isolation and lack of information. We are working to remove these obstacles. At Wrightslaw, you will find links to hundreds of special education law and advocacy articles, newsletters, cases, and practical guidance. Wrightslaw is the most comprehensive special education advocacy site on the internet.

Online: [www.wrightslaw.com](http://www.wrightslaw.com)