

You, as the Advocate

There will be times when you wish you were a lawyer, so that you could understand the educational laws. The primary laws that effect the education of children with special needs are IDEA, Section 504 and the No Child Left Behind Act. Most of the information provided on this web site about these laws is paraphrased or directly quoted from Occupational and Physical Therapy in Educational Environments edited by Irene R. McEwen, an excellent resource. Another amazing resource is www.wrightslaw.com.

The highest laws and legislative acts are the Federal Statutes, which document the law for all of the states, then the Federal Regulations are written as guidelines to these statutes. The individual states then write their State Statutes under the Federal Statutes. The states must provide at least what the Federal Statutes state. The states also provide State Regulations to give guidelines to the State Statutes.

Individuals with Disabilities Education Act (IDEA) *

IDEA is extremely influent piece of U.S. Federal Legislation. IDEA has Part B for children birth to three and Part H for children three to 21. IDEA provides:

1. Small amount of money from the federal government to the school district to provide special education and related services.
2. Guarantees the rights of due process to children with disabilities and their families.
3. "Provides a free, appropriate public education (FAPE), including special education and related services, to all eligible children with disabilities regardless of the nature and severity of the disability. Children with disabilities are defined as those having a disability that adversely affects educational performance and who otherwise meet the existing definitions for one of the 13 disability categories (autism, deaf-blindness, deafness, hearing impairment, mental retardation, multiple disabilities, orthopedic impairment, other health impairment, serious emotional disturbance, specific learning disability, speech or language impairment, traumatic brain injury, and visual impairment)."
4. IDEA mandates Individualized Education Program (IEP) and the delivery of services. The written document regarding special services for the child. Details are provided under IEP in this website.
5. Special education is defined as "specially designed instruction, at no cost to the parents, to meet the unique needs of a child with a disability." The federal statutes do not specify what the minimal instruction is, just that some type of instruction should be given. Therefore, it is the states that decide what type of services will be provided.
6. IDEA mandates least restrictive environment. "Education in the least restrictive environment requires that children with disabilities be educated in the regular classroom with nondisabled peers to the maximum extent appropriate and may include the use of supplemental aids and services to achieve this goal."
7. IDEA mandates transition. Details provided under Transition in this web page.

8. Assistive Technology Services. "Assistive technology devices and services are available to a child with a disability if required as part of the child's special education program, as a related service to assist a child to benefit from their special education program, or as supplementary aids and services in the regular classroom."

*Laws that Shape Therapy Services in Educational Environments by Mary Jane K. Rapport. Occupational and Physical Therapy in Educational Environments edited by Irene R. McEwen. The Haworth Press, Inc. Binghamton, New York. 1995. ISBN 1-56024-777-0

Section 504 of the Rehabilitation Act of 1973*

"Children who qualify as individuals with disabilities under Section 504 of the Rehabilitation Act of 1973 may be entitled to reasonable accommodations in the educational program by nature of the protection guaranteed them as a protected class under basic civil rights laws." Under Section 504, "an individual with disabilities (a) has a physical or mental impairment that substantially limits one or more major life activities; (b) has a record of having a physical or mental impairment that substantially limits one or more major life activities; or (c) is not impaired but is regarded as having such an impairment." Therefore, a child who does not meet the criteria under IDEA for special education because the disability does not affect his educational learning may be eligible to receive special accommodations under Section 504. The school district does not receive federal funding if a child receives services under Section 504.

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The Rights of Parents and Children with Disabilities

Early identification of all children with disabilities, birth through 21

Evaluation to determine the nature and extent of the child's disability and the special education and related service needs, taking into account the child's participation in the general curriculum.

Participation in the development of an Individualized Education Plan (IEP) and to have the meeting at a time and place convenient for both the parents and the school.

Measurable annual goals and benchmarks/objectives for each need that results from the disability.

Supplemental Services of: adapted physical education, driver education, behavior management training, self-help skills, teacher aides, oral testing and other services as needed.

Related aids and services including: counseling, occupational, physical, and speech therapy, transportation, large print books, assistive technology, evaluations, classroom aides/personnel and other services to enable the child to benefit from regular or special education.

Vocational education/transition from school to adult life.

Placement in the least restrictive environment (LRE).

Equal participation in planning the child's educational program.

Confidentiality and the right to review and receive copies of the child's educational records.

Written notice before the school proposes or refuses to change the child's educational program and to have that notice in their native language. The opportunity to agree or disagree with the change. This includes actions such as suspension and expulsion.

Non-discrimination, including equal access to school facilities, programs, and services.

Free appropriate public education (FAPE) even when suspended or expelled.

Access to impartial due process hearing, mediation and other complaint procedures.

The right to participate in all meetings with respect to the identification, evaluation, and educational placement of the child, and the provision of a free appropriate public education to such child.

The right to an independent education evaluation (IEE).

The right to have a copy of the procedural safeguards (parent rights) provided by the school, upon each notice of an IEP meeting, upon notification of reevaluation and upon filing of a complaint.

The student's placement will be maintained during due process hearings, i.e. the student has the right to be educated during the hearing process.

To be notified of the procedures related to students who are placed in the interim additional setting.

To be informed about your child's progress at least as often as parents of children who do not have disabilities.

Disagreements with the school system

If you disagree with your school system, the first step is to write a letter. Remember the letter should be professionally written; an emotional letter is not going to get you anywhere. To look at examples of letters, refer to the website [The Art of Writing Letters](#). If the disagreement cannot be resolved between the existing people involved, the next

step is to set up mediation. Mediation involves a third party who will listen to both sides and give suggestions. The parents are also entitled to a child advocate provided by the school system, to help decide on the best plan for the child. The last resort is to hire a lawyer and decide if the disagreement should become a lawsuit. Refer to the website for protection and advocacy organizations.

Resources to assist your child to receive the services needed:

Web sites

1. **www.wrightslaws.com**

An excellent resource for student advocacy. Should not be missed!!!!

2. **www.familyvillage.wisc.edu**

Excellent website that discusses many educational topics: Educational Advocacy, Assistive Technology for Students with Disabilities, "Disability Awareness", Educational Resources, Computers and Technology: Hardware and Software, Early Intervention Resources, Government Agencies, IDEA and Other Education Related Laws, Inclusive / Special Education Resources, Individual Education Plan Resources, **"JUST FOR KIDS!!"** (Teachers Should Check This Out Too!), Parent Training and Information Centers, Protection & Advocacy Organizations, Transition

3. **[www.wrightslaw.com/advoc/articles/DRAFT Letters](http://www.wrightslaw.com/advoc/articles/DRAFT_Letters)**

The Art of Writing Letters