

## The Advocacy Ridge

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### The IEP Process






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#### A Complete Guide for Parents

*Understanding Your Child's Rights from Referral Through Annual Review*

#### HOW TO USE THIS GUIDE

Color-coded boxes throughout this guide tell you whether a rule is the same everywhere or varies by state:

-  FEDERAL LAW — same in all 50 states
-  STATE VARIATIONS — laws differ; check your state
-  STRONGER STATE PROTECTIONS — some states give you more
-  ADVOCACY TIP — practical advice for parents
-  WATCH OUT — common pitfalls and risks

#### WATCH OUT

- This guide provides general educational information, not legal advice. Special education law is complex. When in doubt, consult a qualified special education advocate or attorney.

#### 1. What Is an IEP?

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An Individualized Education Program (IEP) is a legally binding written document created for a child with a disability who qualifies for special education services. It describes your child's current levels of performance, annual goals, the specific services the school must provide, and how progress will be measured.

Think of the IEP as a legally enforceable educational plan between you and the school district. Once finalized and in effect, the school is legally required to implement everything in it — the services, the accommodations, the supports. You are an equal member of the IEP team, and your input matters. Meaningful parent participation is a core procedural protection under IDEA.



### FEDERAL LAW — Applies in ALL 50 States (IDEA 2004 | 34 C.F.R. Part 300)

- The IEP is governed nationally by the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. § 1400 et seq., and regulations at 34 C.F.R. Part 300.
- IDEA guarantees eligible students a Free Appropriate Public Education (FAPE) in the Least Restrictive Environment (LRE).
- All 50 states must meet or exceed IDEA's requirements to receive federal special education funding.



### STATE VARIATIONS — Laws Differ by State

- States write their own regulations that must be at least as protective as IDEA. Many exceed federal minimums on timelines, transition ages, eligibility, and dispute procedures.
- States with notably stronger protections include: California (Cal. Ed. Code § 56000 et seq.), New Jersey (N.J.A.C. 6A:14), Massachusetts (603 CMR 28.00), New York (8 NYCRR Part 200), and Washington (WAC 392-172A).
- Always look up your state's specific regulations — search '[Your State] special education regulations' or '[Your State] department of education IDEA Part B.'

## 2. How to qualify for an IEP?

To qualify for an IEP, a child generally must: (1) meet criteria under one of IDEA's disability categories, (2) the disability must adversely impact educational performance, and (3) require specially designed instruction (SDI) and related services. All prongs must be met.



### FEDERAL LAW — Applies in ALL 50 States (IDEA 2004 | 34 C.F.R. Part 300)

- IDEA's 13 disability categories (34 C.F.R. § 300.8): Autism, Deaf-Blindness, Deafness, Developmental Delay (ages 3–9, states may extend to 13), Emotional Disturbance, Hearing Impairment, Intellectual Disability, Multiple Disabilities, Orthopedic Impairment, Other Health Impairment (OHI), Specific Learning Disability (SLD), Speech or Language Impairment, Traumatic Brain Injury, Visual Impairment.
- A medical diagnosis alone does NOT automatically qualify a child — the disability must affect educational performance. However, schools must still consider outside medical information and evaluations.
- Age range: IDEA covers children ages 3–21 (with some state variation on the upper age limit).

## STATE VARIATIONS — Laws Differ by State

- Developmental Delay (DD): Federal law allows this category for ages 3–9. Many states extend it: Oregon, Washington, and California allow it through age 13. Always check your state's age cutoff.
- Upper age limit: Most states serve students through age 21. Massachusetts and a few others serve through age 22. Michigan goes until age 26. Verify your state's exact rule.
- Adverse educational effect: Some states (notably California) interpret this broadly to include social-emotional functioning, adaptive behavior, and functional access to curriculum — not just academic grades.
- Some states add eligibility categories beyond IDEA's 13. California adds 'established medical disability' for students transitioning from Part C (early intervention).

## ADVOCACY TIP

- Even with a diagnosis, push for a thorough evaluation — don't accept a verbal statement that a diagnosis doesn't qualify. The question is how the disability affects your child's education. Document specific, concrete examples.
- If your child doesn't qualify for an IEP, ask about a 504 Plan under the Rehabilitation Act. Section 504 has a much broader eligibility standard and can provide meaningful accommodations.

## 3. Referral and Evaluation

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### 3a. Who Can Refer a Child?

Anyone who suspects a child may have a disability can make a referral — parents, teachers, doctors, school staff. The most powerful and protected referral is a **written request** from a parent.

## FEDERAL LAW — Applies in ALL 50 States (IDEA 2004 | 34 C.F.R. Part 300)

- Parents have the right to request an evaluation in writing at any time (34 C.F.R. § 300.301). The school must respond through Prior Written Notice (PWN) — they cannot simply ignore a written request.
- Schools have an independent Child Find obligation (34 C.F.R. § 300.111): they must actively identify, locate, and evaluate all children with disabilities — including those in private schools and homeschool settings. Child Find applies even when a student is passing classes or advancing grade to grade.

## ADVOCACY TIP

- Make your evaluation request **IN WRITING** and keep a dated copy. Oral requests can be ignored or forgotten. Address it to the Special Education Director and send it by email or certified mail so you have proof of delivery. Include specific examples of academic, behavioral, social, emotional, communication, executive functioning, attendance, or functional concerns.

### 3b. Prior Written Notice and Consent

Before evaluating your child, the school must provide Prior Written Notice (PWN) explaining what they plan to evaluate and how. You must give written informed consent before the evaluation begins.

#### FEDERAL LAW — Applies in ALL 50 States (IDEA 2004 | 34 C.F.R. Part 300)

- Prior Written Notice is required before any evaluation (34 C.F.R. § 300.503). Consent must be written and informed (34 C.F.R. § 300.300).
- You may revoke consent at any time in writing. Revocation stops the process going forward but does not undo evaluations already completed.

#### WATCH OUT

- Read the PWN carefully. It should describe the areas to be evaluated and the types of assessments proposed. If your child has behavioral, emotional, motor, communication, or attentional concerns, ensure those areas are included. You can request additions before you consent.
- Signing a consent form authorizes the evaluation — it is not in agreement with what the school plans. You can consent to the evaluation while reserving the right to disagree with the results.
- Revoking consent for evaluation differs from revoking consent for special education services.

### 3c. Evaluation Timelines — State Variation

Once you give consent, the school must complete the evaluation within a set timeframe. This is one of the most variable areas in special education law.

#### FEDERAL LAW — Applies in ALL 50 States (IDEA 2004 | 34 C.F.R. Part 300)

- Federal default: 60 calendar days from receiving parental consent (34 C.F.R. § 300.301(c)(1)). However, if a state has established its own timeline in law or regulation, the state timeline controls.

### STATE VARIATIONS — Laws Differ by State

- California: 60 calendar days from signed consent to both evaluate AND hold the IEP meeting (Cal. Ed. Code § 56344).
- Oregon: 60 calendar days from signed consent (OAR 581-015-2165).
- Colorado: 60 SCHOOL days — not calendar days (1 CCR 301-8, Rule 2.08). This is longer in practice due to weekends, breaks, and holidays.
- Washington: 35 school days from consent to evaluate (WAC 392-172A-03005).
- Texas: 45 school days to complete the written report, then 30 calendar days to hold the meeting (19 TAC § 89.1011).
- New York: 60 calendar days from receipt of consent to complete the evaluation (8 NYCRR 200.4(b)(1)).
- New Jersey: 90 calendar days from the date of referral to complete the entire process (N.J.A.C. 6A:14-3.4).
- Massachusetts: Assessment must be completed within 30 school days, and the meeting held within 45 school days (603 CMR 28.04)
- **IMPORTANT: 'Calendar days' vs. 'school days' is a critical distinction. School days can stretch a timeline significantly over summer, holidays, and breaks.**
- **Certain circumstances may legally extend the timeline depending on state law. This can be things like repeated parent no-shows, transfers, or prolonged breaks.**

### 3d. Scope of Evaluation

#### FEDERAL LAW — Applies in ALL 50 States (IDEA 2004 | 34 C.F.R. Part 300)

- Evaluation must cover ALL areas related to the suspected disability — the school cannot test in one area while ignoring others if there is a concern or suspected need (34 C.F.R. § 300.304(c)(4)).
- No single test score can be the sole basis for eligibility. This includes IQ scores. The school must use multiple assessment tools and sources.
- Evaluations should include input from parents, teachers, providers, observations, and relevant outside evaluations.
- Evaluation must be conducted by qualified professionals and in the child's native language.
- Reevaluation is required at least every 3 years (triennial) and must be conducted if parents request one (34 C.F.R. § 300.303).

### ✓ STRONGER STATE PROTECTIONS — Some States Exceed Federal Minimums

- California mandates evaluation in all areas of suspected disability including health, vision, hearing, social-emotional status, general intelligence, academic performance, communication, and motor abilities (Cal. Ed. Code § 56320) — one of the most comprehensive evaluation mandates in the nation.
- Massachusetts requires the school to develop an assessment plan within 5 school days of a referral (603 CMR 28.04).
- California — “5-Day Rule”: Parents have the right to receive copies of all school evaluations 5 business days before the IEP meeting if they request them in writing (Cal. Ed. Code § 56329(a)(1)). This gives California parents meaningful time to review reports before sitting down at the table — and strengthens their ability to participate as equal IEP team members. Always make this request in writing at least two weeks before the scheduled meeting.
- Connecticut — “3-Day Rule”: Connecticut requires the school to provide evaluation reports to parents at least 3 business days before the IEP meeting (Conn. Agencies Regs. § 10-76d-14). This ensures parents are not handed reports for the first time at the meeting itself — a practice that undermines meaningful parental participation.

### 3e. Independent Educational Evaluations (IEEs)

If you disagree with the school's evaluation, you have the right to request an Independent Educational Evaluation (IEE) — conducted by a qualified examiner not employed by the district.

### FEDERAL LAW — Applies in ALL 50 States (IDEA 2004 | 34 C.F.R. Part 300)

- Parents may request an IEE at public expense when they disagree with the school's evaluation (34 C.F.R. § 300.502).
- The school must either: (a) fund the IEE at public expense, or (b) file for due process to defend their evaluation. If the school wins at hearing, you retain the right to obtain an IEE at your own expense.
- The IEP team must consider IEE results in any future decisions, even if they disagree with the findings.
- The school may ask why you disagree but cannot require an explanation before initiating the process. A district cannot require parents to explain their disagreement before responding to the request.
- Even if a district believes an evaluator exceeds its typical cost criteria, the district must still either agree to fund the IEE or file for due process to defend its own evaluation. A district cannot simply refuse the request without taking further action.
- Courts and federal guidance have recognized that disagreement with a district evaluation may include disagreement with the district's refusal or failure to evaluate suspected areas of disability. A district may not improperly limit an IEE to only the exact tests or domains previously assessed.
- Because IDEA requires evaluation in all areas of suspected disability, an IEE may appropriately include additional domains where concerns exist.
- IDEA does not impose a specific federal timeline requiring parents to locate an evaluator, schedule an Independent Educational Evaluation (IEE), or complete the evaluation within a certain number of days after approval. Evaluation completion is often dependent on evaluator availability, parent scheduling, waitlists, records review, and testing timeline (34 C.F.R. § 300.502(e)(2)).



## WATCH OUT

- Districts may apply reasonable cost criteria and evaluator qualifications so long as they do not effectively prevent access to an IEE.
- Districts must either agree to the requested IEE, or initiate due process. This is true even if they believe the evaluator cost or assessments aren't reasonable per their district criteria. They must agree to fund the IEE in full, or initiate due process to justify their restrictions or cost.
- Once an IEE is approved at public expense, the district is responsible for ensuring the evaluation is provided at no cost to the parent. Districts cannot require parents to pay any portion of the evaluation cost, nor may they improperly pressure evaluators to reduce fees in a manner that interferes with the parent's right to an appropriate independent evaluation. Under 34 C.F.R. § 300.502(a)(3), "at public expense" means the public agency either pays for the full cost of the evaluation or otherwise ensures the evaluation is provided at no cost to the parent.



## STATE VARIATIONS — Laws Differ by State

- States differ on IEE evaluator qualifications, allowable costs, and response timelines. California and New York have detailed IEE criteria. Oregon and Washington generally follow the federal framework.
- Recent Michigan Department of Education (MDE) guidance further emphasized that districts may not impose improper timelines or barriers that interfere with a parent's right to obtain an IEE and that approved IEEs must be provided at no cost to the parent consistent with IDEA and MARSE requirements.
- Multiple states and state complaint decisions have found districts in violation when they failed to appropriately respond to IEE requests by either agreeing to fund the IEE in full or initiating due process to defend the district evaluation — including in some situations where the district had refused to evaluate in full, or in the requested area of suspected disability or need. Relevant authority and guidance include *Haddon Township School District v. New Jersey Department of Education*, OSEP Letter to Carroll, and OSEP Policy Letter to Baus.
- Some states require the school to respond to an IEE request within 5–15 business days. Know your state's rules so you can push back on delays.
  - \**Massachusetts: The district must respond within 5 school working days.*
  - \**Michigan: The district must provide written notice within 7 calendar days.*
  - \**Washington: The district must respond within 15 calendar days.*

## 4. Eligibility Determination

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After the evaluation, the IEP team meets to review results and determine whether the child is eligible for special education. This decision requires all three elements below.

### FEDERAL LAW — Applies in ALL 50 States (IDEA 2004 | 34 C.F.R. Part 300)

- The eligibility team must include: parents, at least one general education teacher, at least one special education teacher, a district representative qualified to commit resources, someone who can interpret evaluation data, and the student when appropriate (34 C.F.R. § 300.321).
- The team decides: (1) Does the child have a qualifying disability? (2) Does it adversely affect educational performance? (3) Does the child need special education services as a result?
- All three prongs must be met. A disability alone is not enough — it must affect education and require special education.

### WATCH OUT

- Schools sometimes deny eligibility by claiming a child is 'making progress' or 'performing at grade level.' A child can be achieving through extraordinary effort, parent support, or coping strategies while still having a disability that requires services. Average grades do not preclude eligibility.
- Schools may not rely solely on grades to deny eligibility.
- Ensure educational impact is considered beyond academics; including executive functioning, behavior, emotional regulation, social skills, communication, and adaptive functioning.
- If you disagree with an eligibility denial, or with the category chosen, you have the right to dispute through mediation, state complaint, or due process. Do not simply accept a denial without a response in writing.
- IEP participation: Not every required member must attend every portion of the meeting if properly excused.

### STATE VARIATIONS — Laws Differ by State

- California: 'Adverse effect' encompasses social-emotional, adaptive, and functional impacts — not just academic grades (Cal. Ed. Code § 56337).
- Massachusetts: Uses a 'substantial limitation' standard that can be broader than the federal 'adverse effect' standard in some circumstances (603 CMR 28.05).
- New Jersey: Has a separate 'preschool disability' category for ages 3–5 with its own criteria.
- Texas: IEP (ARD) committee decisions are closely scrutinized under state law. Parents have strong procedural rights under Texas Education Code § 29 when disagreeing with eligibility decisions.

## 5. Developing the IEP

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If the child is found eligible, the team must develop the IEP. Federally, this must happen within 30 calendar days of the eligibility finding. The IEP must contain specific required components.

### 5a. Required Components



#### FEDERAL LAW — Applies in ALL 50 States (IDEA 2004 | 34 C.F.R. Part 300)

- Present Levels of Academic Achievement and Functional Performance (PLAAFP): How the disability affects involvement and progress in the general curriculum (34 C.F.R. § 300.320(a)(1)). PLAAFPs should include objective baseline data, strengths, needs, and the impact of disability.
- Measurable Annual Goals: Addressing each area of need identified in the PLAAFP (34 C.F.R. § 300.320(a)(2)).
- Special Education Services: Specific services, frequency, location, duration, and start date (34 C.F.R. § 300.320(a)(4)).
- Related Services: Can include, but not limited to: Speech-language, Occupational therapy, Physical therapy, counseling, transportation, etc. — required when necessary to benefit from special education.
- Supplementary Aids and Services and Program Modifications: Supports in general education.
- Participation in Statewide Assessments: With accommodations if needed, or alternate assessment with justification.
- LRE Statement: Explanation of any time the child will NOT be educated with non-disabled peers, and why. The explanation should be individualized and data-based.
- Transition Plan: Measurable postsecondary goals and transition services (federally required by age 16).

## STATE VARIATIONS — Laws Differ by State

- Transition planning age: Federal law requires planning by age 16. Many states start earlier: Oregon by age 14 (OAR 581-015-2175); Colorado by age 15 (1 CCR 301-8); California IEP teams may begin before 16 but are required by 16.
- Behavior - When behavior impedes learning, the IEP team must consider positive behavioral interventions, supports, and strategies. In some situations, this may include conducting a Functional Behavioral Assessment (FBA) and developing a Behavior Intervention Plan (BIP).
- Extended School Year (ESY): Extended School Year (ESY) services must be provided when necessary for a student to receive FAPE. Regression and recoupment are important considerations, but they are not the only factors teams may consider. Depending on the student and state law, teams may also consider factors such as emerging skills, severity of disability, rate of progress, behavioral needs, critical life skills, and risk of significant loss of educational benefit without continued services. Some states have stronger or more specific ESY standards or eligibility triggers than federal law.
- California adds: annual assessment plans, 'educationally related mental health services' (ERMHS), and detailed nonpublic school placement requirements.
- New Jersey requires a statement about participation in extracurricular and nonacademic activities for every student with an IEP.
- Massachusetts: IEP must address student strengths, in addition to areas of need.

*\*Age 14: New Jersey and Massachusetts require transition planning to begin at age 14.*

*\*Age 15: California and Colorado generally require the transition plan to be in place by the IEP during the year the student turns 15.*

*\*Age 16: Federal minimum (followed by states like New York and Texas).*

## 5b. Writing Meaningful Goals

IEP goals are the heart of the document. A well-written goal is specific, measurable, achievable, relevant, and time-bound. Goals that are vague cannot be tracked — or enforced.

### ADVOCACY TIP

- Ask yourself: How will we know if this goal is met? If the answer is 'it depends,' the goal is not measurable enough.
- Parents should know how progress will be monitored, how often data will be collected and how progress will be reported.
- Areas of need requiring specially designed instruction (SDI) should generally be addressed through measurable annual goals.
- Goals should include clear baselines reflecting the student's current performance levels.
- Weak goal: 'Student will improve reading skills.'
- Strong goal: 'By May 2026, when given a 4th-grade-level passage, the student will correctly answer 4 out of 5 comprehension questions across 3 consecutive data collection sessions.'
- Always ask for actual data at every IEP meeting — not just 'making progress,' but the baseline, the target, and the current data showing where the student is performing.

## 5c. Related Services



### FEDERAL LAW — Applies in ALL 50 States (IDEA 2004 | 34 C.F.R. Part 300)

- Related services include (34 C.F.R. § 300.34): speech-language pathology, audiology, interpreting, psychological services, physical therapy, occupational therapy, recreation, rehabilitation counseling, school health and nursing services, social work, transportation, and orientation and mobility.
- The standard is whether the service must be necessary for the student to benefit from special education and access FAPE. Related services are individualized and based on student need - not district program availability.
- Schools are generally not required to provide physician services except for diagnostic or evaluation purposes; however, schools may still be responsible for nursing and other health-related services necessary for the student to attend school.
- Related services may also include parent counseling and training when necessary to support implementation of the student's educational program.
- Transportation may include specialized transportation supports such as shortened ride times, wheelchair-accessible transportation, harnesses, aide support, specialized pickup/drop-off procedures, or transportation to out-of-district placements when necessary.
- Counseling, psychological services, social work services, or behavioral supports may be appropriate even when a student is not identified under an emotional disability category.
- School nursing and health services may qualify as related services when necessary for the student to safely access school and benefit from special education.
- Assistive technology services and supports may also be required when necessary for the student to access instruction and make progress.
- Related services should specify frequency, duration, location, and provider type. Vague language such as 'as needed' or 'consult if necessary' may be difficult to enforce.



### STATE VARIATIONS — Laws Differ by State

- Mental health: California has extensive obligations to provide 'educationally related mental health services' (ERMHS) through LEAs or county mental health — more robust than most states (Cal. Ed. Code § 56363).
- Transportation: Federal law requires transportation when the placement requires it. New Jersey has particularly strong transportation rights extending to out-of-district placements.
- Vision/Orientation & Mobility: Federally required for eligible students. California and Texas have detailed requirements for students with visual impairments.
- School nursing: Oregon has specific rules about when school nursing qualifies as a related service versus an excluded medical service.

## 6. The IEP Meeting

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### 6a. Notice and Scheduling

#### FEDERAL LAW — Applies in ALL 50 States (IDEA 2004 | 34 C.F.R. Part 300)

- The school must notify parents early enough to ensure they can attend (34 C.F.R. § 300.322(a)). Notice must include purpose, time, location, and who will attend.
- If you cannot attend in person, the school must make other arrangements — phone, video, or written input (34 C.F.R. § 300.322(c)).
- A meeting cannot be held without you unless the school documents repeated failed attempts to reach you.
- Virtual participation has become increasingly common and may improve accessibility for families.
- Although IDEA does not define a specific number of days federally, notice should be provided sufficiently in advance to allow meaningful parent participation.

#### STATE VARIATIONS — Laws Differ by State

- Notice timelines: Federal law says 'early enough.' California **requires** at least 24 hours' notice (though 10 days is standard practice). Oregon requires reasonable advance notice, typically 5–10 days.
- Recording IEP meetings varies significantly: California parents have a statutory right to record (Cal. Ed. Code § 56341.1(g)). Oregon requires advance notice to the district. Washington has no specific statute — follow district policy or request permission in advance. Always confirm your state's rule before recording. Even where recording is permitted, advance notice requirements may still apply.
- If a district tries to schedule meetings at times that are routinely inconvenient for you, document it in writing. The school is required to make reasonable efforts to accommodate parents. Repeatedly scheduling meetings at times a parent cannot reasonably attend may interfere with meaningful parent participation rights under IDEA.

### 6b. Your Rights at the Meeting

#### FEDERAL LAW — Applies in ALL 50 States (IDEA 2004 | 34 C.F.R. Part 300)

- You may bring any person with knowledge or expertise regarding your child — advocate, attorney, family member, doctor, or therapist (34 C.F.R. § 300.321(a)(6)).
- You have the right to a qualified interpreter at no cost if English is not your primary language.
- Required team members cannot be excused without your written consent. If a required member will be absent, the school must obtain your agreement in writing before the meeting.
- You are an equal member of the team. Parents are not merely observers or guests at the meeting. Your input must be considered.

### **ADVOCACY TIP**

- Bring a written list of your concerns. This ensures your input is documented even if the meeting moves fast.
- Never feel pressured to sign the IEP at the meeting. You have the right to take it home, review it, consult an advocate, and return it signed — or with written objections noted.
- Procedures regarding signatures and implementation timelines vary by state.
- If you disagree, you can sign the attendance page to document you were present while writing 'I do not consent to this IEP' on any consent/signature line. In some states, parents may sign attendance separately from indicating consent or disagreement with the proposed IEP.
- Keep your own written notes. If audio recording is allowed in your state, use it.
- Request draft IEPs, evaluations, and progress data sufficiently in advance of the meeting to allow meaningful review and participation. You are entitled to these records, in advance of the meeting, under FERPA (Family Educational Rights and Privacy Act).

### **6c. Predetermination — A Serious Rights Violation**

Predetermination occurs when a school decides what the IEP will say before the meeting and presents it to parents as a 'done deal.' This violates IDEA's requirement for meaningful parent participation.

### **WATCH OUT**

- Signs of predetermination may include: a fully drafted IEP being presented at the start of the meeting with little or no meaningful input solicited; staff deferring questions to a predetermined outcome; offers being described as “take it or leave it”; or the school refusing to genuinely consider parent recommendations, outside evaluations, or proposed changes.
- Draft IEPs themselves are not improper. Predetermination occurs when the district refuses to genuinely consider parent input, alternative recommendations, evaluation data, or proposed revisions during the IEP process.
- Predetermination is a procedural violation of IDEA (34 C.F.R. § 300.501(b)) and, in some cases, may constitute a denial of FAPE. If you suspect predetermination, document it carefully — note each time concerns, recommendations, evaluation data, or proposed changes were raised and not meaningfully considered or discussed.
- If you are walking into a meeting where predetermination seems likely, consider bringing an advocate or support person, asking open-ended questions, and clearly documenting your concerns and requests during the meeting.

## 7. Placement and Least Restrictive Environment (LRE)

After the IEP is developed, the team determines the placement in which services will be delivered. Placement decisions should be based on the student's individualized needs and IEP — not administrative convenience, staffing, existing programs, or available classroom space.



### FEDERAL LAW — Applies in ALL 50 States (IDEA 2004 | 34 C.F.R. Part 300)

- IDEA requires education in the Least Restrictive Environment — meaning students with disabilities must be educated with non-disabled peers to the maximum extent appropriate (34 C.F.R. § 300.114).
- LRE decisions must be individualized and based on the student's unique needs — not disability category, program availability, staffing, administrative convenience, or available classroom space.
- A full continuum of placements must be available, ranging from general education with supplementary aids and services to more restrictive settings such as separate classes, separate schools, residential placements, or homebound instruction (34 C.F.R. § 300.115).
- Supplementary aids and services may include accommodations, behavioral supports, paraprofessional support, assistive technology, sensory supports, consultation services, modified instruction, visual supports, or other individualized supports designed to help the student succeed in less restrictive settings.
- Removal from the general education environment is only appropriate when the nature or severity of the disability is such that education in general education cannot be achieved satisfactorily even with supplementary aids and services.
- Placement must be reviewed at least annually and revised as appropriate based on the student's needs and progress.



### STATE VARIATIONS — Laws Differ by State

- LRE is a federal concept but enforcement varies. California and Oregon have strong LRE cultures and extensive case law. Some states have historically had higher rates of segregated placements.
- Michigan is currently engaged in a statewide monitoring process across Intermediate School Districts (ISDs) related to Least Restrictive Environment (LRE) practices and restrictive placements, reflecting increased focus on compliance with IDEA's LRE requirements.
- Private school tuition reimbursement: If a district cannot provide FAPE, parents may be entitled to reimbursement for a unilateral private placement. The standard comes from Burlington/Carter (federal), but states like New York, New Jersey, and California have extensive additional case law governing this.
- Charter schools: Charter schools are public schools and must comply with IDEA — but how services are provided varies. Some states require charter schools to deliver services directly; others require them to contract with the local district.

## ADVOCACY TIP

- If the school wants to move your child to a more restrictive setting, ask: What supplementary aids and services have been attempted? What individualized data shows those supports were insufficient? Schools should be able to explain why less restrictive options with supports are not appropriate.
- LRE is not limited to academics — it also includes lunch, recess, extracurricular activities, field trips, assemblies, transportation, and other school-related activities. Students with disabilities have the right to participate with nondisabled peers to the maximum extent appropriate. .
- Placement discussions should generally occur after the IEP team reviews evaluations, present levels, goals, supports, services, and other individualized needs so placement decisions are driven by the student's needs rather than predetermined programming or available district programs.

## 8. Consent, Implementation, and Monitoring

### FEDERAL LAW — Applies in ALL 50 States (IDEA 2004 | 34 C.F.R. Part 300)

- Parental consent is required before initial special education services begin (34 C.F.R. § 300.300(b)).
- Once an IEP is finalized and in effect, the school is responsible for implementing the IEP as written.
- Parents may revoke consent for special education services at any time in writing. After revocation, the district must stop providing special education services and IDEA procedural protections moving forward (34 C.F.R. § 300.300(b)(4)).
- Compensatory services may be awarded to address educational benefit lost due to denied, missed, or improperly implemented services.
- After the annual IEP meeting, parents and districts may agree to amend or modify portions of the IEP without reconvening the full IEP team (34 C.F.R. § 300.324(a)(4)). Any agreed-upon changes should be documented in writing.
- Parents are not required to agree to amendments outside of a meeting.

### WATCH OUT

- A common problem is schools continuing to follow outdated IEPs, staff being unaware of required accommodations or supports, or services not being delivered as written in the IEP.
- Implementation failures — such as missed therapy sessions, reduced service minutes, failure to provide accommodations, failure to implement behavioral supports, incorrect staffing, or services delivered in the wrong setting — may violate IDEA.
- Procedures regarding parent consent, objections, and implementation of proposed IEPs vary by state. Parents should understand their state’s rules regarding signatures, implementation timelines, and dispute resolution options.
- Track what your child is actually receiving and compare it to the written IEP, including service minutes, accommodations, supports, provider type, frequency, duration, and location of services.
- If implementation concerns arise, document them in writing to the Special Education Director or appropriate administrator. Request written clarification, service logs, implementation records, progress data, or other documentation related to your concerns. Maintaining a clear paper trail is important if compensatory services, state complaints, mediation, or due process later become necessary.

### STATE VARIATIONS — Laws Differ by State

- States differ regarding procedures, documentation requirements, and timelines for IEP amendments made without a full meeting. Some states and districts use formal amendment forms or written notices when changes are agreed upon outside the meeting process.
- States also differ regarding timelines and procedures for providing finalized IEP documents and Prior Written Notices (PWNs) following meetings. California generally requires PWN within a “reasonable time” (not to exceed 60 days), while other states, including New Jersey, have more specific procedural timelines.

## 9. Annual Reviews and Reevaluations

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### 9a. Annual IEP Review



#### FEDERAL LAW — Applies in ALL 50 States (IDEA 2004 | 34 C.F.R. Part 300)

- The IEP must be reviewed at least annually by the IEP team (34 C.F.R. § 300.324(b)(1)). Reviews may occur more frequently.
- The team must: review progress on goals, revise the IEP appropriately, address any lack of expected progress, and consider recent evaluation data.
- Parents may request an IEP meeting at any time — not just at the annual review (34 C.F.R. § 300.300). Districts must respond to parent requests, though procedures and timelines may vary by state.
- Annual reviews should include updated present levels, current data, progress monitoring information, and discussion of whether goals, services, accommodations, and supports remain appropriate.
- Lack of expected progress may indicate a need to revise goals, increase services, change supports, or reconsider placement.



#### ADVOCACY TIP

- Before every annual review, request a written progress report on all goals along with any underlying progress monitoring data. Bring data to the meeting and ask specifically: Was this goal met? If not, why not, and what is the concrete plan going forward?
- The IEP should be revised when the student is not making appropriate progress. Push for specific changes — such as different services, increased frequency, different methodologies or supports, a different provider, reconsideration of placement if appropriate, or consideration of whether additional evaluation data is needed.
- When significant concerns arise, it may be necessary to revisit the IEP from the beginning to ensure it is appropriately developed and individualized. The team should consider whether updated or additional evaluations, assessments, observations, or other data are needed to fully understand the student's needs.
- Accurate present levels should drive goals, services, supports, accommodations, supplementary aids and services, and ultimately placement decisions.

## 9b. Triennial Reevaluation



### FEDERAL LAW — Applies in ALL 50 States (IDEA 2004 | 34 C.F.R. Part 300)

- A reevaluation must occur at least every 3 years unless the parent and district agree that a reevaluation is unnecessary (34 C.F.R. § 300.303).
- Reevaluations should address any newly suspected areas of disability, changes in student need, lack of expected progress, or concerns regarding services, supports, behavior, communication, academics, functional performance, or placement.
- Parents may request a reevaluation at any time if they believe the student's needs have changed or additional information is needed. The district must either agree to the request or provide Prior Written Notice (PWN) explaining its refusal.
- As part of the reevaluation process, the team may review existing data and determine whether additional assessments are necessary. Parents may disagree with a records-review-only reevaluation and request additional evaluation data if concerns remain.
- Reevaluations must assess the student in all areas related to suspected disability and should use multiple sources of data, including evaluations, observations, parent input, teacher input, progress monitoring data, and outside evaluations where appropriate.
- The school must provide Prior Written Notice and obtain parental consent before conducting reevaluations, consistent with IDEA procedural requirements.

## 10. When Things Go Wrong: Dispute Resolution

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When you disagree with the school — about eligibility, services, placement, implementation, or anything else — you have legal rights and multiple remedies. The right option depends on what happened and what outcome you need.

### 10a. Your Options at a Glance

Option	Best Used For
State Complaint	Procedural violations, missed timelines, implementation failures, systemic concerns; free; written decision within 60 days
Mediation	Preserving the relationship while resolving a dispute; voluntary and confidential; no cost to parents
Due Process Hearing	Complex disputes requiring binding legal determination, compensatory services, reimbursement, or placement changes
IEP Meeting Request	Disagreements about services or goals; simplest option; no formal process required
OCR Complaint (Office for Civil Rights)	Disability discrimination, Section 504 violations, retaliation, or disability-based harassment
Advocate / Attorney Consultation	Any time you need strategy, are unsure of your rights, or are preparing for any of the above

#### FEDERAL LAW — Applies in ALL 50 States (IDEA 2004 | 34 C.F.R. Part 300)

- **State Complaint:** Any individual or organization can file with the state education agency (SEA). The SEA must investigate and issue a written decision within 60 calendar days (34 C.F.R. § 300.152). State complaints are often particularly effective for implementation failures and procedural violations. Remedies can include corrective action, compensatory services, training, policy revision, and monitoring.
- **Mediation:** Voluntary, confidential, and offered at no cost to parents through the SEA. It is not required before filing for due process (34 C.F.R. § 300.506). Agreements reached through mediation are legally binding.
- **Due Process:** A formal hearing before an impartial officer. Two-year statute of limitations applies federally (some states differ). Stay-put protections apply during the proceeding (34 C.F.R. § 300.507, 300.518).
- **Stay-put (pendency) protections** generally apply when a due process complaint is filed. During the proceeding, the student typically remains in their current educational placement unless the parties agree otherwise or a specific legal exception applies (34 C.F.R. § 300.518).

- California: State complaints go through CDE (65 calendar days to investigate). Due process is before the Office of Administrative Hearings (OAH).
- Oregon: State complaints go to ODE. Oregon's due process statute of limitations is 2 years, matching federal law.
- Colorado: Due process through CDE; 2-year statute of limitations.
- Washington: State complaints and due process through OSPI. Due process decision timeline is 45 days after the hearing (WAC 392-172A-05085).
- New Jersey: One of the most litigation-active states in the country. Due process is before the Office of Administrative Law. New Jersey has extensive due process and placement-related case law and is one of the more litigation-active special education states.
- Texas: 1-year statute of limitations for due process — shorter than the federal default. File promptly.
- New York: 2-year statute of limitations; impartial hearing officers (IHOs) preside; decisions subject to State Review Officer (SRO) appeal before going to court.
- Some states provide broader pendency or “stay-put” protections during mediation, settlement discussions, or other dispute processes beyond federal minimum requirements. Parents should review their state’s specific rules regarding pendency protections.

#### **ADVOCACY TIP**

- State complaints are often underused. They are free, typically faster than due process, produce written findings, and can be especially effective for procedural violations, implementation failures, missed timelines, and failure to follow the IEP.
- Many states offer facilitated IEP meetings (FIEPs) or similar facilitated dispute-resolution processes as voluntary alternatives to more formal disputes. These meetings use a neutral facilitator to help improve communication, keep discussions focused, and assist the team in working toward agreement.
- Before pursuing due process, consult with a qualified special education advocate or attorney if possible. Due process can be complex, time-consuming, and emotionally demanding for families, but in some situations it may be the most appropriate tool for resolving significant disputes.
- Documentation is often essential when addressing disagreements, implementation concerns, or pursuing dispute resolution options. Parents should not rely solely on the school or district to maintain or produce all relevant records, communications, or data — even during investigations or formal disputes.
- Keep organized copies of evaluations, IEPs, Prior Written Notices (PWNs), progress reports, service logs, disciplinary records, attendance records, emails, written requests, and meeting notes. Clear documentation can help clarify timelines, support concerns, and strengthen advocacy efforts.

## 11. Your Rights — Quick Reference

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Your Right as a Parent	Federal Legal Basis
Request an evaluation at any time, in writing, including reevaluations	IDEA 34 C.F.R. § 300.301
Consent or refuse evaluation and initial services	34 C.F.R. § 300.300
Receive Prior Written Notice regarding proposed or refused actions related to identification, evaluation, placement, or provision of FAPE	34 C.F.R. § 300.503
Participate meaningfully as an equal member of the IEP team	34 C.F.R. § 300.321, 300.322
Bring advocates, attorneys, or others to meetings	34 C.F.R. § 300.321(a)(6)
Request an Independent Educational Evaluation (IEE) when disagreeing with a district evaluation	34 C.F.R. § 300.502
Review and receive copies of all educational records, including evaluations, draft documents, and records (including data) relied upon by the district in decision making	FERPA 20 U.S.C. § 1232g
Request an IEP meeting at any time	34 C.F.R. § 300.300
Receive written progress reports on IEP goals	34 C.F.R. § 300.320(a)(3)
Participate meaningfully in educational placement decisions regarding the identification, evaluation, educational placement, and provision of FAPE	34 C.F.R. §§ 300.116, 300.327, 300.501(b)
Receive a copy of the Procedural Safeguards Notice at required IDEA trigger points (including referral, complaint filings, disciplinary changes, and upon parent request)	34 C.F.R. § 300.504
Dispute decisions through state complaint, mediation, or due process	34 C.F.R. § 300.151, 300.506, 300.507
Stay-put / pendency during a dispute	34 C.F.R. § 300.518
Revoke consent for special education services	34 C.F.R. § 300.300(b)(4)

## 12. Practical Tips for Every Parent

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1. **Always.** Put everything in writing.

Requests, objections, follow-ups after verbal conversations — document it all. After important conversations or meetings, send a follow up email summarizing your understanding of what was discussed: 'This confirms our conversation on [date] where you stated...'

2. Keep a dedicated IEP file.

Every IEP, evaluation, PWN, progress report, letter, and email in one organized place. This could be digital or paper. You cannot advocate without documentation.

3. Know your timelines.

Federal and state deadlines are legally enforceable. If the school misses a timeline, that may constitute a procedural violation. Track dates from the moment you submit any written request. Keep a running timeline of requests, meetings, evaluations, and responses.

4. Never feel rushed to sign.

Take the IEP home, review it carefully, and consult an advocate if needed. Signing at the meeting before you fully understand the document is a common and avoidable mistake. Procedures regarding signatures and implementation vary by state.

5. Ask for data — not summaries.

'Making progress' is not data. Ask: What is the baseline? What is the target? What does the current data show? Progress monitoring must use objective data and numbers, not impressions. Ask how progress is being measured and monitored.

6. Learn your state's specific rules.

Federal law establishes minimum protections. Your state may give you additional rights, shorter timelines, or stronger protections. Take 30 minutes to read your state's parent rights notice (the school is required to give you this).

7. You are not alone.

Every state has a federally funded Parent Training and Information (PTI) Center that provides free help to parents navigating special education. Many disability organizations and advocacy groups also offer training and parent support. Find yours at [www.parentcenterhub.org](http://www.parentcenterhub.org).



- You know your child best. Parent observations and concerns are important data points and should be considered by the IEP team.
- If the school agrees to something important, ask for it to be documented in writing within the IEP, PWN, or meeting notes.
- Parent Training & Information (PTI) Centers: Free, federally funded in every state. Search 'PTI [your state]' or visit [www.parentcenterhub.org](http://www.parentcenterhub.org).
- Wrightslaw ([www.wrightslaw.com](http://www.wrightslaw.com)): Comprehensive free resource for special education law, advocacy, and parent rights.
- Your State Department of Education: Every state has a special education division with parent rights guides, complaint procedures, and contact information tailored to your state's rules. Google '[your state] special education parent rights.'

### Need Advocacy Support?

*The Advocacy Ridge is brought to you by experienced non-attorney special education advocates who work with families across multiple states.*

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*This guide is intended as general educational information and does not constitute legal advice. Special education law is complex, fact-specific, and varies significantly by state. If you have a specific legal concern, consult a qualified special education advocate or attorney licensed in your state.*

*Federal law cited: IDEA (20 U.S.C. § 1400 et seq.) and 34 C.F.R. Part 300. State laws cited: California Education Code § 56000 et seq.; Oregon Administrative Rules Chapter 581-015; Colorado 1 CCR 301-8; Washington Administrative Code Chapter 392-172A; Texas Education Code Chapter 29 and 19 TAC § 89; New Jersey Administrative Code 6A:14; Massachusetts 603 CMR 28.00; New York 8 NYCRR Part 200. Laws are subject to change — always verify current versions with your state's education agency.*

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